



REPORT OF THE 21ST SESSION OF THE IALA
LEGAL ADVISORY PANEL (LAP)

13-15 October 2020

Report of the 21st session of the IALA
Legal Advisory Panel (LAP)
13-15 October, 2020
Executive Summary

The 21st session of the Legal Advisory Panel was held by videoconference from 13 to 15 October 2020, with Christina Schneider as Chair, Henning Osnes Teigene as Vice-chair and Audrey Guinault as Secretary.

LAP noted the reports from council 71, PAP40 and the last committee session.

LAP reviewed the text of the Council Decision on Transitional Arrangements from the KL Convention to be sent to Council 72 for consideration.

LAP reviewed the Basic Documents to be sent to Council 72 for consideration.

LAP considered the input paper from ARM on the revision of IMSAS Manual 2014 Annex 3 and made a minor editorial change.

LAP considered the input paper from ARM about IALA Regions at the Poles and issued advice to be considered by the ARM committee.

The rest of the meeting was routine business including the review of the Risk Registers for IALA and the World-Wide Academy.

Table of Contents

Executive Summary	3
Table of Contents	4
1. Introduction from LAP Chair and Secretary-General	5
2. Approval of the Agenda	5
3. Review of action items from LAP19	5
4. Review of input papers	5
5. Report of IALA Council session 71	5
6. Report of PAP session 40.....	5
7. Report on the last committee session and ongoing developments	6
8. IALA change of status project (information only)	6
9. Council decision on the transitional arrangements from the kl convention	7
10. Review of Basic documents.....	7
10.1 General Regulations	7
10.2 Terms of Reference for LAP	7
11. Advice on guidance documents under development or under review	8
12. Review of the IALA Risk Register	9
13. Review of WWA Risk Register	9
17. Review of output and working papers.....	9
18. Review of action items.....	9
19. Date and place of next meeting	9
20. Approval of the report	9
ANNEX A Agenda	11
ANNEX B List of Participants.....	12
ANNEX C List of Input Papers	14
ANNEX D List of output Papers.....	15
ANNEX E Action Items	16

Report of the 21st session of the IALA

Legal Advisory Panel (LAP)

GENERAL

The 21st session of the Legal Advisory Panel was held by videoconference from 13 to 15 October 2020 with Christina Schneider as Chair, Henning Osnes Teigene as Vice-chair and Audrey Guinault as Secretary.

1. INTRODUCTION FROM LAP CHAIR AND SECRETARY-GENERAL

The Chair welcomed everyone and thanked participants for attending despite the difficult conditions. The Covid-19 pandemic has forced everyone to adapt to new ways of working and the chair expressed her sincere hope that everyone was safe and keeping well. She also thanked IALA for facilitating the meetings online, making it possible to continue the work. The Secretary-General also mentioned that since the successful Diplomatic Conference to adopt the Convention on the International Organization for Marine Aids to Navigation took place in Kuala Lumpur in February, the world has been in the grip of the COVID-19 pandemic. Faced with this unprecedented challenge in this lifetime and following the advice provided by the Authorities and actions taken by sister organizations IALA has implemented several protective measures. These have involved the cancellation or postponement, as appropriate, of Committee and other meetings, and halting the World-Wide Academy staff's travel for the purpose of conducting missions. The decision was also taken to postpone the four-yearly Symposium in Rotterdam, and the Dutch Ministry of Infrastructure and Water Management has decided to host the Symposium as a virtual event from 19 to 23 April 2021. The Secretary-General expressed a warm welcome to the panel and wished them a successful meeting.

2. APPROVAL OF THE AGENDA

The Agenda (paper LAP21-2.1) was adopted.

The Agenda is provided at ANNEX A.

3. REVIEW OF ACTION ITEMS FROM LAP19

Input paper LAP21-3 refers.

All action items were noted as completed.

4. REVIEW OF INPUT PAPERS

A list of input papers is provided at ANNEX C.

5. REPORT OF IALA COUNCIL SESSION 71

Input paper LAP21-5 refers.

The report was noted.

6. REPORT OF PAP SESSION 40

Input paper LAP21-6 refers.

The report was noted.

