



# REPORT OF THE 16<sup>TH</sup> SESSION OF THE IALA LEGAL ADVISORY PANEL (LAP)

11 to 13 April 2016

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## **Report of the 16<sup>th</sup> session of the IALA**

### **Legal Advisory Panel (LAP)**

**11 to 13 April, 2016**

### **Executive Summary**

The 16th session of the Legal Advisory Panel was held at IALA Headquarters from 11 to 13 April under the chairmanship of Jon Price.

The Panel was briefed about the main developments since their last meeting concerning the increase in IALA membership, improvements of meeting facilities at IALA Headquarters, progress made in the IGO project and the principal outcomes of the last Council meeting that adopted headings of seven IALA standards, approved the draft Convention text for IALA as an IGO and made a revised decision on the World-Wide Academy.

LAP then focused on their Agenda for the meeting, which was mainly devoted to amend the draft General Regulations for IALA as an IGO, incorporating the Financial Regulations and Committee Rules of Procedure. The latter were to be developed out of session, agreed by correspondence and sent to the Council for approval at the 62<sup>nd</sup> session in June, after review of the whole draft General Regulations by the Change of Status Advisory Group (CoS), again by correspondence.

LAP16 was the opportunity to close the work on AIS data used as evidence in court cases after a report on national situations was presented. From this report it appeared that their use in court is widely accepted and the guidelines on the legal aspects of AIS data that had been considered should not be developed. The ENAV Committee should however be asked if there is a need for guidelines on the technical aspects of presenting AIS data as evidence in court (e.g. accuracy, reliability).

Concerns were expressed on the amendments of IMO Resolution A.857(20) requested by the VTS Committee. It was agreed that LAP should be kept informed of proposed amendments to assess their legal implications.

Other outcomes of the meeting were the approval of a Record Retention Policy and Data Protection Policy for implementation as part of the Secretariat Procedures, the review of the IALA Risk Register and World-Wide Academy Risk Register.

Finally, LAP is awaiting further developments with regard to the future IALA Technical Policy and Patent Policy.

## Table of Contents

Executive Summary	3
Table of Contents .....	4
0. Welcome address by the Secretary-General .....	6
0.1 Address by the Secretary-General	6
0.2 Introductions and apologies	6
1. Approval of the Agenda .....	6
2. Review of action items from LAP15 .....	6
3. Review of input papers .....	6
4. Report of IALA Council 61 .....	7
4.1 Basic Documents	7
5. Verbal reports of PAP30 and PAP31 .....	7
5.1 Participation in PAP Dictionary Working Group	7
5.2 Committee Rules of Procedure	8
6. LAP Terms of Reference .....	8
7. IALA Change of Status Project.....	8
7.1 Report of LAP inter-sessional meeting January 2016	8
7.1.1 Draft General Regulations	8
7.2 One China Policy	9
7.3 Draft Convention text as approved by Council 61	9
7.4 Input to CoS Advisory Group	9
8. Review of IALA Constitution.....	9
9. Patent policy.....	9
10. Data protection .....	9
10.1 Record retention	9
10.2 Data protection	9
11. AIS data used as evidence at court cases.....	10
12. World VTS Guide .....	10
13. Review of IALA Risk Register .....	10
14. Review of the Academy Risk Register .....	10
15. Any Other Business .....	11
16. Review of output and working papers .....	11
17. Review of action items .....	11
18. Date and place of next meeting .....	11
ANNEX A Agenda .....	12

ANNEX B      List of Participants ..... 14

ANNEX C      List of Input Papers..... 15

ANNEX D      List of output Papers ..... 16

ANNEX E      Action Items ..... 17

# **Report of the 16<sup>th</sup> session of the IALA**

## **Legal Advisory Panel (LAP)**

### **GENERAL**

The 16<sup>th</sup> session of the Legal Advisory Panel was held from 11 to 13 April 2016 at IALA Headquarters, with Jon Price as Chairman and Marie-Hélène Grillet as Secretary.

### **0. WELCOME ADDRESS BY THE SECRETARY-GENERAL**

#### **0.1 Address by the Secretary-General**

The Secretary-General reported that IALA continues to grow, with a number of members (258) higher than ever, among which a number of new National members.

The rebranding project was going well with the new “look” being implemented everywhere and the hiring of Mike Hadley to reformat the IALA documents and advise the Committees on a possible restructuring of some of them.

