



REPORT OF THE 18<sup>TH</sup> SESSION OF  
THE IALA LEGAL ADVISORY PANEL  
(LAP)

3 to 4 April 2017



C64-8.3.1 (LAP18-21.1)



## Report of the 18<sup>th</sup> session of the IALA

### Legal Advisory Panel (LAP)

#### 3 to 4 April, 2017

### Executive Summary

The 18<sup>th</sup> session of the Legal Advisory Panel was held on 3 and 4 April 2017 at IALA Headquarters, with Jon Price as Chair and Marie-Hélène Grillet as Secretary.

The meeting focused on the preparation of the Preparatory Diplomatic Conference planned for 18-19 April in Paris with feedback from Governments on the IALA change of status, the draft Headquarters Agreement with the Republic of France as IALA Host Nation, the Review of the draft IALA Strategic Vision – including a definition of Marine Aids to Navigation, the draft IALA Standards and the place of the Maritime Buoyage System in the IALA document structure.

The Panel worked on an updated draft Headquarters Agreement and agreed a new draft that will be forwarded to the French Government.

Amendments were proposed to the draft Strategic Vision with the goals being slightly amended and a definition of Marine Aids to Navigation that encompasses Vessel Traffic Services for consideration by the Policy Advisory Panel.

The draft IALA Standards were considered and the Panel agreed a preamble for use in all IALA Standards, which repeats the revised definition of Marine Aids to Navigation, for consideration by the Policy Advisory Panel.

The Maritime Buoyage System and the related agreement between National members were referred to the ARM Committee for the development of a Recommendation carrying the principles of the system and of a Guideline describing how the system can be implemented.

The Panel also considered an informative paper on patents that will be forwarded to the Committee Chairs for the information of their respective Committees and revised the proposed *Incheon Declaration* intended for the recognition of lighthouses as maritime heritage, for which it was suggested to transform it into a Memorandum of Understanding between the Republic of Korea and IALA on behalf of its members.

Finally, the Panel updated the IALA and WWA Risk Registers for Council's consideration and requested that autonomous vessels be added to the list of topics to be discussed at the next IALA Conference.



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## **Report of the 18<sup>th</sup> session of the IALA Legal Advisory Panel (LAP)**

### **GENERAL**

The 18<sup>th</sup> session of the Legal Advisory Panel was held on 3 and 4 April 2017 at IALA Headquarters, with Jon Price as Chair and Marie-Hélène Grillet as Secretary.

### **1. INTRODUCTION FROM LAP CHAIR AND SECRETARY-GENERAL**

The Chair welcomed those present and set out the key issues for consideration by the meeting, namely early feedback from Governments on the IALA project to change its status to that of an Intergovernmental Organization, with a view to prepare for the Pre-Diplomatic Conference to be held in Paris on 18-19 April. On the same subject, the Panel was to give consideration to the draft Headquarters Agreement with the Government of France as a Host Nation. Other important topics for the meeting were the development of a definition of Marine Aids to Navigation that covers VTS, and identifying a suitable place for the Maritime Buoyage System and the related agreement within the IALA document structure.

The Secretary-General reported that IALA's premises had been refurbished to reflect the new image of the Association and the IT facilities had been upgraded.

#### **1.1 Introductions and apologies**

The Chair remarked that this meeting had less attendance than usual, possibly due to the Pre-Diplomatic Conference taking place a few days later. The participants introduced themselves.

Apologies were received from Ms Lynn Pauwels of Belgium and Ms Claire Adam, the French representative, who was prevented from attending due to unexpected circumstances but took part in the discussions on Agenda item 7.3 (Headquarters Agreement) over the phone.

A list of attendees is provided at ANNEX B.

### **2. APPROVAL OF THE AGENDA**

The Agenda (paper LAP18-2.1) was adopted.

The Agenda is provided at ANNEX A.

### **3. REVIEW OF ACTION ITEMS FROM LAP17**

Input paper LAP17-3.1 refers.

All action items were noted as completed.

### **4. REVIEW OF INPUT PAPERS**

There were two late papers – a revised version of the Agenda and a paper submitted for consideration by the Republic of Korea on the intended Incheon Declaration on Lighthouses as Cultural Heritage, which were tabled at the meeting. A list of input papers is provided at ANNEX C.

