

TRANSITION COUNCIL
3rd session



10-13 December 2024
Headquarters, France

14.1 – First General Assembly, Singapore

14.1.3 Approval of submissions to the GA

Note by the Secretariat (supplement 2)

BACKGROUND

During the discussions at the Conference on the General Regulations including Financial Regulations in Tokyo in November 2023 , concerns were raised regarding Article 7.7(j) of the Convention, which stipulates that decisions on Associate Membership are the responsibility of the General Assembly, not the Council.

To address this, the Tokyo Conference, on a proposal from Japan, agreed to propose a resolution for discussion at the first General Assembly. The resolution would delegate this responsibility from the General Assembly to the Council in accordance with Articles 7.1 and 8.8(a) of the Convention.

For further details, refer to page 9 of the Tokyo Conference report (29 pages in total).

Attached you will find a change to paper GA01-b.1.1(EN) with a short explanation, a new paper GA01-b.1.4 (EN) and a new resolution GA01-b.1.5(EN).

THE COUNCIL IS INVITED TO

Note the information provided and decide on submission to the General Assembly.

1st General Assembly
International Organization for
Marine Aids to Navigation



18-21 February 2024
Singapore

b– Approval of the General Regulations and Financial Regulations

b.1.1– Explanatory note

Approval of the General Regulations and Financial Regulations of the Organization - Explanatory note

BACKGROUND

In accordance with No. 4 of the transitional arrangements of the Convention, the Organization shall function according to the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities *mutatis mutandis* until the Organization has adopted General Regulations.

The draft General Regulations and Financial Regulations have been developed in line with the draft Convention and have been input papers to all the pre-diplomatic Conferences and the final Diplomatic Conference in Kuala Lumpur in 2022. Since the third pre-diplomatic Conference in Istanbul the draft of the General Regulations and Financial Regulations was no longer discussed, but submitted as an input paper. The Secretariat adapted the draft General Regulations and Financial Regulations according to the final Convention text after the Diplomatic Conference.

After the Convention was closed for signatures in January 2022 and several States have either ratified or acceded to the Convention a Conference was held in November 2023 in Tokyo to develop the draft General Regulations of the Organization to a final draft ready for adoption by the first General Assembly of the IGO. Signature States and Member States of the Organization and national members of the International Association of Marine Aids to Navigation and Lighthouse Authorities were invited to Tokyo.

DISCUSSION

The Conference in Tokyo agreed on a final draft of the General Regulations and Financial Regulations. As agreed, the Secretariat went through the document afterwards to do the necessary “legal-scrubbing” especially with regard to the numbering of the document.

In the final report of the Tokyo Conference (page 9 of 29) it was agreed to introduce a draft Resolution to the General Assembly addressing the delegation of responsibilities from the General Assembly to the Council related to the suspension, reinstatement and termination of membership rights and the membership status for Associate members. A more detailed note on the issue is introduced to the General Assembly under b.1.4 “Note on suspension and reinstatement of membership rights for Associate Members” and a draft Resolution is included under b.1.5. “Resolution on the delegation of responsibility from the General Assembly to the Council”.



The draft General Regulations and Financial Regulations contain two square brackets where the Conference in Tokyo could not find consensus.

- a) the drawing of lots to break a tie-vote, Article 4.5, 5.6 and 6.5
- b) to conduct a virtual vote of the General Assembly and the Council, Article 3.22 and 7.21

THE GENERAL ASSEMBLY IS REQUESTED TO

The General Assembly is requested to approve the General Regulations and Financial Regulations of the Organization.

1st General Assembly
International Organization for
Marine Aids to Navigation



18-21 February 2024
Singapore

b– Approval of the General Regulations and Financial Regulations

b.1.4– Delegation of responsibility

Delegation of responsibility from the General Assembly to the Council

Note on suspension and reinstatement of membership rights for Associate Members

BACKGROUND

At the Tokyo Conference in November 2023, the draft General Regulations of the Organization, including the Financial Regulations, were discussed.

In Article 2 of the draft General Regulations and Article 8 of the draft Financial Regulations the automatic suspension, termination and reinstatement of membership rights and the status of Associate and Affiliate members decided by the Council were agreed.

During the discussions, concerns were raised regarding Article 7.7(j) of the Convention, which stipulates that decisions on Associate Membership are the responsibility of the General Assembly, not the Council.