New A/V facilities for meetings have been implemented but the project of building a new meeting room had to be abandoned due to technical and administrative difficulties but there is a possibility to buy more space in the same building, although this would not allow for a larger meeting room to be arranged. There is, however, meeting facilities at the castle of Saint-Germain-en-Laye that could be hired for the few occasions when IALA needs to host more than 120 participants at a time.

The Strategic Vision adopted in 2014 formed the basis of a Technical Policy presenting IALA approved views on the future; the draft document was considered by the PAP at its meeting held the week before.

Finally he reported that the IGO project was progressing well with the draft Convention approved in principle by the Council at its 61<sup>st</sup> session and the support from Korea to hold a Diplomatic Conference in 2018 in conjunction with the IALA Conference. A meeting with the French Foreign-Affairs Ministry was planned before the 62<sup>nd</sup> session of the Council.

#### **0.2 Introductions and apologies**

Apologies were received from Mary Dean (AMSA, Australia), Matti Eronen (Finnish Transport Agency), Hideki Noguchi (Japan Coast Guard) and Vincent Denamur (Directorate for Maritime Affairs, France).

Åsa Holm - Legal Officer - Swedish Maritime Administration was in attendance for the first time.

A list of attendees is provided at ANNEX B.

### **1. APPROVAL OF THE AGENDA**

The Agenda (paper LAP16-1.1) was adopted with the addition of two Agenda items: 5.1 – Participation in PAP Dictionary Working Group and 14 – Review of World-Wide Academy Risk Register.

The approved Agenda is provided at ANNEX A.

### **2. REVIEW OF ACTION ITEMS FROM LAP15**

Input paper LAP16-2.1 refers.

All action items were noted as completed or in hand.

### **3. REVIEW OF INPUT PAPERS**

There was one late paper – World-Wide Academy Risk Register (LAP16-14.1) tabled at the meeting.

## 4. REPORT OF IALA COUNCIL 61

There was no input paper under this Agenda item.

Secretary-General Francis Zachariae reported verbally on the main outcomes of the 61<sup>st</sup> session of the IALA Council:

- Seven Standards have been approved and the PAP at its meeting held the week before considered Standard sub-areas and mapping the existing IALA documents to Standards. The support of LAP will be needed to finalize the Standard texts before the General Assembly in 2018;
- The draft Convention text was approved with two reservations;
- The Council made a revised decision on the World-Wide Academy, which is now an integral part of IALA but still independently funded;
- There were amendments to the Constitution requested.

### 4.1 Basic Documents

Input paper LAP16-4.2 refers.

The revised Basic Documents were reviewed and the following amendments/remarks were made:

- In the IALA Constitution provision was made to elect a Council meeting Chair when neither the President or the Vice President are in attendance;
- The Rules of Procedure for IALA Committees were amended to introduce voting procedures within the Committees;
- The IMC Bye-Laws may be reviewed before the Industrial members hold their mid-term General Assembly in August. The Secretary-General was requested to mention this to the IMC.

#### *Action item 1*

*The Secretary-General to invite the IMC to look into the need for revising their Bye-Laws before the Industrial members hold their mid-term General Assembly.*

#### *Action item 2*

*The Secretariat (Marie-Hélène Grillet) to forward the amended Basic Documents to the Council for final approval.*

## 5. VERBAL REPORTS OF PAP30 AND PAP31

LAP Chair Jon Price reported that PAP consists of Chairs and Vice Chairs of all IALA Committees, the LAP Chair, the Dean of the Academy, an observer from the Industrial Members Committee, the Secretary-General, the Deputy Secretary-General, the Technical Operations Manager acting as the Secretary, and the Committee Secretaries. The role of the Panel is to provide policy advice to the Council and co-ordinate the work of the Committees.

In terms of legal issues there was a discussion at PAP30 on patents. The issue was forwarded to LAP15 and is now on the LAP Agenda for further consideration. The Secretary-General had made contact with the lawyer and progress will be reported at both PAP and LAP future meetings.

There were also discussions on the portrayal of AtoN on electronic charts and the development of an IALA Technical Policy will involve LAP in the future.

### 5.1 Participation in PAP Dictionary Working Group

A Dictionary Working Group has been formed within PAP (DWG), which sought LAP support. It is not intended to request LAP to scrutinize all terms and definitions but a legal advice may be needed on some occasions and it is important not to dissociate the technical and legal aspects.

Christina Schneider volunteered to act as LAP advisor to the DWG. This was noted with thanks and the Secretariat was requested to include her name in the DWG mailing list.