### **5. REPORT OF IALA COUNCIL 63**

Secretary-General Francis Zachariae reported verbally on the main outcomes of the 63<sup>rd</sup> session of the IALA Council.



Regarding the IGO project he highlighted the following:

- A report had been made by the representative of the French Ministry of Foreign Affairs on their strong support with the Minister signing the individual letters of invitation to the Preparatory Diplomatic Conference and two dedicated staff dealing with the preparation of the Pre-Diplomatic Conference;
- Positive feedback was received from the countries but also concerns regarding the relationship with IMO and the proposed target date of 2018, which may leave a too short time for negotiations;
- The 2018 Conference was considered as a possible opportunity but not a target date;
- Comments were made on the draft General Regulations, the answers to which will be given or considered at the Diplomatic Conference;
- Translation issues were raised, mainly concerning the cost to the Organization and the reliability if done by volunteers.

The Council reiterated its wish to have Guidelines on AIS data used as evidence at court cases, although the LAP had informed that this would be difficult due national rules differing from one country to another.

The Council approved a reorganisation of its Strategy Working Group, which will take the form of a new Strategy Drafting Group and meet for the first time at Council 64 in Incheon in June 2017.

Finally, it was recognized that IALA-NET was a valuable tool providing quality AIS data to assess the volume of traffic for use with the IALA Risk Management Tool. Improvements are foreseen with the system becoming more automatic and offering new services, including data storage.

The LAP noted the report and the Chair added that the short legal introductory chapter prepared for the report drafted by the ENAV Committee on AIS data had been forwarded to the last meeting of this Committee, for incorporation and then submission of the whole document to the Council. He thanked Dr Schneider for her work in this regard.

## **6. PAP33 – VERBAL BRIEFING ON THE MEETING TO BE HELD ON 5 TO 7 APRIL**

LAP Chair Jon Price reported that the topics relevant to LAP that would be considered at the next PAP meeting concerned mainly:

- Further work on Standards after the LAP has considered the drafts and formulated comments;
- The adoption of a draft Standard preamble carrying a definition of Marine Aids to Navigation that would encompass VTS;
- The draft Strategic Vision;
- The Maritime Buoyage System in the IALA document structure; and
- The proposal to introduce provisions covering the term and termination of Committee Chair and Vice-Chair appointments in the IALA Basic Documents.

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

### **7.1 Update on project and Preparatory Diplomatic Conference on 18 & 19 April**

Secretary-General Francis Zachariae reported that the French Ministry of Foreign Affairs had allocated two people to the project and the preparation of the conference. Many countries had asked questions on receipt of the invitation, which was a good sign of interest. Most countries were supportive. About 100 participants had registered at the time of the LAP meeting, with many different backgrounds ranging from AtoN officers to Ministers.



He added that the welcome address would make clear that the conference was not intended to be a drafting session for the Convention and General Regulations but a forum where comments would be made and concerns raised to progress the drafts further.

## **7.2 Feedback from Governments on Preparatory Diplomatic Conference**

The LAP Chair informed the Panel that the purpose of this item was to give those attending the opportunity to provide feedback from their Governments on the Pre-Diplomatic Conference in terms of the change to IGO status, the conference itself and the draft Convention text.

In this context the Chair advised that the Secretary-General and he were to meet the European Commission at the end of that week to discuss the position of the Commission in terms of IALA's change of status to an IGO.

The LAP Chair invited the LAP to report their Government's position on the change of status and Convention text. The overall response of those present was positive and supportive of IALA becoming an IGO. In addition the Secretary-General reported on positive feedback the Secretariat received from some 62 other Governments. The representative of Germany stated that Germany does not support the change of status at present as it cannot identify any clear advantages.

Some attendees raised comments on the draft Convention text but noted that they would be considered as part of the diplomatic process.

A question concerning the permanent seat on the Council allocated to the Host Nation had been raised, for which LAP Vice-Chair was invited to do some research work to determine whether this is common practice in IGOs.

### *Action item 1*

*The LAP to consider if other IGOs allocate the Host Nation a permanent seat on their governing bodies.*

## **7.3 Draft Headquarters Agreement**

Input paper LAP18-7.3.1 refers.

