

## DRAFT CONVENTION TEXT FOR CREATION OF IALA AS AN IGO

### Development of the Convention for IALA as an International Organization – Version 10 April 2015

Item	Text of Convention by Article	Reference	Comments by CoS1
1	Convention on the International Organization for Marine Aids to Navigation (IALA)	Vienna Convention Art 1(a)	
2	<p>Preamble</p> <p>The States party to this Convention, hereafter referred to as the Contracting Parties:</p> <p>RECALLING that the International Association of Lighthouse Authorities was established on 1st July 1957 following a conference of national lighthouse authorities held in Scheveningen, Netherlands;</p> <p>NOTING that the International Association of Lighthouse Authorities was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities by its General Assembly in Hamburg, Germany in 1998;</p> <p>RECOGNISING the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonisation of marine aids to navigation for the safe, economic and efficient movement of vessels;</p> <p>IN FURTHERANCE of the provisions of the United Nations Convention on the Law of the Sea, 1982 and the International Convention for the Safety of Life at Sea, 1974, as amended;</p> <p>CONSIDERING that the International Association of Marine Aids to Navigation and Lighthouse Authorities is formed as an association under French law; and</p>	<p>Vienna Convention Art 31</p> <p>UNCLOS – see also Art 21.1 and 43</p>	

	<p>CONSIDERING FURTHER that the Contracting Parties agree that the will of Governments to develop, improve and harmonise marine aids to navigation for the benefit of the maritime community and the protection of the environment is best coordinated by one responsible international organisation;</p> <p>HAVE AGREED as follows:</p>	Vienna Convention Art 2(i)	
3	<p style="text-align: center;">Article 1 Establishment of the International Organization</p> <ol style="list-style-type: none"> <li>1. The International Organization for Marine Aids to Navigation is hereby established as an international organization and shall be known as IALA (herein after 'the Organization').</li> <li>2. The Organization shall have its seat in France unless otherwise decided by the General Assembly.</li> <li>3. The official languages of the Organization shall be English, French and Spanish. The working language of the Organization shall be English <span style="color: red;">[French and Spanish].<sup>1</sup></span></li> <li>4. The operation of the Organization shall be as set out in the General Regulations.<sup>2</sup></li> </ol>	<p>Constitution Arts 1, 6 EFI Art 1</p> <p>IHO Art XII</p> <p>IHO Art XI</p>	<p><i>Financial implications of having more than one working language. The note was modified to take this into account.</i></p>

<sup>1</sup> The Financial aspects have to be taken into account.

<sup>2</sup> Further work required to ensure that Convention contains enough detail to allow a meeting of the approval body to take place in order to establish these Regulations in the first instance.

4	Article 2 Aims		
1.	The Organization shall have a consultative and technical nature.	Constitution Art 2	
2.	The aims of the Organization are to:	IHO Art II	
(a)	foster the safe and efficient movement of vessels through the improvement and harmonisation of marine aids to navigation worldwide and by other appropriate means;		<i>Questioned. Under discussion at IMO LEG. LAP should be consulted.</i>
(b)	bring together governments, services and organisations concerned with the regulation, provision, maintenance or operation of marine aids to navigation and allied activities at sea and on inland waterways; <sup>3</sup>		
(c)	promote access to technical cooperation on all matters related to development and transfer of expertise, science and technology in relation to marine aids to navigation.	UNCLOS Art 266	
(d)	encourage and facilitate the general adoption of the highest practicable standards in matters concerning marine aids to navigation.		
(e)	provide for the exchange of information among governments and intergovernmental organizations on matters under consideration by the Organization.		
3.	For the purposes of this Convention the term ‘Marine Aids to Navigation’ means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of all vessels and/or vessel traffic.	Constitution Art 1	
	Article 2bis		