#### *Action item 3*

*The Secretariat (Seamus Doyle via Marie-Hélène Grillet) to include Christina Schneider on the DWG mailing list.*

### **5.2 Committee Rules of Procedure**

Draft Committee Rules of Procedures had been integrated into the draft revised Basic Documents and were addressed under Agenda item 4.1.

## **6. LAP TERMS OF REFERENCE**

Input paper LAP16-6.1 refers.

The LAP Terms of Reference had been updated for being part of the Basic Documents. They were approved for submission to the Council as part of the Basic Documents.

## **7. IALA CHANGE OF STATUS PROJECT**

Secretary-General Francis Zachariae reported that due to the one item that the meeting would have on their Agenda the Change of Status Advisory Group would progress their work by correspondence and again at the 62<sup>nd</sup> session of the Council.

There was an urgent need for the French Foreign Affairs Ministry to pursue the diplomatic process. The Secretary-general had written to them forwarding an explanatory note and the draft Convention text and was awaiting an appointment.

Caroline Piszcz reported on a meeting held between the French Directorate for Maritime Affairs and the Foreign Affairs Ministry. The French Foreign Affairs Ministry would appreciate other countries showing interest in the project. The first diplomatic action was not very successful and some participants reported that their respective ministries have not been made aware of it.

The Secretary-General announced that the next step would be to agree on the draft General Regulations, which would be translated into French as well, and send the information, the draft Convention text and the General Regulations in English, French and Spanish to all National members, requesting them to forward them to their Foreign Affairs.

### **7.1 Report of LAP inter-sessional meeting January 2016**

Input papers LAP16-17.1.1 refers.

The inter-sessional meeting was devoted to develop General Regulations for IALA as an IGO.

All action items were reported as complete and the report was noted.

#### **7.1.1 Draft General Regulations**

Input papers LAP16-7.1.1.1 and LAP16-7.1.1.2 refer.

The draft General Regulations were reviewed in the light of comments sent by Mary Dean and tabled at the meeting (LAP16-7.1.1.2).

LAP agreed amendments and requested the incorporation of the Rules of Procedure for Committees into the document and clarification of the wish of the IMC to change the condition for exhibiting at IALA Conferences – section 8.3(a).

#### *Action item 4*

*The Secretariat (Francis Zachariae) to draft Committee Rules of Procedure based on other IGO rules and have them agreed by LAP for submission to Council 62.*



#### Action item 5

*The Secretariat (Francis Zachariae) to get clarification from the IMC regarding the clause on participation in industrial exhibitions at IALA Conferences.*

### 7.2 One China Policy

Input paper LAP16-7.2.1 refers.

LAP was of the opinion that the issue would be better addressed by the means of a General Assembly Resolution rather than a MoU.

#### Action item 6

*The Secretariat (Marie-Hélène Grillet) to forward the draft General Assembly Resolution to the Council for noting.*

### 7.3 Draft Convention text as approved by Council 61

The input LAP16-7.3.1 was noted with no particular comments.

### 7.4 Input to CoS Advisory Group

As reported under 7. input papers to the CoS would be sent by correspondence, as follows:

- Draft General Regulations including Financial Regulations
- Updated action plan
- Updated project risk register.

#### Action item 7

*The Secretariat (Francis Zachariae) to forward to CoS the draft General Regulations including Financial Regulations; the updated action plan; and the updated project risk register.*

## 8. REVIEW OF IALA CONSTITUTION

Input paper LAP16-8.1 was reviewed as an ongoing task for LAP.

It was noted that the draft amended IALA Constitution should be sent to the 64<sup>th</sup> session of the Council after its final review by LAP18.

## 9. PATENT POLICY

Secretary-General Francis Zachariae reported that he was to meet with a lawyer during the week following LAP.

## 10. DATA PROTECTION

### 10.1 Record retention

Input paper LAP16-10.1 was slightly amended and the Secretariat was requested to apply it as part of the Secretariat procedures.

#### Action item 8

*The Secretariat (Francis Zachariae) to apply the IALA Record Retention Policy and Procedure as part of the Secretariat procedures.*

### 10.2 Data protection

Input paper LAP16-10.2 was slightly amended and the Secretariat was requested to apply it as part of the Secretariat procedures.

#### *Action item 8*

*The Secretariat (Francis Zachariae) to apply the IALA Data Protection Policy and Procedure as part of the Secretariat procedures.*

### **11. AIS DATA USED AS EVIDENCE AT COURT CASES**

Input paper LAP16-11.1 refers.

