**Input paper: [[1]](#footnote-1)** PAP44-4.1.1.1

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**Agenda item** [[2]](#footnote-2) 4.1.1

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**Author(s)/Submitter(s)** Hideki NOGUCHI/ Chair, ENAV

use of word “shall”

# background

At 74th session of the Council, One of Councillor asked to replace all “shall” with “should” at the next revision of Guideline 1128 “The specification of e-Navigation technical services” since IALA documents were not legal binding document.

# Discussion

The IALA Standards define that the Standards are non-mandatory and the Convention of International Organization of Marine Aids to Navigation also declares that the functions of the Organization is to develop and communicate non-mandatory standards, recommendations, guidelines, manuals and other appropriate document at the article 4(a). Therefore, it is true that the IALA technical documents are not legal binding and not mandatory.

It is common at IMO that “shall” is used as legal binding documents such as conventions and “should” is used as not legal binding documents such as performance standards and guidelines when drafting IMO instruments, though not clear provision on this issue is not found in the IMO documents.

IALA also does not have the clear provision or guidance on this matter, when considering technical nature of IALA, it seems appropriate to use “shall” if the text is normative or strong obeyance of the readers is requested. Compared with other IALA Guidelines, G1128 uses much more “shall” in the text and it seems that some “shall”s could be replaced with “should” without losing its content but what “shall” can be replaced is difficult question, especially not native in English without clear guidance. It is therefore helpful for the members if some guidance is provided.

# Action requested to the committee

The PAP is requested to consider this issue and act as appropriate.

1. Input document number, to be assigned by the Committee Secretary [↑](#footnote-ref-1)
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