



REPORT OF A MEETING OF
NATIONAL MEMBERS ON IALA
CHANGE OF STATUS
(Third Extraordinary LAP meeting)
30 to 31 October 2017

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Executive Summary

The third Extraordinary Legal Advisory Panel (LAP) meeting, which gathered National members to work on the draft Convention and the draft General Regulations for IALA as an IGO was held at IALA Headquarters on 30th and 31st October 2017.

The meeting was chaired by Jon Price of Trinity House, the LAP Chair.

The draft texts had been revised by the LAP Chair, Vice Chair and the IALA Secretariat prior to the meeting to reflect comments received from members and governments after the first preparatory diplomatic conference held in Paris in April 2017.

The Extraordinary LAP meeting reviewed the revised texts and further amended them.

Due to time constraints the draft text of the Financial Regulations annexed to the General Regulations could not be finalized and was further reviewed, after the meeting, by the Secretary-General with the support of the LAP Chair and Vice Chair.

Amended texts are being submitted as input papers to the 2nd Preparatory Conference to be held on 7th and 8th February 2018 in Marrakech, Kingdom of Morocco.

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GENERAL

The meeting was held on 30 and 31 October 2017 at IALA Headquarters, with Jon Price as Chair and Marie-Hélène Grillet as Secretary.

1. WELCOME ADDRESSES AND INTRODUCTION FROM LAP CHAIR AND SECRETARY-GENERAL

The Chair welcomed those present to this extraordinary meeting of the IALA Legal Advisory Panel, which was tasked to deal with the very specific topic of considering the documentation required to establish IALA as an Inter-Governmental Organization (or IGO). He explained that the documentation required, consisting of the draft Convention and the draft General Regulations, had been reviewed and comments had been provided thereon by States and National members after the first preparatory diplomatic conference held in Paris in April 2017. The purpose of the meeting would be to consider the amendments made to the draft documentation in the light of the very valuable comments received from members, with a focus on the draft Convention text. The aim was to agree new draft texts for the next preparatory diplomatic conference that would take place in Marrakech, Kingdom of Morocco, on 7 and 8 February 2018.

The Chair added that he was pleased to welcome delegates from members that are not normally represented at LAP meetings and he was looking forward to two full days of fruitful discussions.

The Secretary-General then welcomed the participants to the IALA Headquarters. He presented the upcoming events with a focus on the 19th IALA Conference to be held in May-June 2018 with the next General Assembly meeting for its 13th session on 29 May.

2. INTRODUCTION TO THE LEGAL ADVISORY PANEL

The Chair explained that the Legal Advisory Panel (LAP) was established in 2006 primarily to provide legal advice to the Association and more particularly support the Council. Its Terms of Reference were updated a year ago and are contained in the IALA Basic Documents available from the Website. Participation in the LAP is open to all National members.

3. PARTICIPANT INTRODUCTIONS

The meeting was attended by 22 participants from 15 countries. The participants were invited to introduce themselves.

A list of attendees is provided at Annex B.

4. APPROVAL OF THE AGENDA

The Agenda (paper LAPEX3-4.1) was adopted.

The Agenda is provided at ANNEX A.

5. REVIEW OF INPUT PAPERS

There were three main input papers for the meeting:

- LAPEX3- 7.1 and 7.2: draft Convention text amended according to the comments received by 4th October
- LAPEX3 – 8.1 and 8.2: draft General Regulations text amended according to the comments received by 4th October

- LAPEX3 – 8.3 and 8.4: draft Financial Regulations text amended according to the comments received by 4th October

In addition to these main input papers all comments received until the last day before the meeting had been made available to the participants – through the IALA Website – as supporting documents.

6. STATUS AND RESULTS OF THE FIRST PREPARATORY DIPLOMATIC CONFERENCE

The Secretary-General reported that on the initiative of the Ministry of Foreign Affairs and International Development of the Republic of France, IALA's host country, a preparatory diplomatic conference had taken place in Paris from 18 to 19 April 2017 to consider the concrete steps needed to achieve IALA's planned change of status to that of an Inter-Governmental Organization.