3 Consider if this is needed in view of wording of functions.



5	<p style="text-align: center;">Article 3 Membership</p> <ol style="list-style-type: none"> <li>1. The Organization shall be comprised of National members and Non-national members.</li> <li>2. The Contracting Parties shall be the only National members.</li> <li>3. Any National member may claim Affiliate membership for a territory or group of territories for which it has responsibility and which is legally responsible for the regulation, provision, maintenance or operation of marine aids to navigation, by notification in writing to the Secretary-General of the Organization.</li> <li>4. Non-national members shall include, and the General Regulations may make provision for all matters related to: <ol style="list-style-type: none"> <li>(a) Affiliate membership;</li> <li>(b) Associate membership;</li> <li>(c) Industrial membership;</li> <li>(d) Honorary membership; or</li> <li>(e) Other membership.</li> </ol> </li> <li>5. Each National Member shall pay a membership contribution to the Organization on an annual basis in the amount determined in accordance with in Article 6 and Article 9. <sup>4</sup></li> <li>6. National Membership contributions shall be due and payable in accordance with the General Regulations.</li> <li>7. Failure to make membership contributions when such payment becomes due may result in National Members being charged interest, the rate of which will be determined by the Council.</li> </ol>	<p>Constitution Art 5.1 EFI Art 4</p>	<p><i>General comments on Article 3:</i></p> <p><i>Consider:</i></p> <ol style="list-style-type: none"> <li>1. <i>If National Members must be members of the UN;</i></li> <li>2. <i>Replacing National Member with Contracting Parties or States throughout the text.</i></li> <li>3. <i>The possibility to have other members of the organisation than contracting parties.</i></li> </ol> <p><i>No 3 above, in addition of the financial impact, may have consequences on the technical competencies of IALA.</i></p>
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<sup>4</sup> Consider whether a method for sharing the costs should be specified in the Convention.

	<p>8. Any National member which is two years in arrears in making contributions shall, after notification, be denied the rights and benefits conferred on National members by this Convention until such time as the outstanding contributions have been paid.</p> <p>9. No National member or Non-national member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.</p>	IHO Art XV	
6	<p style="text-align: center;">Article 4 Structure of the Organization</p> <p>1. The Organization shall have as its [principle] organs:</p> <ul style="list-style-type: none"> <li>(a) the General Assembly;</li> <li>(b) the Council;</li> <li>(c) Committees and other subsidiary bodies necessary to support the Organization's activities;</li> <li>(d) the Secretariat.<sup>5</sup></li> </ul> <p>2. There shall be a President and a Vice President of the Organization elected in accordance with the General Regulations.</p> <p>3. Where decisions of the General Assembly or Council cannot be reached by consensus, the following provisions shall apply:</p> <ul style="list-style-type: none"> <li>(a) Only National Members have voting rights, which will be executed by the representative designated by each National Member;</li> <li>(b) Except where otherwise specified, decisions are taken on a simple majority of the votes cast.</li> </ul>	<p>Constitution Art 7-9 WMO Art 4, IHO Art IV WMO Art 8(h)</p> <p>IHO Art VI EFI Art 6.3</p>	<p><i>General comments on Article 4</i></p> <p><i>The majority needed for decisions should be clarified: simple or two-thirds.</i></p> <p><i>Rules of Procedure for Committees will be needed, and will be incorporated into the General Regulations.</i></p>

<sup>5</sup> Whether the Secretariat is an organ needs to be further considered, as does whether this provision is required at all.

	4. [The General Regulations shall detail the Rules of Procedure that will apply for each organ]. <sup>6</sup>	WMO Art 8(d)	
7	<p style="text-align: center;">Article 5 The General Assembly</p> <ol style="list-style-type: none"> <li>The General Assembly is the principal decision-making organ of the Organization and attendance shall be open to all members.</li> <li>Each National member shall designate one of its delegates, [preferably the head of a national authority legally responsible for the regulation, provision, maintenance or operation of marine aids to navigation, or his or her representative]<sup>7</sup> as its principal delegate at the General Assembly.</li> <li>Regular sessions of the General Assembly shall take place at least once every [five] years.</li> <li>Extraordinary sessions shall be convened whenever one third of the National Members give notice to the Secretary-General that they desire a session to be arranged, or at any time if deemed necessary by the Council, after a notice of [sixty] days.</li> <li>A [majority] of the National Members shall constitute a quorum for the meetings of the General Assembly.<sup>7</sup></li> <li>The General Assembly shall operate in accordance with this Convention and the General Regulations.</li> <li>The General Assemble shall:</li> </ol> <p>Note: text to be developed specifying the functions of the General Assembly in</p>	<p>Constitution Art 7</p> <p>WMO Art 7(b)</p> <p>IHO Art VI</p> <p>IHO Art VI WMO Art 10</p> <p>WMO Art 12</p>	<p><i>Consider if it is up to the Contracting Party to decide on its representative(s). LAP advice based on other relevant Convention texts.</i></p> <p><i>Depends on the decision authority given to Council. Look into costs of having frequent GAs.</i></p>

