

IALA COUNCIL 76th session



12-16 December 2022
Rio de Janeiro
Brazil

8– Strategy and Policy

8.3– Change of Status

8.3.2 – Status on the transition arrangements

8.3.2 – STATUS ON THE TRANSITION ARRANGEMENTS

The Secretariat has started the detailed preparation for the transition period between the start of the new organization and the termination of the present association. For this purpose and after advice from the LAP, the Secretariat has appointed a French law firm, Carlara Avocats, to provide legal assistance throughout the transition period and until the winding up of the Association is complete. Carlara Avocats will help with respect to the administrative formalities required by French law for the transfer of the rights, interests, assets and liabilities in favour of the new IGO.

Of special interest is the Annex to the Convention (Transitional Arrangements) and Article 13 to the Constitution of the present IALA describing the automatic termination of IALA as an association.

It is important to note, that upon entry into force of the Convention and until the first General Assembly of the IGO (maximum six month), the President, Vice President, the Council, the Secretary General, the Secretariat and the organs of the present IALA will execute the same roles in the IGO in accordance with the relevant articles of the Convention. This provision ensures that IALA will be able to continue its tasks during the transition period until the first General Assembly of the IGO will elect the first President, Vice President, the Council, the Secretary-General and all other relevant positions according to the Convention.

USE OF THE GENERAL REGULATIONS MUTATIS MUTANTIS

As part of the Basic Documents, IALA has developed the General Regulations including Financial Regulations (See input paper 10.1.2). In the present IALA the General Regulations and the Financial Regulations shall be agreed and changed by the Council, but in accordance with the Convention the General Assembly will have to agree the General Regulations and Financial Regulations in the IGO.

As part of the Transitional Arrangements, it has been decided that the present General Regulations should be used mutatis mutandis in the period from the entry into force of the Convention and until new General Regulations have been agreed at the first General Assembly of the IGO.

Mutatis mutandis translates in legal terms to “all necessary changes having been made” or “with the necessary changes.” In the present situation this means mainly that the IGO will be governed according to the General Regulations of the association until the IGO decides upon its General Regulations during the first General Assembly. Therefore, the technical work and every-day-business of IALA will continue as before.

In case there will be any specific legal problems coming up during this period about the interpretation of the General Regulations mutatis mutandis, the Secretariat will liaise with the LAP on a case-by-case basis to find solutions in a most pragmatic way to ensure a smooth transition.



DEVELOP THE DRAFT GENERAL REGULATIONS

In the beginning of the Change of Status project, the draft General Regulations were managed in the same way as the draft Convention. They were issued before each meeting and after comments by States they were negotiated at the meetings. This was given up as they were much too complicated to agree on and took too much time from the more important negotiation on the draft Convention. The last version of the draft General Regulations was issued as an input paper to the Diplomatic Conference in Kuala Lumpur in 2020.

Experience has shown that it can be cumbersome to achieve agreement on the detailed General Regulation and it is therefore necessary to have a very mature draft ready for the first General Assembly of the IGO.

As this should not be done at a diplomatic conference it has been decided to convene the signatory and accession States and IALA National members to a meeting in the fourth quarter of 2023 to discuss and “finalize” the draft General Regulations and the Financial Regulations. The Japan Coast Guard has kindly offered to host this meeting in Tokyo and the first planning meeting for this event is scheduled in February 2023. A first invitation will be issued shortly.

The Secretary-General will chair this meeting with the help of the LAP Chair and Vice Chair and the IALA Secretariat.

A draft developed by the Secretariat with the help of the LAP Chair and Vice Chair will be sent to the potential participants in advance to get relevant comments.

LETTERS TO MEMBERS OF IALA TO JOIN THE IGO

A particularly important part of the Transitional Arrangements is point 5) and 7):

5. All National Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States 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 this Convention, unless the General Assembly decides to extend that period.

7. All Associate and Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities up to date with their fees shall, subject to their formal request, become Affiliate Members of the Organization.

Some National members might not have ratified, accepted or acceded to the Convention when it enters into force, and it is important to keep them as members of the organization for political, technical and financial reasons. The same goes for the Industrial members and Associate members who contribute with invaluable technical knowledge to the development of the technical documents.

Therefore, the process of inviting these members and the formal request procedure must be well prepared and easy to manage for the potential members.

A draft letter was agreed at C75 and will be issued at the appropriate time.

THE COUNCIL IS REQUESTED TO

Note the information provided and give advice as necessary.