Chaired by His Excellency, Mr Serge Ségura, French Ambassador for the Oceans, the Conference agreed a Roadmap towards a Diplomatic Conference to adopt a new treaty instrument with the next preparatory diplomatic conference planned on 7 and 8 February 2018 in Marrakech, Morocco. As stipulated by the IALA General Assembly, in its resolution of 27 May 2014, the envisaged "IALA Convention" will be open for signature by all United Nations Member States.

The large attendance at the Paris conference set the scene for two days of active participation by 173 delegates representing 56 countries from around the world where IALA has National members. The programme was designed to widen understanding and allow for an open exchange of views and comments on various aspects pertaining to the transition of IALA as an Association under French law to an IGO governed by international law.

After receiving an update on the activities of IALA and the World-Wide Academy (WWA) by the Secretary-General and the WWA Dean, Mr Omar Frits Eriksson, respectively, delegates were informed about the substantive work already done by the Council and its subsidiary bodies on the legal and financial framework for the future IGO. This information also covered the background and structure of the draft IALA Convention and the draft General Regulations, the two key documents that will govern IALA as an IGO.

In addition, international legal experts from the French Foreign Ministry provided an insight into the processes involved in preparing for and convening a Diplomatic Conference.

Speaking on behalf of IALA's Industrial Members Committee, which represents almost half of IALA's total membership, Mr Lars Mansner, Chief Executive Officer, Sabik Oy Finland reaffirmed the support of the Industrial members for the transition to an IGO which would preserve their status and role within the marine aids to navigation community.

A special session on cooperation with other international organizations benefited from presentations by the Secretary-General of the International Maritime Organization, Mr Kitack Lim, and the Secretary-General of the International Hydrographic Organization, Mr Robert Ward. Both emphasized the importance of the long-established cooperation between the IMO, the IHO and IALA as partner international organizations and expressed the wish for the IALA-IHO-IMO 'trinity of excellence' to continue into the future.

The main outcome of the conference was a clear indication of a genuine willingness to move forward towards multilateral negotiations at a follow-up conference with the widest possible participation. A second preparatory diplomatic conference is therefore – as mentioned - planned for 7-8 February 2018 – and will commence consideration of the provisions of the draft IALA Convention, article by article, and those of the draft General Regulations.

The conference further agreed to invite National members to submit comments on these two key documents at their earliest convenience, in writing, and not later than 30 September 2017 and the Secretary-General thanked the members for their valuable contributions that will be discussed during this meeting.

He stressed the importance of the meeting as the output documents will form the basis for further work in Marrakech next year.

He finally added that he had just returned from a very successful meeting with the Authorities in Morocco and a letter of invitation to the Conference in Marrakech was about to be sent to the Ministers of Foreign Affairs in all the countries where IALA has national Members within a few weeks.

7. DRAFTING SESSION ON THE CONVENTION TEXT

7.1 Introduction

The Chair reported that the LAP Vice-Chair, Secretary-General and he had met at the beginning of October to amend the drafts in the light of the comments received from 19 countries by 4th October. Comments from 6 additional countries had been received after that date and could not be reflected in the revised documents but would be borne in mind in the discussions on the draft texts over the following two days.

The main comments mentioned were the need for an article with definitions, remarks on official and working languages and a better balance in power between the General Assembly and the Council.

7.2 Review of the draft Convention text

The main changes to the draft Convention text are listed below. The final draft as amended by the meeting is at paper LAPEX3-9.2.

7.2.1 Preamble

There was a discussion on whether to use “Contracting Parties”, “Contracting States” or “Member States” in the Preamble having regard to the Vienna Convention on the Law of Treaties. A provisional decision was made to use “Contracting States”, with the comment that this was a decision for the Diplomatic Conference.