The LAP considered the document article by article and raised the following concerns:

- Would immunities cover members that are not Contracting Parties? A provisional answer was that immunities normally concern State representatives only. Other members would not benefit from immunities, unless they are mandated by a Contracting Party;
- Would immunities be consented to staff members' partners (unmarried couples)? The draft text was amended to provide for partners to be taken into account;
- Would seconded officers be considered as staff members or would they represented their Contracting Party? No firm answer was given to this question but it was agreed to add seconded officers to Article 16 and elsewhere as appropriate.

### *Action item 2*

*The Secretariat to amend the draft Headquarters Agreement and forward it to the French Government.*

## **8. REVIEW OF IALA CONSTITUTION**

Input paper LAP18-8.1 was reviewed as an ongoing task for LAP. There were no amendments suggested.

## **9. PATENT POLICY**

Input paper LAP18-9.1 refers.

The explanation paper provided by Lynn Pauwels was considered and the LAP was of the opinion that it was very clear and informative. The paper should be forwarded to the Committee Chairs for information of their Committees.





The Secretary-General added that procedures may be needed.

#### *Action item 3*

*The Secretariat to forward the explanation paper on patents (LAP18-22.3) to the Committee Chairs.*

## **10. REVIEW OF DRAFT IALA STRATEGIC VISION**

### **10.1 Draft IALA Strategic Vision**

Input paper LAP18-10.1 refers.

The current Strategic Vision had been developed for three work periods of four years each but the revised one was looking at two work periods only, i.e. eight years instead of twelve. The Strategic Vision should be reflected in the position paper. In developing the document the Secretariat had considered the main drivers and concluded that the current two goals should remain unchanged.

Amendments were suggested in the two goals, which were agreed are as follows:

- Goal 1: Marine Aids to Navigation are harmonised through international cooperation and the provision of standards.
- Goal 2: All coastal states have contributed to an efficient global network of Marine Aids to Navigation through capacity building and the sharing of expertise.

Goal 1 is understood as to be covered by IALA as a whole and Goal 2 by the Academy.

Whether it was appropriate to include a third goal to address the UN sustainable development goals was discussed and the conclusion was that this should be part of the strategies, as well as training.

It was agreed that the revised draft IALA Strategic Vision should be forwarded to PAP33, advising PAP to send it to the Council for comments before it is sent to the Committees for final review, with the aim of having it approved by the Council in December 2017.

#### *Action item 3*

*The Secretariat to forward the revised draft IALA Strategic Vision (LAP18-22.4) to PAP33.*

#### *Action item 4*

*The Secretariat to forward to PAP the LAP advice to submit the finalized draft Strategic Vision to the Committees for comments before it is sent to Council for approval. In the meantime it should be sent to Council 64 as an interim document.*

### **10.2 Definition of Marine Aids to Navigation**

Input paper LAP18-10.2 refers.

The LAP stressed the importance of having for the purposes of IALA in all IALA documents one unified, broad definition for Marine Aids to Navigation, which covered all IALA's activities including Vessel Traffic Services.

It was agreed to forward the note on the definition of Marine Aids to Navigation to PAP33 for information.

#### *Action item 5*

*The Secretariat is requested to forward to PAP33 the information note on the definition of Marine Aids to Navigation (LAP18-22.5).*

#### *Action item 6*

*The Secretariat is requested to monitor the development of IALA documentation in order to ensure that only this unified definition is used.*



## 11. THE MARITIME BUOYAGE SYSTEM IN THE IALA DOCUMENT STRUCTURE

Input papers LAP18-11.1 refers.

Deputy Secretary-General Michael Card explained the IALA concern about the Maritime Buoyage System, which is recognised and adopted worldwide but for which there is no place in the IALA document structure. He therefore thought that it would be appropriate to have a Recommendation with an associated Guideline describing the system.

Areas of concern were identified:

- There is an agreement between National members and others by the means of which national administrations have committed to implement the system;
- The Maritime Buoyage System is specifically mentioned by IMO, which encourages its Member States to sign it. This gives it a higher position than other IALA documents that are only mentioned in a footnote of SOLAS V/13;

To these concerns the LAP Chair answered that the agreement is not binding on States, having been signed by representatives of national administrations who were not accredited to commit the States. The Secretary-General added that IMO would be informed of the publication of the new Recommendation and Guideline, and invited to review its documentation at its earliest convenience. He also stressed that the intention was not to terminate the agreement, which would be retained.

