

Australia's comments in relation to the draft IALA Convention text

General Comments

- 1 Convention would benefit from a definitions clause. Technical terms or ambiguous terms should be defined at the start of the Convention. All capitalised terms in the document should be included as a defined term.
- 2 References to 'and/or' should be clarified to ensure it is properly used. For example:
 - o the use of 'and/or' in Art 2(3) is redundant and could be substituted with 'and';
 - o the use of 'and/or' in Art 4(3) is inconsistent with the use of 'or' in Art 6(2).
- 3 Capitalisation should be consistent for sub-headings and for words with a precise meaning (i.e. members). For instance, sub-paragraphs such as Art 6(7) should either all be lower-case or upper-case.

Specific Comments

Item	Text	Comments
Art 4(2)	Members shall include , and the General Regulation may make provision for all matters related to, associate and affiliate members.	Suggested reword: Members may be Associate members or Affiliate members. The General Regulations may make provisions for all matters related to members.
Art 6(6)	The General Assembly shall be chaired by the President or the Vice President and operate in accordance with this Convention and the General Regulations.	The General Assembly cannot act in accordance with the General Regulations whilst it is making the first General Regulation. Suggest addition of transition provision in relation to existing General Regulations.
Throughout, but for Art 12(4), first occurring, and Art 16	Change 'Contracting Parties' to 'Parties'.	In accordance with the Vienna Convention on Treaties 'Parties' consent to be bound when the treaty is in force for them.

Item	Text	Comments
Art 12(4), first occurring and Art 16	Change 'Contracting Parties to 'Contracting States'	In accordance with the Vienna Convention on Treaties, 'Contracting States' consent to be bound whether or not the treaty is in force for them.
Art 18(1)	Capitalise 'Members'	Minor editorial
Art 18(2)	Capitalise 'Member', 'Members', 'Associate' and 'Industrial' Change 'their' to 'the party's'	Minor editorial
Art 18(6)	Reword as follows: In the event that a State which has Associate membership under this Convention becomes a Contracting State the Associate membership will cease on the date on which the Convention enters into force for that State. In the case of a Contracting State having more than one Associate membership under this Convention that State may decide to retain additional Associate memberships.	This change recognises that (different) 'Associate' membership exist under the old Association arrangements and under the new Convention, and clarifies which is the subject of the clause.
Art 18(8)	Add text so that the General Regulations of the IALA Association shall serve as the General Regulation for the Organisation until the first General Assembly.	This is required so that there are arrangements in place that will provide for the running of the first General Assembly of the Organisation at which the General Regulations for the Organisation can be adopted.

Australia's position on issues raised at the first Pre-Diplomatic Conference:

Topic	Issue	Australia's comments
Membership categories	<p>Associate and Affiliate member categories were questioned: suggestions were made to have, in addition to Member States, only one other category, which could be "Observers".</p> <p>Another suggestion was to limit Associate membership to the current National members and to other IGOs, and to call Affiliate members "partners".</p> <p>Generally, the terms Associate and Affiliate members should be better defined.</p>	<p>The direction of IALA Council was for the draft Convention text to mirror, as much as is possible, the way the current association works. This has been done by use of membership categories.</p> <p>It is accepted that the method chosen is different from that used in other treaty instruments, but there is no legal impediment to doing this.</p> <p>Industrial members are an essential element of IALA's operating model and it is equally essential that they be afforded recognition by way of non-voting membership.</p> <p>The current structure is supported but Australia is open to suggestions that would allow this issue to be resolved.</p>
Languages	<p>The more languages the Organization will have the more costly its operation will be.</p> <p>English was proposed as the sole official and working language. This would ease the work while considerably reducing costs.</p> <p>It was suggested by some participants that Spanish should be an additional working language.</p> <p>Arabic may be added at a later stage, by decision of the General Assembly, if and when appropriate</p>	<p>IALA should have one working language (English).</p> <p>Official languages are used in limited circumstances and as an international organisation should be as encompassing as possible.</p> <p>The use of English, French and Spanish as official languages is supported.</p>

<p>Finance</p>	<p>Contributions</p> <p>The amount of annual contributions by States should not depend on the number of States that are Contracting Parties to the IALA Convention.</p> <p>There is a need for more clarity in the calculation of the annual contributions.</p> <p>Having the same amount for all States may not be the best solution: this amount can be significant for one State and negligible for another.</p> <p>Contributions and fees may increase to meet increased finance obligations.</p> <p>Budget</p> <p>The annual budget should be approved by the General Assembly, or at least limits should be set to annual variations in the budget.</p> <p>Arrears</p> <p>Non-payment of contributions might result from technical issues outside the control of the State concerned, and other IGOs do not charge interests to States that have fallen into arrears. Removing interest payments should be considered.</p>	<p>The basis on which the rate of contributions will be determined could be described in Art 4 of the Convention text.</p> <p>It could, consistent with the approach taken to drafting the text generally, describe the current approach (same fee for all members of each membership category) but the article should allow for Council to set the actual rate in accordance with the General Regulations (which themselves could be expanded on this point).</p> <p>General Assembly should approve a rolling budget which is streamlined and managed on an annual basis by Council.</p> <p>Australia has no fixed position on charging interest.</p>
<p>Procedural matters</p>	<p>There is a need to provide for reservations.</p> <p>The clause on disputes might be revised, leaving the Contracting Parties concerned to decide on the best way to solve any dispute between them.</p>	<p>There is no subject matter in the draft convention that should give rise to the need for reservations. Therefore, this amendment is not supported.</p> <p>The current clause allows the disputing parties to consult and negotiate, then to refer to Council. The matter can then be referred to arbitration unless the parties choose another mechanism. The Current clause provides sufficient flexibility.</p>