7.2.2 Article 1 - Establishment

- 1.1 – The acronym “IALA” was discussed as it does not reflect the name of the Organization. The meeting however agreed that “IALA” is a well-known highly regarded international brand and that the acronym should be retained.
- 1.3 – A change of host nation should be decided by a two thirds majority of Member States present and voting at a General Assembly.
- 1.4 – The impact of the number of official and working languages on the finances and work load was discussed. However, it was agreed that this was an issue for the Diplomatic Conference and the draft text remained unchanged.

7.2.3 Article [1bis] – Definitions

This was a new article proposed by many members. The terms defined were kept to a minimum.

7.2.4 Article 2 – Aim and objectives

Article 2 was amended to be as close to the current IALA Constitution as possible.

7.2.5 Article 4 – Membership

Article 4 was expanded to give more detail on membership, the categories of members and the conditions governing applications for, and withdrawal from membership.

7.2.6 Article 6 – The General Assembly

The interval between General Assemblies was reduced to 3 years. Consequently, changes were made in Article 9.1(a) with the term for the Secretary-General being a maximum of three terms of three years in total. Consequential changes were also made to the General Regulations. It was noted that changes to the Financial Regulations would also be required.

7.2.7 Article 10 – Funding and Expenditure

It was agreed that consistency was required in the financial terms used in the draft texts. The Secretary-General undertook to review the documentation accordingly following the meeting.

7.2.8 Article 11 – Legal Personality, Privileges and Immunities

This article was tentatively amended to omit the reference to the Convention on the Privileges and Immunities of the Specialized Agencies of November 1947. Extending privileges and immunities to the participation in technical meetings was also discussed. The article was not amended further as it was considered that the matter was of a diplomatic nature.

7.2.9 New article – Depositary

It was agreed that there should be a separate article on the Depositary.

8. DRAFTING SESSION ON THE GENERAL REGULATIONS TEXT

A review of the draft General Regulations was carried out and amendments made. The main changes were those consequential to amendments to the draft Convention. In particular:

- Article 2 (Membership) to reflect changes in membership provisions;
- Article 3 (The General Assembly) in respect of the provisions regarding elections; and
- Article 7 (The Secretary General & the Secretariat) to broaden inter alia the responsibilities of members of the Secretariat as international officers.

Due to time constraints it was not possible to review the draft Financial Regulations annexed to the General Regulations. The meeting noted that they would be reviewed by the Secretary-General with the support of the LAP Chair and Vice Chair. The result of this work is now input paper 2.1(B) to the 2nd preparatory diplomatic conference.

9. REVIEW OF OUTPUT PAPERS

The meeting output papers, i.e. the amended draft texts of the Convention and General Regulations, will be input papers to the 2nd preparatory diplomatic conference.

10. SUMMARY AND CLOSE

The Chair briefly summarized the work achieved, which is vital for the success of the next preparatory diplomatic conference and the change of status project in general. He then thanked the participants for their fruitful contributions and wished them a safe return home.

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LAPEX3 – AGENDA

The 3rd Extraordinary Meeting of the IALA Legal Advisory Panel (LAPEX3) will be held at IALA Headquarters, 10 rue des Gaudines, 78100 Saint-Germain-en-Laye, France, commencing at 0930 on 30th October. The meeting is expected to finish at 1730 on 31st October.

DAY 1 – Monday, 30 October 2017

Time	Activity
0930	<ol style="list-style-type: none"> 1. Welcome address 2. Introduction to Legal Advisory Panel 3. Participant introductions 4. Approval of the draft Agenda 5. Review of input papers 6. Status and result of 1st preparatory diplomatic conference
	7. Drafting session on Convention text
1300 – 1400	Lunch
1400	Draft session on Convention text continues
1730	Free evening

DAY 2 – Tuesday, 31 October 2017

Time	Activity
0900	Drafting session on Convention text continues
	Tea/Coffee break
	8. Drafting session on General Regulations
1300 – 1400	Lunch
1400	Draft session on General Regulations text continues <ol style="list-style-type: none"> 9. Review of output papers 10. Summary and close
1730	End of meeting

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