7. REPORT ON THE LAST COMMITTEE SESSION AND ONGOING DEVELOPMENTS

Technical Operations Officer Tom Southall gave a brief update about the committees. He indicated that the crisis due to the Covid-19 pandemic had opened opportunities for new developments, new ways of working. He mentioned that during the committee meetings currently being held online, there were approximately 250 meetings planned and 541 registered participants. In order for the virtual committees to take place IALA has developed new tools, such as the Committee Dashboards, mail groups and a new file sharing system. He then presented to the Panel the Dashboards that have been created on the website for a more comprehensive overview of the tools employed during this period. Committee participants are able to see information about the meetings planned, the action plan, the silent approval process and the presentation schedule. Meeting in an online environment has also meant a welcomed increase in cross-committee collaboration and ease of access to all presentations. IALA has also developed online webinars to keep members updated regularly on the latest developments. The webinars and the presentations are available on the IALA Youtube channel.

8. IALA CHANGE OF STATUS PROJECT (INFORMATION ONLY)

8.1 Outcome of the Diplomatic Conference in Kuala Lumpur 25-28 February 2020

The Diplomatic Conference held in Kuala Lumpur, Malaysia from 25 to 28 February 2020 reached the result it was aiming at. The Conference marked a very important step for IALA as the Convention for the future Organization under intergovernmental status was adopted. 240 persons from 62 States participated in the Conference or were observers. Delegates with credentials from 50 States signed the Final Act of the Conference adopting the text of the Convention and two resolutions: one resolution on languages of the Organization and one on the signing ceremony in Paris in November 2020.

The Convention includes robust arrangements for a smooth transition in the annex – Transitional arrangements.

These arrangements will ensure that the activities of IALA's organs and its technical work will continue uninterrupted and that its responsibilities towards the maritime community will be undiminished and maintained with the customary high level of commitment and expertise.

The development of a set of General Regulations, including Financial Regulations, is well advanced and the final draft is envisaged well before the first General Assembly of the new IGO. Meanwhile, the draft Headquarters Agreement needs to be finalized in cooperation with the Ministry of Foreign Affairs of the French Republic, but a very satisfactory draft is already on the table.

The Secretariat is presently working on a plan for the winding up of IALA as a NGO and the transfer of assets and liabilities to the new organization.

As regards the position of our very important Industrial members, the Convention follows the approach of the Convention of other International Organizations, which designates companies involved in relevant business as Affiliate Members to ensure their inclusion as an important category of its membership. IALA's Industrial members will thus be Affiliate Members of IALA as an IGO and this will ensure the continued, strong cohesion between Marine Aids to Navigation authorities and providers that has always been important for the work of IALA.

All present National members of IALA from States that will not immediately become Member States of the IGO shall, subject to their formal request, become Associate Members of the Organization for a duration of up to ten years from the date of entry into force of the Convention, unless the General Assembly decides to extend that period.

The question of the languages of the new Organization was discussed intensively during all four meetings. While there was agreement on the working language, English, the compromise of having the six languages of the United Nations (Arabic, Chinese, English, French, Russian and Spanish) was only achieved on the last day of the meeting of the Committee of the Whole in Kuala Lumpur.

As agreed in Resolution one of the Diplomatic Conference the General Assembly shall be conducted in all official languages and input papers, in the form of draft resolutions and the report, shall be translated into the official languages.

The Conference determined that the working language of the Organization will be English, and that the work and meetings of the Council, Committees and subsidiary bodies will be conducted in the working language.

It is the aspiration to make the outputs of the Organization, all the Guidance documents, available in the official languages with the help of the relevant Members over time.

The second Resolution is about the Signing of the Convention in Paris in November. It is at this stage not decided how this will be carried out, but a decision will be taken soon.

The main output documents from the Conference – The Final Act, the two resolutions, the Convention and the reports – are available on the IALA web site <https://www.iala-aism.org/meeting-docs/diplomatic-conference/>

9. COUNCIL DECISION ON THE TRANSITIONAL ARRANGEMENTS FROM THE KL CONVENTION

Input papers LAP21-9, LAP21-9.1, LAP21-9.2, LAP21-9.3, LAP21-9.4 refer.

The chair presented input paper LAP21-9. Following the Diplomatic Conference, there was a need to have a council decision to ensure that the Transitional Arrangements mentioned in the KL Convention are followed through. The LAP discussed possibilities for amending the text so that Council could ensure the current IALA would not be terminated in the period during which the Transitional Arrangements would operate. Additional documents from past meetings and recommendations from lawyers about French law were circulated so the Panel could consider all aspects in their discussion. A draft proposal for changes to the proposed text was provided by Mary Dean, AMSA. The LAP agreed to these changes at a later stage in the meeting.