<sup>6</sup> Or provide that each organ creates its own Rules of Procedure separate to the General Regulations.

<sup>7</sup> Consider whether suspended National members are included in this count, and if this should be specified in detail.

	<p>line with the following higher order functions:</p> <ul style="list-style-type: none"> <li>• Develop IALA Strategy</li> <li>• Provide high level governance for the organization, including approval of General Regulations, work program and financial plan for period to next GA</li> <li>• Approve standards and the text of conventions</li> <li>• Recommend the adoption of standards and conventions</li> <li>• Elect Council</li> <li>• Consider empowering Council with certain functions that would otherwise belong to the General Assembly on conditions established by the General Assembly for use between General Assemblies</li> </ul>	<p>See for example IHO Art V WMO Art 8 EFI Art 7</p> <p>WMO Art 23(b)</p>	<p><i>Approval of General Regulations by the General Assembly was recommended.</i></p>
8	<p>Article 6 The Council<sup>8</sup></p> <ol style="list-style-type: none"> <li>1. The Council is the executive organ of the Organization and shall be responsible for directing the activities of the Organization.</li> <li>2. <sup>9</sup> [The Council shall consist of up to twenty one (21) elected National Members and three (3) non-elected National Members.</li> <li>3. Elected National members on Council: <ol style="list-style-type: none"> <li>(a) shall be elected by ballot by the General Assembly in accordance with the General Regulations.</li> <li>(b) shall, so far as is possible, be drawn from different regions of the world;</li> </ol> </li> <li>4. Non-elected National members on Council shall include:</li> </ol>	<p>Constitution</p> <p>WMO Art 14</p>	<p><i>Consider whether Article 6.3 (b) is appropriate.</i></p>

<sup>8</sup> The text in regard to Council was not discussed by LAP, other than to note that the functions of Council should be complimentary with those of the General Assembly and, in combination, should still facilitate flexibility and timely release of outputs.

<sup>9</sup> Consideration could be given to a new arrangement for representation on Council.



	<p>(a) the National member of the State in which the seat of the Organization is located (“Host Nation”);</p> <p>(b) the National member of the State in which the next General Assembly is to be held;</p> <p>(c) the National member of the State in which the last General Assembly was held.]</p> <p>5. At Council National Members shall be represented by the head of a national authority legally responsible for the regulation, provision, maintenance or operation of marine aids to navigation of that National member, or his or her representative.</p> <p>6. The Council shall:</p> <p>Note: text to be developed specifying the functions of the Council. May address the following noting that level of specificity is a matter for discussion:</p> <ul style="list-style-type: none"> <li>• Ensure that overall technical and administrative activity of IALA is undertaken in accordance with the directions of General Assembly through development of policy and general regulations and reporting on same</li> <li>• Approve IALA technical guidance documents and recommend standards and convention text to General Assembly</li> <li>• Approve the annual budget and expenditure within General Assembly parameters</li> <li>• Appoint and guide the Secretary-General and create [panels] to provide Council with advice</li> </ul>	<p>WMO Art 6</p> <p>See for example IHO Art VIII WMO Art 14 EFI Art 8</p>	<p><i>Consider if there is a need for non-elected members on the Council? Other IGOs do not have non-elected members. If General Assemblies are not connected with Conferences, Articles 6. 4 (b) &amp; (c) become irrelevant.</i></p> <p><i>The number of Councillors needs to be considered in relation to the minimum number of contracting parties required for the Convention to enter into force. There is a link between Articles 6, 14 and 17.6.</i></p> <p><i>The budget should normally be approved by the General Assembly.</i></p> <p><i>Consider if the Secretary-General should be elected by the General Assembly.</i></p>
9	Article 7		