Jan Gabrielsen reported that not many countries had answered his questions but it appears that using AIS data as evidence in court is widely accepted, although evidence requirements depend on national legislation. It is the view of LAP that guidelines on the purely legal aspects of AIS as evidence in court should not be developed.

It was agreed however that the ENAV Committee should be asked to clarify the need for Guidelines on the technical aspects of presenting AIS-data as evidence in court, including on the accuracy and reliability of AIS data.

In the meantime the report should be submitted to the Council for noting as an annex to the LAP report.

#### *Action item 9*

*The Secretariat (Marie-Hélène Grillet) to ask the ENAV Committee on the need for Guidelines on AIS data used as evidence at court cases.*

#### *Action item 10*

*The Secretariat (Marie-Hélène Grillet) to submit the report on AIS data used at court cases to the Council as an annex to the LAP report.*

### **12. WORLD VTS GUIDE**

Input paper LAP16-12.1 refers.

Secretary-General Francis Zachariae reported that the World VTS Guide Board had decided to discontinue the Guide and IMO had been informed accordingly. The reliability of the World VTS Guide had been questioned and it was useless to mariners due to the variety of other source of information now available.

It was however felt desirable to have the IALA membership made aware and it was agreed to publish an article in the next issue of the IALA Bulletin.

#### *Action item 11*

*The Secretariat (Marie-Hélène Grillet) to arrange for an article on the withdrawal of the World VTS Guide to appear in IALA Bulletin 2016-2.*

### **13. REVIEW OF IALA RISK REGISTER**

Input paper LAP16-13.1 refers.

The IALA Risk Register was updated and should be forward to the Council for noting.

#### *Action item 12*

*The Secretariat (Marie-Hélène Grillet) to forward the amended IALA Risk Register to the 62<sup>nd</sup> session of the Council with a covering note from the LAP Chair.*

### **14. REVIEW OF THE ACADEMY RISK REGISTER**

Input paper LAP16-14.1 refers.

The Academy Risk Register was updated and should be forward to the Council for noting.

#### *Action item 13*

*The Secretariat (Marie-Hélène Grillet) to forward the amended Academy Risk Register to the 62<sup>nd</sup> session of the Council.*

### **15. ANY OTHER BUSINESS**

Christina Schneider drew LAP's attention to the amendment of IMO Resolution A.857(20) requested by the VTS Committee.

She suggested having LAP to consider the proposed amendments and assess their legal implications. National VTS systems may need to be adapted.

#### *Action item 14*

*The Secretariat (Marie-Hélène Grillet) to keep LAP informed of any amendments proposed by the VTS Committee on IMO Resolution A.857(20).*

### **16. REVIEW OF OUTPUT AND WORKING PAPERS**

A list of output and working papers is at ANNEX D.

### **17. REVIEW OF ACTION ITEMS**

A list of action items is at ANNEX E.

### **18. DATE AND PLACE OF NEXT MEETING**

The next LAP meeting (LAP17) was to take place in Helsinki at the kind invitation of the Finnish Transport Agency.

The provisional dates agreed for the meeting are 3<sup>rd</sup> to 5<sup>th</sup> October 2016.

**Legal Advisory Panel**16<sup>th</sup> Session

Agenda item 1

**LAP 16-1.1**

April 11-13, 2016

IALA Headquarters

The 16<sup>th</sup> meeting of the IALA **Legal Advisory Panel** will be held from 11<sup>th</sup> to 13<sup>th</sup> April 2016. The venue for the meeting is IALA Headquarters in Saint-Germain-en-Laye, France.

The meeting will commence at 1000 hours on 11<sup>th</sup> April and is expected to finish at 1300 hours on the 13<sup>th</sup>.

**LAP 16 - APPROVED AGENDA**

0. Welcome address by the Secretary General
1. Approval of the agenda
2. Review of action items from LAP15
3. Review of input papers
4. Report of IALA Council 61
  - 4.1. Basic documents
5. Verbal report of PAP30 and PAP31
  - 5.1. Participation in PAP Dictionary Working Group
  - 5.2. Committee Rules of Procedure
6. LAP Terms of Reference
7. IALA change of status project
  - 7.1. Report of LAP inter-sessional meeting January 2016
    - 7.1.1. Draft General Regulations
  - 7.2. One China Policy
  - 7.3. Draft Convention text as approved by Council 61
  - 7.4. Input to CoS Council Group
8. Review of IALA Constitution
9. Patent policy
10. Data protection
11. AIS data used as evidences at court cases
12. World VTS Guide
13. Review of IALA Risk Register
14. Review of World-Wide Academy Risk Register
15. Any other business
16. Review of output and working papers
17. Review of Action Items