It was agreed to request the ARM Committee to amend the proposed Recommendation at its next meeting and refer back to LAP before it is forwarded to the Council for approval.

### *Action item 7*

*The Secretariat is requested to forward the draft Recommendation on the Maritime Buoyage System as revised by LAP (output paper LAP18-22.5) to the ARM Committee for consideration at its next meeting.*

## 12. PREAMBLE FOR IALA STANDARDS

LAP reviewed input paper LAP18-12.1 and made a number of amendments as reflected in output papers. The major amendment was the removal of references to specific IMO documents, in order to limit those references to the major Conventions, i.e. SOLAS and UNCLOS. The draft preamble was to be forwarded to PAP33.

The proposal submitted by the VTS Committee as input paper LAP18-12.2. This input paper introduced concerns of the Committee about VTS not being specifically mentioned, possible partial compliance to draft Standard 1050 on training and certification if the Recommendations pertaining to VTS training are not replicated in draft Standard 1040 and a risk of confusion with regard to the title of draft Standard 1070. The paper was considered and the views of LAP are reflected in an amended version of the document, to be forwarded to PAP33.

### *Action item 8*

*The Secretariat is requested to forward the amended draft preamble to IALA Standards (output paper LAP22-7) to PAP33.*

### *Action item 9*

*The Secretariat is requested to forward to PAP33 its views on the note submitted by the VTS Committee on draft IALA Standards by the means of output paper LAP18-22.8.*

## 13. DISCLAIMER FOR THE IALA DICTIONARY

Input paper LAP18-13.1 refers.



The introductory paper drafted by Christina Schneider was not discussed due to the situation of the Dictionary being uncertain. Concerns were expressed with regards to its purpose, quality and reliability of the translations.

Opposition from the Committees to remove definitions from individual documents was reported, making the Dictionary Working Group unsure about its freedom to operate effectively.

LAP decided not to work further on disclaimers, an existing disclaimer already being in place, leaving the PAP to determine what the future of the Dictionary should be.

## **14. PROPOSED CHANGES TO IMO RESOLUTION A.857(20)**

Secretary-General Francis Zachariae recalled that the Council had requested the VTS Committee to develop compelling needs for a revision of the Resolution, and this had been done at VTS42. The VTS Committee then developed a draft, which still needs to be finalized, for submission to the IMO, probably through NCSR.

The representative of Germany reported concerns about opening up “services” and VTS beyond territorial waters.

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

Input paper LAP18-15.1 refers.

LAP reviewed and updated the IALA Risk Register for submission to Council 64.

### *Action item 10*

*The Secretariat is requested to forward the updated IALA Risk Register (output paper LAP18-22.9) to Council 64 for consideration.*

## **16. REVIEW OF WORLD-WIDE ACADEMY RISK REGISTER**

Input paper LAP18-16.1 refers.

LAP reviewed and updated the World-Wide Academy Risk Register for submission to Council 64.

### *Action item 11*

*The Secretariat is requested to forward the updated World-Wide Academy Risk Register (output paper LAP18-22.10) to Council 64 for consideration.*

## **17. ANY OTHER BUSINESS**

### **17.1 Term and termination of Committee Chair and Vice-Chair appointments**

LAP considered input paper LAP18-17.1.1 in the light of the introduction made by Deputy Secretary-General Michael Card and had no objection from a legal perspective to its introduction in the Basic Documents after one amendment has been made with regard to an IALA work period ending with a General Assembly and not a Conference, and subject to Council approval.

### *Action item 12*

*The Secretariat is requested to forward the proposed additional clause on term and termination of Committee Chair and Vice-Chair appointments to the Council for approval.*

### **17.2 Incheon Declaration**

Late input paper LAP18-17.2 was tabled for consideration before its submission to the International Conference Steering Committee (ICSC) meeting scheduled for the next morning.

The Incheon Declaration was intended for signature by the National members participating in the 19<sup>th</sup> IALA Conference, ie Republic of Korea and IALA.



LAP was of the opinion that this could lead to difficult discussions on the text at the Conference and a MoU on the heritage value of lighthouses, between the Republic of Korea and the IALA Secretary-General, would be easier to achieve.