Action item 1

The Secretariat to send the proposal on Council Decision on the Transitional arrangements from the KL Convention to Council 72.

10. REVIEW OF BASIC DOCUMENTS

10.1 General Regulations

Input paper LAP21-10.1 refers.

A number of changes were made in the Basic Documents.

In the General Regulations a change in the wording was made at article 2, paragraph 2.4 to include a matter that was elevated from the financial regulations, then at article paragraph 3.1 section 6 regarding how the General Assembly should be convened. Some additions were made at Article 4, paragraph 4.3, section 6 on the Council agenda items then some addition and deletion of text in 4.5 about the Election of the president and vice-president. Article 9 was amended to allow the Secretary-General to make recommendations on changes to the General Regulations.

In the Terms of Reference and Rules of Procedure – Committees Article 2 was amended to place the focus on the work program.

Minor editorial changes were made throughout the document.

Action item 2

The Secretariat to send the proposal of reviewed General Regulations to Council 72.

10.2 Terms of Reference for LAP

Input paper LAP21-10.2 refer.

The chair opened the floor for discussion on the ToR for LAP. The LAP normally meets twice a year, and this timing was confirmed as appropriate. It was agreed that although physical meetings are preferred, video conference meetings are not excluded, depending on the agenda. In terms of participation, more people can join through video conference, however discussion may be easier to conduct in a physical meeting. Regarding the evolution of the agenda, the change of status to IGO will generate a necessary quality assurance of documents in preparation for the new organization, which may increase the number of items in the agenda.

11. ADVICE ON GUIDANCE DOCUMENTS UNDER DEVELOPMENT OR UNDER REVIEW

11.1 Revision of the IMO Member State Audit Scheme (IMSAS) manual 2014 Annex 3

Input paper LAP21-11.1.1 and LAP21-11.1.2 refers.

The IMSAS manual 2014 Annex 3 has been reviewed and LAP was asked to consider the proposed amendments. After careful consideration LAP made a minor editorial change in regard to the reference to IALA Standards.

Action item 3

The secretariat is requested to send a liaison note to the ARM committee regarding the IMSAS manual 2014 Annex 3 for consideration.

11.2 IALA Regions at the poles

Input papers LAP21-2.3, LAP21-11.2.1 and LAP21-11.2.2 refer.

The vice-chair introduced the input paper LAP21-2.3 for discussion about IALA regions at the poles. The ARM Committee asked the LAP if there would be any legal implications in redesigning the maps in the Maritime Buoyage System. ARM confirmed to LAP that this was primarily a theoretical issue. AtoN in polar regions are rarely deployed. Today, there are no AtoN in the ice-covered North Pole. The vice-chair also recalled that there are no binding obligations from the MBS as it is not a treaty. The MBS is an Agreement between Lighthouse Authorities. IALA recommendations do not create legal obligations. Also, Antarctica is not currently represented on the MBS map. Mary Dean indicated that for Australia the country region applies to maps of its Antarctic region. Hideki Noguchi added that AtoN deployment would be applicable to territorial waters. The vice-chair then concluded that no representation of borders between IALA regions on the map would be a solution to the problem. Matti Eronen added that intending to define regions in the poles would be no added value and was possibly a political issue. Juan Pablo Sanchez stated that Chile has more than 60 ATON both virtual and physical in the Antarctic territory which applies to the country's region B as well. Also brought up the example of SAR responsibility areas in the South Pole that only exist for specific purposes with no political implications, although agrees with no representation of borders on IALA's regions would be feasible. LAP agreed to issue a liaison note to ARM within its scope.

Action item 4

The secretariat to send a liaison note to the ARM committee on IALA Regions at the Poles for consideration and to contact the IHO Secretariat regarding existing policies for mapping at the poles.

11.3 Update on Patent issue with True Heading

Secretary-General Francis Zachariae gave an update on patent issues. Following the issue raised some time ago, IALA put in place a clear policy on patent issues. IALA normally promulgates results of the work of the committees to the public to avoid any issues. All participants are asked if they have any knowledge of existing patents in relation to the work the committee plans to do at the beginning of every meeting. The True Heading case which was related to the work on R-Mode has been resolved and closed.