18. Date and place of next meeting

19. Approval of the report

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Meeting	Agenda Item	Title / Author (if required)	Source
LAP16	1.1	Provisional Agenda	Secretariat
LAP16	2.1	Review of action items from LAP15	Secretariat
LAP16	4.2	Revised IALA draft Basic Documents	Secretariat
LAP16	6.1	Legal Advisory Panel – Terms of Reference	Secretariat
LAP16	7.1.1	Report of an inter-session meeting of the IALA Legal Advisory Panel	Secretariat
LAP16	7.1.1.1	Draft General Regulations of the International Organization for Marine Aids to Navigation (IALA)	Secretariat
LAP16	7.1.1.2	Draft General Regulations of the International Organization for Marine Aids to Navigation (IALA) – Mary Dean’s comments	Mary Dean
LAP16	7.2.1	Draft General Assembly (new IALA) Resolution Text	Secretariat
LAP16	7.3.1	Draft Convention on the International Organization for Marine Aids to Navigation (IALA)	Council
LAP16	8.1	Constitution of IALA – Proposed amendments	Secretariat
LAP16	10.1	Draft IALA Record Retention Policy	Secretariat
LAP16	10.2	Draft IALA Data Protection Policy	
LAP16	11.1	Report on AIS data used as evidence at court cases	Jan Gabrielsen
LAP16	12.1	Discontinuation of World VTS Guide	Secretariat
LAP16	13.1	IALA Risk Register	LAP15
LAP16	14.1	World-Wide Academy Risk Register	WWA

Meeting	No.	Title	Action
LAP16	19.1	Draft report of LAP16	To Council for noting with Report on AIS data at court cases
LAP16	19.2	Final draft IALA Basic Documents	To Council for approval
LAP16	19.3	Revised LAP Terms of Reference	To Council for approval as part of the Basic Documents
LAP16	19.4	Draft General Regulations for IALA as an IGO	To CoS
LAP16	19.5	Draft General Assembly (IGO) Resolution on One China Policy	To Council to note
LAP16	19.6	IALA Risk Register	To Council to note
LAP16	19.7	WWA Risk Register	To WWA
LAP16	19.8	Record retention policy	To Secretariat to implement
LAP16	19.9	Data protection policy	To Secretariat to implement



1. The Secretary-General to invite the IMC to look into the need for revising their Bye-Laws before the Industrial members hold their mid-term General Assembly.
2. The Secretariat (Marie-Hélène Grillet) to forward the amended Basic Documents to the Council for final approval.
3. The Secretariat (Seamus Doyle via Marie-Hélène Grillet) to include Christina Schneider on the DWG mailing list.
4. The Secretariat (Francis Zachariae) to draft Committee Rules of Procedure based on other IGO rules and have them agreed by LAP for submission to Council 62.
5. The Secretariat (Francis Zachariae) to get clarification from the IMC regarding the clause on participation in industrial exhibitions at IALA Conferences.
6. The Secretariat (Marie-Hélène Grillet) to forward the draft General Assembly Resolution to the Council for noting.
7. The Secretariat (Francis Zachariae) to forward to CoS the draft General Regulations including Financial Regulations; the updated action plan; and the updated project risk register.
8. The Secretariat (Francis Zachariae) to apply the IALA Record Retention Policy and Procedure as part of the Secretariat procedures.
9. The Secretariat (Marie-Hélène Grillet) to ask the ENAV Committee on the need for Guidelines on AIS data used as evidence at court cases.
10. The Secretariat (Marie-Hélène Grillet) to submit the report on AIS data used as court cases to the Council as an annex to the LAP report.
11. The Secretariat (Marie-Hélène Grillet) to arrange for an article on the withdrawal of the World VTS Guide to appear in IALA Bulletin 2016-2.
12. The Secretariat (Marie-Hélène Grillet) to forward the amended IALA Risk Register to the 62<sup>nd</sup> session of the Council.
13. The Secretariat (Marie-Hélène Grillet) to forward the amended Academy Risk Register, together with a covering note from the LAP Chair, to the 62<sup>nd</sup> session of the Council.
14. The Secretariat (Marie-Hélène Grillet) to keep LAP informed of any amendments proposed by the VTS Committee on IMO Resolution A.857(20).



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