It was agreed that the LAP Chair and Vice-Chair, with the help of the Secretary-General, would produce a new draft.

In the meantime LAP made provisional amendments to the draft, which should be forwarded to the next ICSC meeting with a note that it still needs further work.

#### *Action item 13*

*Jon Price, Henning Osnes Teigene and Francis Zachariae are requested to draft a MoU between IALA and the Republic of Korea on the heritage value of lighthouses for submission to the International Conference Steering Committee.*

#### *Action item 14*

*The Secretariat is requested to forward the amended draft Incheon Declaration to the next International Conference Steering Committee meeting with a warning that it will be further amended to take the form of a MoU.*

### **17.3 Autonomous vessels**

The representative of Finland raised the issue of autonomous vessels that the industry is ready to launch. He mentioned the legal and technical implications and wondered which IALA Committee would be able to deal with this topic.

Secretary-General Francis Zachariae answered that all Committees were likely to be involved and LAP would certainly have to look into the issue.

LAP was of the opinion that autonomous vessels would be a good topic for discussion at the next IALA Conference.

#### *Action item 15*

*The Secretariat is requested to add autonomous vessels as a topic for discussion at the next IALA Conference.*

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

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

## **19. REVIEW OF ACTION ITEMS**

The list of action items is at Annex D.

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

The next LAP meeting (LAP19), is tentatively scheduled for October 4, 2017, at IALA Headquarters.

## **21. APPROVAL OF THE REPORT**

The report of LAP18 was to be approved by correspondence.



## ANNEX A

## AGENDA

**Legal Advisory Panel**18<sup>th</sup> Session

Agenda item 1

**LAP 18-2.1**

April 3 - 4, 2017

IALA Headquarters

The 18<sup>th</sup> meeting of the IALA **Legal Advisory Panel** will be held on 3<sup>rd</sup> and 4<sup>th</sup> April 2017 at IALA Headquarters, 10 rue des Gaudines, 78100 Saint-Germain-en-Laye, France.

The meeting will commence at 1000 hours on 3<sup>rd</sup> April and is expected to finish at 1600 hours on the 4<sup>th</sup>.

**LAP 18 - AGENDA**

(2017-04-03)

1. Introduction from LAP Chair & Secretary General
2. Approval of the agenda
3. Review of action items from LAP17
4. Review of input papers
5. Report of IALA Council 63
6. PAP33 – Verbal briefing on meeting to be held from 5 to 7 April
7. IALA change of status project
  - 7.1. Update on project and pre-Diplomatic Conference on 18 & 19 April
  - 7.2. Feedback from Governments on Preparatory Diplomatic Conference
  - 7.3. Headquarters Agreement
8. Review of IALA Constitution
9. Patent policy
10. Review of IALA Strategic Vision
11. The Maritime Buoyage System in the IALA document structure
12. Preamble for IALA Standards
  - 12.1. VTS comments on draft Standard for Vessel Traffic Services
13. Disclaimers for the IALA Dictionary
14. Proposed changes to IMO Resolution A.857(20)
15. Review of IALA Risk Register
16. Review of World Wide Academy Risk Register
17. Any other business
  - 17.1. Term and termination of Committee Chair and Vice-Chair appointments
  - 17.2. Incheon Declaration
18. Review of output and working papers
19. Review of Action Items
20. Date and place of next meeting
21. Approval of the report



## ANNEX B

## LIST OF PARTICIPANTS

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## ANNEX C LIST OF INPUT PAPERS

