



ROYAL NORWEGIAN MINISTRY  
OF TRANSPORT AND COMMUNICATIONS

IALA Secretariat

Your ref

Our ref

Date

15/2255

27 September 2017

**Follow-up to the First Preparatory Diplomatic Conference - IALA Pre-Diplomatic Conference follow up letter**

Secretary-General,

Norway refers to the Pre-Diplomatic Conference held in Paris on 18 and 19 April 2017 regarding the change of status of IALA and the invitation to forward written comments to the draft Convention.

We would like to draw your attention to the following points:

**Article 1.3.** of the draft convention regarding the **working languages** of the Organization: In the process of transforming IALA to an IGO, it is important to focus on maintaining the level of costs, as far as possible, at the same level as today. We are therefore concerned when an additional working language is introduced (French). In our view, additional working languages would undoubtedly require extensive translation services which again would impact on the budget of IALA and the member fees/contributions. By adding one additional language, there may also be a demand for adding even more working languages, potentially all six official languages of the UN. In order to avoid this situation, we propose to continue as of today with English as the only working language of IALA.

**Articles 7.2. and 7.3.** of the draft convention ensure that the host nation of IALA has a **permanent seat in the IALA Council**:

To the best of our knowledge, such a provision is unusual in other relevant international Organizations, and Norway is not aware of any other relevant organization with such permanent representation for the host country in that capacity. We therefore propose that

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Article 7 be amended to ensure that all Councillors are elected on an equal basis. This will also contribute towards achieving an equitable regional distribution of the Council seats.

Thus, we propose that articles 7.2 and 7.3. read as follows:

2. The Council shall consist of the President and the Vice President and up to twenty two (22) Councillors elected from amongst the Contracting Parties.
3. Councillors shall be elected by ballot by the General Assembly in accordance with the General Regulations.

We also propose that article 7.4. be deleted.

**Article 7.6.(a)** stipulates that the **President and the Vice President** shall be elected from amongst the members of Council. In our opinion, it would be preferable that the President and the Vice President are elected by the General Assembly from amongst the Contracting Governments.

We therefore suggest deleting art. 7.6.(a) and amending Article 6.7 to insert a new paragraph 6.7.(c) that reads as follows:

6.7.

- (c) Elect the President and the Vice President from amongst the Contracting Governments.

As a consequence, it will be necessary to renumber the following subparagraphs in article 6.7.

**Article 11.2**, 1<sup>st</sup> sentence of the draft convention states that the organization shall, subject to the agreement of each contracting party, enjoy such **privileges and immunities** that are necessary for the fulfilment of its aim and for the exercise of its functions. In Norway's view, the words "subject to the agreement of each contracting party" also refers to the second sentence of draft Article 11.2, which stipulates that, in the territory of any state which is party to the 1947 Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations, such legal capacity, privileges and immunities shall be those defined in the said Convention.

However, in order to clarify the matter, Norway would propose to specify this also in Article 11.2, 2<sup>nd</sup> sentence, which would then read as follows:

"In the territory of any state which is party to the Convention on the Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations on 21 November 1947, such legal capacity, privileges and immunities shall, subject to the agreement of the Contracting Party in question, be those defined in the said Convention".

Furthermore, in Norway's view, draft Article 11 regulates the legal capacity, privileges and immunities of the organization as such, and not tax related privileges and immunities for the officials of the organization.

**Article 12.4** of the draft convention regarding **amendments** introduces the tacit-acceptance procedure to ensure effective entry into force of amendments. We agree that such a mechanism is useful and unbureaucratic and we support this in principle. However, we are concerned that the article, as it now reads, does not allow a Contracting Government to make reservations by objecting to an amendment. Elements in article VIII of the SOLAS-Convention regarding amendments may be used to redraft the proposed article 12.4 in the IALA Convention.

We propose that article 12, paragraph 4 read as follows:

4. Any amendment adopted in accordance with Article 12.3. shall be notified by the Depositary (Government of France) to all Contracting Parties and the Secretary General. The amendment shall be deemed to have been accepted at the end of a period of twelve months after the date of notification.

In addition, we propose to insert a new paragraph 5 to make it clear that amendments to the Convention only apply to those Contracting Governments which have accepted it. We propose that the new paragraph 5 read as follows:

5. An amendment to the Convention shall enter into force with respect to those Contracting Governments which have accepted it six months after the date on which it is deemed to have been accepted, and with respect to each Contracting Government which accepts it after that date, six months after the date of that Contracting Government's acceptance.

Regarding **article 13 on Interpretation and Disputes** we propose some minor changes in the heading and the text itself. The proposed modifications are meant to underscore that the main rule should be that any dispute is to be settled through consultation or negotiation between the parties. A panel of arbitrators should only be established in cases where such consultations or negotiations have failed. A time limit of three months is also meant to ensure that the parties try to settle the dispute through consultation or negotiation before the dispute is being referred to a panel of arbitrators. We propose that article 13 read as follows:

#### Article 13 Settlement of Disputes

Any question or dispute concerning the interpretation or application of the present Convention arising between or amongst Contracting Parties shall be settled through

consultation or negotiation, and if necessary by the good offices of the Council. If the dispute is not settled through consultation or negotiation within a period of three months it may be referred to a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration, unless the parties to the dispute agree upon another mode of settlement.

**Article 14.5.** makes it clear that ratification, acceptance or approval of, or accession to, the Convention shall be **without reservation**. We refer to our concern above regarding article 12.4. which also applies here. Moreover, the possibility to make reservations, provided that they are not incompatible with the object and purpose of the treaty, would most likely lower the threshold of becoming a party to a future convention.

We propose that article 14.5 be deleted.

Yours sincerely

Petter Meier  
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*This document is signed electronically and has therefore no handwritten signature*

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