	Committees and Other Subsidiary Bodies <sup>10</sup>		
	1. Committees and other subsidiary bodies may be established by the General Assembly or Council to support the endeavours of the Organization and shall operate in accordance with this Convention and the General Regulations.	Constitution Art 9	<i>For clarity purposes it should be made clear that the Committees are not standing Committees. Consider whether it should be the GA or Council.</i>
10	<p>Article 8 Secretariat<sup>11</sup></p> <p>1. The permanent Secretariat of the Organization shall be comprised of the Secretary-General and such technical and administrative staff as may be required for the work of the Organization.</p> <p>2. The Secretary-General shall be appointed for a term of five years and may be reappointed for one additional term not exceeding five years.</p> <p>3. The Secretary-General shall be responsible for the day to management of the Organization, subject to any guidance issued by the Council or the General Assembly.</p> <p>4. The staff of the Secretariat shall be appointed on terms and conditions determined by the Secretary-General and approved by the Council and shall, under the leadership of the Secretary-General, and in accordance with this Convention and the General Regulations:</p> <p>Note: text to be developed specifying the functions of the Secretariat. May address the following noting that level of specificity is a matter for discussion:</p>	<p>Constitution Art 8.2.2 WMO Art 20</p> <p>WMO Art 21 IHO Art X</p>	<i>Mention should be made of who appoints the Secretariat. To avoid complicated procedures, it should not be the Council.</i>

<sup>10</sup> The text in regard to Committees and other subsidiary bodies was not discussed by LAP. It is envisaged that the terms of reference and rules of procedure for committees would be developed by Council for both Committees established by the General Assembly and for other bodies established by Council.

<sup>11</sup> The text in regard to the Secretariat was not discussed by LAP, but the functions of Secretariat should be complimentary with those of the General Assembly and Council.

	<ul style="list-style-type: none"> <li>• Carry out day to day management of IALA, including invoicing members</li> <li>• Prepare the annual budget and financial statements for submission to Council</li> <li>• Prepare forward estimates</li> <li>• Provide assistance to the organs of IALA</li> <li>• Arrange events that support IALA's aims</li> <li>• Inform all members of the activities of IALA and other appropriate bodies</li> </ul> <p>5. In the performance of their duties the staff of the Secretariat shall not seek or receive instructions from any authority external to the Organization. They shall refrain from any action which might adversely reflect on their position as international officers.</p>	WMO Art 22(b)	
11	<p style="text-align: center;">Article 9<sup>12</sup> Funding and Expenditure</p> <p>1. The expenditure available for the functioning of the Organization shall meet the amount of financial resources provided by:</p> <p>(a) National member contributions determined in accordance with this Convention and the General Regulations;</p> <p>(b) Non-national members [annual fees];</p> <p>(c) donations, bequests, grants, gifts; and</p> <p>(d) other sources approved by the Council or a committee established by the Council.</p> <p>2. The budget estimates and the financial statements on the accounts of the Organization shall be <b>approved by the General Assembly</b>.</p> <p>3. After [Council's] approval of the Organization's audited financial</p>	<p>Constitution Art 11 EFI Art 10, 11 IHO Art XIV</p>	<p><i>Consider payment of fees by Non-national members</i></p> <p><i>Budgets should be approved by the General</i></p>

<sup>12</sup> This article was not reviewed by LAP but should reflect the functions of the General Assembly, Council and the Secretariat.