12. REVIEW OF THE IALA RISK REGISTER

Input paper LAP21-12 refers.

There was only a minor change on the Risk Register after council. A few points could be underlined. Regarding point number 1 about the Strategy and the Change of Status: Council has developed a strong strategic vision approved by the Assembly and after the Diplomatic Conference the risks are quite low. Regarding point number 2, Financial Risks, following action from the secretariat, bad payers have decreased a lot. The risks related to the recent pandemic was added at point number 10. The pandemic has had relatively low impact on IALA. Mary Dean suggested to change the focus of item 1 to risks in how we transition to the change of status rather than having the convention text resolved. The LAP agreed to the proposed change and the IALA Risk Register will be updated before it is presented to the next council meeting.

Action item 5

The Secretariat should develop a risk for the transition period and include it in the risk register then forward it to Council 72.

13. REVIEW OF WWA RISK REGISTER

Input paper LAP21-13 refers.

The Secretary-General also presented the WWA Risk Register. The main risk for the Academy is still sponsorship. It has been mitigated because of a renewable 3-year agreement with the main Sponsor, IFAN. The WWA is constantly looking for new sponsors. Governments could be sponsors as well. Matti Eronen asked if the IALA and WWA Registered could be aligned in terms of probability of risk for the number 1, Strategic Risk. The LAP agreed and the document will be updated accordingly before it is presented to the next council meeting.

Action item 6

The Secretariat is requested to update the WWA Risk Register in line with the IALA Risk Register for the item number 1 and then forward it to Council 72 for consideration.

17. REVIEW OF OUTPUT AND WORKING PAPERS

The list of output papers is at Annex D. There were no working papers.

18. REVIEW OF ACTION ITEMS

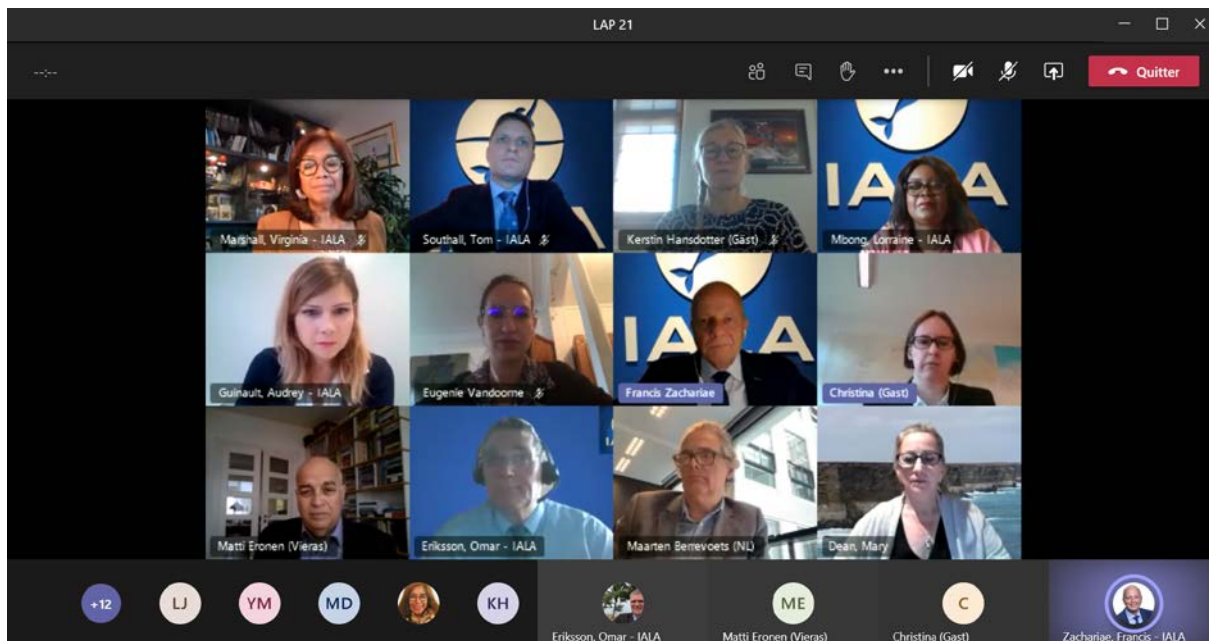
The list of action items is at Annex E.

19. DATE AND PLACE OF NEXT MEETING

The next LAP meeting (LAP22), is scheduled for March 16-18, 2021.