To address this, the Tokyo Conference agreed to propose a resolution for discussion at the first General Assembly. The resolution would delegate this responsibility from the General Assembly to the Council in accordance with Articles 7.1 and 8.8(a) of the Convention. For further details, refer to page 9 of the Tokyo Conference report (29 pages in total).

DISCUSSION

a. Relevant Articles:

The relevant draft Articles in the General Regulations and Financial Regulations are:

Draft Article 2.7 of the General Regulations:

“The Council may suspend Associate or Affiliate membership for unpaid fees in accordance with the arrangements set out in the Financial Regulations”.

Draft Article 2.10 of the General Regulations:

“The Council reinstates an Associate or Affiliate membership suspended under Article 2.9 when the Council is satisfied that the Associate Member or Affiliate Member has met the requirements set out by the General Assembly or the Council.”

Draft Article 2.11 (b) of the General Regulations:

"Associate or Affiliate membership may be terminated by the Council where a suspended Associate Member or Affiliate Member has not paid fees within twelve months of suspension for that non-payment. The Secretary-General will notify the Council of any such event at its next meeting. Such termination will take effect from the date of the meeting at which the Council terminates the membership; or"

Draft Article 8.1(b) of the Financial Regulations:

"For Associate Members and Affiliate Members:

- i. in the event that no payment is received by 1 July of the financial year, upon approval by the Council, membership rights may be suspended;
- ii. the Council shall be advised, at its second annual session of unpaid fees; and
- iii. on approval by the Council, after notification, membership may be terminated if fees remain unpaid after membership rights have been suspended for twelve months and the Associate Member or Affiliate Member has not agreed a payment schedule."

LEGAL IMPLICATIONS

As included in the relevant draft Articles of the General Regulations and Financial Regulations, the procedure of suspending, reinstating or ending the membership rights and status due to non-payment of fees and in case of reinstatement according to draft Article 2.10 of the General Regulations after meeting requirements set out by the General Assembly is largely automated, with minimal discretion afforded to the Council as the decision-making body.

Leaving these decisions to the Council ensures that actions related to suspension, reinstatement, and termination can be taken twice a year at Council meetings, rather than waiting for the General Assembly, which convenes every three years.

This approach allows for faster sanctioning of members in arrears and quicker reinstatement once the necessary conditions are met.

Other decisions regarding the suspension of membership status for activities incompatible with the aims and objectives of the Organization remain explicitly within the purview of the General Assembly for Associate Members and the Council for Affiliate Members.

Article 8.8(a) of the Convention explicitly provides for the delegation of responsibilities from the General Assembly to the Council, which must then execute these responsibilities accordingly. Additionally, Article 7.1 of the Convention establishes that the General Assembly is the principal decision-making body of the Organization and holds all powers, unless otherwise specified in the Convention.

3. THE GENERAL ASSEMBLY IS REQUESTED TO

The General Assembly is requested to approve the attached draft Resolution on delegating certain responsibilities related to the suspension, reinstatement and termination of membership rights for Associate Members to the Council.

1st General Assembly
International Organization for
Marine Aids to Navigation



18-21 February 2024
Singapore

b– Approval of the General Regulations and the Financial Regulations

b.1.3– Resolution on the delegation of responsibility

Resolution on the delegation of responsibility from the General Assembly to the Council

Resolution GA01-01 bis

Adopted on ##.##.####

Agenda item b.

Delegation of responsibility from the General Assembly to the Council
(effective immediately)

THE ASSEMBLY,

RECALLING the outcome of the Tokyo Conference on the General Regulations including the Financial Regulations in November 2023, in particular with regard to the suspension, reinstatement or termination of Associate membership;

FURTHER RECALLING the provisions of the Convention Article 7.1, 7.7 (j), and Article 8.8 (a);

MINDFUL OF the necessity to sanction members who fail to fulfil their obligations, while also ensuring the possibility of prompt reinstatement immediately upon meeting the required conditions without delay;

1. APPROVES the delegation of responsibilities from the General Assembly to the Council when suspending and terminating or reinstating Associate membership due to non-payment of fees in line with the General Regulations including the Financial Regulations;
2. APPROVES the delegation of responsibilities from the General Assembly to the Council when reinstating Associate membership when the Associate Member has met the requirements for reinstatement set by the General Assembly after a suspension for any activities incompatible with the aim or objectives of the Organization in accordance with the General Regulations.