	statements those statements shall be distributed to all members by the Secretariat in accordance with the General Regulations.		<i>Assembly.</i>
12	<p style="text-align: center;">Article 10 Legal personality, privileges and immunities</p> <ol style="list-style-type: none"> <li>1. The Organization has international [and domestic]<sup>13</sup> legal personality and has the capacity to: <ol style="list-style-type: none"> <li>(a) contract;</li> <li>(b) acquire and dispose of immovable and movable property; and</li> <li>(c) institute legal proceedings.</li> </ol> </li> <li>2. Subject to the agreement of each Contracting State, the Organization shall enjoy in the territory of the Contracting State such privileges and immunities as may be necessary for the fulfilment of its aim and for the exercise of its functions.</li> <li>3. The Organization may cooperate with governments, organisations and other bodies, and conclude agreements with them. In the territory of any National Member which is party to the Convention on the Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations on 21 November 1947, such legal capacity, privileges and immunities shall be those defined in the said Convention.</li> </ol>	<p>EFI Art 12</p> <p>WMO Art 27</p> <p>WMO Art 27</p>	
13	<p style="text-align: center;">Article 11 Amendments</p> <ol style="list-style-type: none"> <li>1. Any Contracting party may propose an amendment to this Convention, in writing, to [the Government of France, in its role as] the Depositary.</li> <li>2. The Depositary [Government of France] shall circulate the amendment proposal to all Contracting parties and the Secretary-General at least</li> </ol>	<p>Constitution Art 12 and, eg: WMO Art 28 EFI Art 17.2 IHO Art XXI</p> <p>WMO Art 28</p>	<p><i>LAP should be consulted on the process for amendments: they might need to be submitted to the General Assembly before being sent to the Depositary.</i></p>

<sup>13</sup> Need to consider appropriate wording regarding legal personality in each Contracting State.

	<p>six months in advance of its consideration by the General Assembly.</p> <p>3. The proposed amendment shall be accepted by vote of the General Assembly upon approval by a two-thirds majority of National members present and voting. The Depositary [Government of France] shall communicate any amendment so accepted to National members and the Secretary-General.</p> <p>4. The amendment will enter into force for all Contracting Parties thirty days after two-thirds of the National Members have deposited their instruments of ratification, acceptance or approval of the amendment.</p>	EFI Art 17	<i>LAP to consider if amendments enter into force for all or only those who accepted the changes.</i>
14	<p style="text-align: center;">Article 12 Interpretation and Disputes</p> <p>1. Any question or dispute concerning the interpretation or application of the present Convention arising between or amongst Contracting Parties which is not settled through consultation or negotiation or by the good offices of the Council may be referred to an independent arbitrator appointed by the Secretary-General of the Permanent Court of Arbitration, unless the parties to the dispute agree upon another mode of settlement.</p>	IHO Art XVII WMO Art 29	<i>There might be conflicts other than conflicts between contracting parties. The text may refer to the law of the country where the IGO has its seat.</i>
15	<p style="text-align: center;">Article 13 Signature, Ratification and Accession <sup>14</sup></p> <p>1. This Convention shall open for signature at [xxx] and remain open until [xxx].</p> <p>2. This Convention is subject to ratification, acceptance or approval by the signatory States.</p>	IHO Art XVIII WMO Art 32	

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<sup>14</sup> To be reviewed for conformity with the Vienna Convention.

	<p>3. This Convention shall be open for accession by any State which has not signed the Convention from the day after the date on which the Convention closes for signature.</p> <p>4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary [Government of France], who shall then notify each National member and the Secretary-General thereof.</p> <p>5. Ratification, acceptance, or approval of, or accession to, this Convention shall be without reservation.</p>		
16	<p>Article 14 Entry into force</p> <p>1. The present Convention shall enter into force on the thirtieth day after the date of deposit of the [fifteenth] instrument of ratification, acceptance, approval or accession.</p> <p>2. For each State ratifying, accepting, approving or acceding to the Convention after its entry into force the Convention shall enter into force on the thirtieth day after the deposit of its instrument of ratification, acceptance, approval or accession.</p>	WMO Art 35	<p><i>It was noted that the minimum number of contracting parties should be in accordance with the number of seats on the Council. The participants suggested 30 but this will be up to the Diplomatic Conference.</i></p>
17	<p>Article 15 Withdrawal</p> <p>1. Any Contracting Party may withdraw from this Convention by giving at least twelve month written notice to the Depositary [Government of France], who will immediately inform all National members of such notification.</p> <p>2. Notification of withdrawal may be given at any time after the expiration of [twelve months] from the date on which the Convention has come into force.</p>		