20. APPROVAL OF THE REPORT

The report of LAP20 was to be approved by correspondence.



Legal Advisory Panel

21st Session

Agenda item 2

LAP 21-2

October 13 - 15, 2020

Video Conference

The 21st meeting of the IALA **Legal Advisory Panel** will be held on 13th and 15th October 2020 on Microsoft Teams from 11:00 to 13:00 CEST each day.

LAP 21 - PROVISIONAL AGENDA

(2020-10-02)

1. Welcome and introduction from LAP chair and Secretary General
2. Approval of the agenda
3. Review of action items from LAP 20
4. Review of input papers
5. Report of IALA Council 71
6. Report of PAP 40
7. Report of the last Committee session and ongoing developments
8. IALA change of status project (information only)
 - 8.1. Outcome of the Diplomatic Conference in Kuala Lumpur 25-28 February 2020
9. Council Resolution on the Transitional Arrangements from the KL Convention
10. Review of Basic Documents
 - 10.1 Review of the General Regulations of the current IALA
 - 10.2 Review of Terms of Reference for LAP
11. Advice on guidance documents under development or under review
 - 11.1 From ARM: Revise G 1054 Preparing for a voluntary IMO audit on AtoN delivery service
 - 11.2 From ARM: Guidance on provision of AtoN in Polar Regions
 - 11.3 Update on Patent issue with True Heading
12. Review of the IALA Risk Register
13. Review of the World-Wide Academy Risk Register
14. Any other business
15. Review of output and working papers
16. Review of Action items
17. Date and place of next meeting
18. Approval of the report

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Meeting	Agenda Item	Title / Author (if required)	Source	Output papers
LAP21- 2		Provisional Agenda	Secretariat	
LAP21- 3		Review of action items from LAP20	Secretariat	
LAP21- 4		Review of input papers	Secretariat	
LAP21- 5		Report of IALA Council 71	Secretariat	
LAP21- 6		Report of PAP 40	Secretariat	
LAP21- 8.1		Outcome of the Diplomatic Conference	Secretariat	
LAP21- 9		Council Decision on the Transitional Arrangements	Secretariat	LAP21- 15.4
LAP21- 9.1		KL Convention	Secretariat	
LAP21- 10		Basic Documents with LAP Chair comments	Secretariat	LAP21- 15.3
LAP21- 10.1		Review of the General Regulations for the current IALA	LAP	
LAP21- 10.2		Review of the Terms of Reference for LAP	Secretariat	
LAP21- 11.1		Review of G1054 Preparing for a voluntary IMO audit on AtoN delivery	ARM Committee	LAP21- 15.1
LAP21- 11.2		Guidance on provision of AtoN in Polar Regions	ARM Committee & Secretariat	LAP21- 15.2
LAP21- 12		Review of IALA Risk Register	Secretariat	LAP21- 15.5
LAP21- 13		Review of WWA Risk Register	Secretariat	LAP21- 15.6

Meeting	No.	Title	Action
LAP21-	15.1	Liaison Note on revision of IMSAS manual 2014 Annex3	To ARM committee to consider
LAP21-	15.2	Liaison note on IALA Regions at the Poles	To ARM committee to consider
LAP21-	15.3	Revised Basic Documents	To Council to consider
LAP21-	15.4	Liaison note on Council Decision on Transitional Arrangements from the KL Convention	To Council to consider
LAP21-	15.5	IALA Risk Register	To Council to consider
LAP21-	15.6	WWA Risk Register	To Council to consider
LAP21-	18.1	Report of LAP21	

1. *The Secretariat is requested to send a Liaison Note to the ARM Committee on the revision of IMSAS manual 2014 Annex3.*
2. *The Secretariat is requested to send a Liaison note to the ARM committee on the IALA Regions at the Poles and to liaise with the IHO Secretariat regarding the mapping at the poles.*
3. *The Secretariat is requested to forward the revised Basic Documents for consideration to Council72.*
4. *The Secretariat is requested to send a proposal to Council on Council Decision on the Transitional Arrangements from the KL Convention.*
5. *The Secretariat should develop a Risk for the transition period and include it in the Risk Register then forward it to Council 72.*
6. *The Secretariat is requested to update the WWA Risk Register in line with the IALA Risk Register for the item number 1 and then forward it to Council 72 for consideration.*



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