Meeting	Agenda Item	Title / Author (if required)	Source	Output papers
LAP18	2.1	Provisional Agenda	Secretariat	
LAP18	3.1	Review of action items from LAP17	Secretariat	
LAP18	5.1	Final report Council session 63	Secretariat	
LAP18	7.2.1	Feedback on Pre-Diplomatic Conference	Secretariat	
LAP18	7.3.1	Draft Headquarters Agreement	LAP Chair	LAP18-22.1
LAP18	8.1	Draft IALA Constitution	Secretariat	LAP18-22.2
LAP18	9.1	Information on patents	Lynn Pauwels	LAP18-22.3
LAP18	10.1	Strategic Vision 2018-2026	Secretariat	LAP18-22.4
LAP18	10.2	Definition of Marine Aids to Navigation	Secretariat	LAP18-22.5
LAP18	11.1	Draft Recommendation on the MBS	Secretariat	LAP18-22.6
LAP18	12.1	Draft preamble to IALA Standards – Introduction	Secretariat	
LAP18	12.1.1	Draft preamble to IALA Standards	Secretariat	LAP18-22.7
LAP18	12.2	Liaison note to Secretariat and PAP re IALA Standards	VTS Committee	LAP18-22.8
LAP18	13.1	Disclaimers for the IALA Dictionary	Christina Schneider	
LAP18	14.1	IALA Risk Register	LAP17	LAP18-22.9
LAP18	15.1	WWA Risk Register	WWA	LAP18-22.10
LAP18	17.1.1	Draft term and termination of Committee Chairs and Vice-Chairs	Secretariat	LAP18-22.11
LAP18	17.2	Draft Incheon Declaration	Rep of Korea	LAP18-22.12



## ANNEX D

## LIST OF OUTPUT PAPERS

Meeting	No.	Title	Action
LAP18	22.1	Report LAP18	To Council to note
LAP18	22.2	Draft Headquarters Agreement	To French Government
LAP18	22.3	Draft IALA Constitution	To Council to note
LAP18	22.4	Information on patents	To Committee Chairs
LAP18	22.4	Strategic Vision 2018-2026	To Council to consider
LAP18	22.5	Definition of Marine Aids to Navigation	To PAP33
LAP18	22.6	Draft Recommendation on the MBS	To ARM6
LAP18	22.7	Draft preamble to IALA Standards	To PAP33
LAP18	22.8	Liaison note to Secretariat and PAP re IALA Standards	To PAP33
LAP18	22.9	IALA Risk Register	To Council to consider
LAP18	22.10	WWA Risk Register	To Council to consider
LAP18	22.11	Draft term and termination of Committee Chairs and Vice Chairs	To Council to consider
LAP18	22.12	Draft Incheon Declaration	To next meeting of Conference Steering Committee





## ANNEX E

## ACTION ITEMS

1. *The LAP Vice-Chair to review whether other IGOs allocate the Host Nation a permanent seat on their governing bodies.*
2. *The Secretariat to amend the draft Headquarters Agreement and forward it to the French Government.*
3. *The Secretariat to forward the explanation paper on patents (LAP18-22.3) to the Committee Chairs.*
4. *The Secretariat to forward to PAP the LAP advice to submit the finalized draft Strategic Vision to the Committees for comments before it is sent to Council for approval. In the meantime it should be sent to Council 64 as an interim document.*
5. *The Secretariat is requested to forward to PAP33 the information note on the definition of Marine Aids to Navigation (LAP18-22.5).*
6. *The Secretariat is requested to monitor the development of IALA documentation in order to ensure that only this unified definition is used.*
7. *The Secretariat is requested to forward the draft Recommendation on the Maritime Buoyage System as revised by LAP (output paper LAP18-22.5) to the ARM Committee for consideration at its next meeting.*
8. *The Secretariat is requested to forward the amended draft preamble to IALA Standards (output paper LAP22-7) to PAP33.*
9. *The Secretariat is requested to forward to PAP33 its views on the note submitted by the VTS Committee on draft IALA Standards by the means of output paper LAP18-22.8.*
10. *The Secretariat is requested to forward the updated IALA Risk Register (output paper LAP18-22.9) to Council 64 for consideration.*
11. *The Secretariat is requested to forward the updated World-Wide Academy Risk Register (output paper LAP18-22.10) to Council 64 for consideration.*
12. *The Secretariat is requested to forward the proposed additional clause on term and termination of Committee Chair and Vice-Chair appointments to the Council for approval.*
13. *Jon Price, Henning Osnes Teigene and Francis Zachariae are requested to draft a MoU between IALA and the Republic of Korea on the heritage value of lighthouses for submission to the International Conference Steering Committee.*
14. *The Secretariat is requested to forward the amended draft Incheon Declaration to the next International Conference Steering Committee meeting with a warning that it will be further amended to take the form of a MoU.*
15. *The Secretariat is requested to add autonomous vessels as a topic for discussion at the next IALA Conference.*



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