	3. The withdrawal shall take effect [on 31 December] following the expiration of the notice.		<i>Consider having withdrawals effective after notice has expired.</i>
18	<p style="text-align: center;">Article 16 Termination</p> <p>1. This Convention may be terminated by decision of the General Assembly upon a [two-thirds] majority [of National members <b>present and voting</b>].</p> <p>2. The date of termination will be twelve months after the date of the above decision and in the intervening period the Council shall be responsible for the winding up of the Organization in accordance with the General Regulations.</p>	<p>EFI Art 19</p> <p>Constitution Art 13</p>	<i>Should be checked against other conventions.</i>
19	<p style="text-align: center;">Article 17 Transitional Arrangements<sup>15</sup></p> <p>1. Upon the entry into force of this Convention all National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities, who are not Contracting Parties, [shall], [with the approval of the Council], become Affiliate members of the Organization.</p> <p>2. Upon the entry into force of this Convention all parties holding financial, non-suspended status as an associate member or industrial member or honorary member or other member of the International Association of Marine Aids to Navigation and Lighthouse Authorities, [shall], (with the approval of Council] become Associate or Industrial or other members, respectively, of the Organization, in accordance with the General Regulations.</p> <p>3. Upon the entry into force of this Convention the Council of the</p>	<p>EFI Art 16.1</p> <p>IOM Art 35</p>	<p><i>General comment on Article 17:</i></p> <p><i>This article about a transition period should be withdrawn from the draft Convention, for the following reasons:</i></p> <p><i>- the contribution provision is not clear: if only contracting parties are members, affiliate members should not pay contributions;</i></p> <p><i>- it is not possible to force ex IALA National Members to become affiliate members;</i></p> <p><i>- if the “new” IALA has not got enough</i></p>

<sup>15</sup> Further consideration of the mechanism for achieving these transition arrangements required. Original drafting intended that these arrangements would operate automatically.

	<p>International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Council of the Organization and will operate as such until the first General Assembly convened under this Convention, which must be within a period not exceeding five (5) years.</p> <p>4. For the duration of the transitional Council Affiliate members will be permitted to engage in the work of the Council for the benefit of the Organization.</p> <p>4bis The Committees of the International Association of the Marine Aids to Navigation and Lighthouse Authorities shall become the transitional Committees of the Organization and will operate until the equivalent Committees are established under this Convention.</p> <p>5. In the event that a State which has Affiliate membership becomes a Contracting Party the Affiliate membership will cease on the date on which the Convention enters into force for that State. In the case of a Contracting Party having more than one Affiliate membership it may decide to retain Affiliate memberships in addition to its National Membership.</p> <p>6. Until a sufficient number of Contracting Parties become party to this Convention, each number specified in Article 6.2 as a requirement for the number of Council members may be applied flexibly as decided by the General Assembly.</p> <p>7. After the entry into force of this Convention the transitional Council shall initiate negotiations with the [Council] of the International Association of Marine Aids to Navigation and Lighthouse Authorities on the transfer of the latter's activities, records, documents, publications, archives, rights, interests, funds, assets and liabilities to the Organization.<sup>16</sup></p>	<p>(only allows non-party councillors until next Council meeting – ie 12 months</p> <p>GGGI Art 17.4</p> <p>EFI Art 16.2</p>	<p><i>members, the “old” IALA remains in existence.</i></p> <p><i>Possibly not necessary if number of contracting parties is set sufficiently high.</i></p>
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<sup>16</sup> The requirements in this provision will depend on the final approval of the General Assembly to the proposed change to the IALA Constitution, which is itself subject to a request for French legal advice regarding the termination of a French charity.



	<p>8. Until such time as the Secretariat of the Organization has been established the secretariat of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall serve as, and perform the functions of, the Secretariat. The Secretary-General of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall serve as the Secretary-General of the Organization until the Council appoints the Secretary-General in accordance with Article 6.</p>	GGGI Art 17	
20	<p>IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed the present Convention.</p> <p>DONE at [xxx ] on ... [xxx] in the English, French and Spanish languages, each text being equally authentic, the original of which shall be deposited in the archives of the [Government of France] Depositary . The Depositary [Government of France] shall transmit certified copies thereof to all the [signatory and acceding]<sup>17</sup> Governments and to the Secretary-General of the Organization.</p>		

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<sup>17</sup> Ensure conformity with Art 13.