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## **Draft Convention on the International Organization for Marine Aids to Navigation (after the extraordinary meeting of the Legal Advisory Panel).**

**Input paper to the 3<sup>rd</sup> Preparatory Diplomatic Conference 12<sup>th</sup> – 14<sup>th</sup> March 2019.**

### **Preamble**

The States Parties to this Convention:

**RECALLING** that the International Association of Lighthouse Authorities was established on 1<sup>st</sup> July 1957 and was renamed the International Association of Marine Aids to Navigation and Lighthouse Authorities in 1998;

**RECOGNIZING** the role of the International Association of Marine Aids to Navigation and Lighthouse Authorities in the improvement and continued harmonization of Marine Aids to Navigation for the safe, economic and efficient movement of vessels for the benefit of the maritime community and the protection of the environment;

**CONSIDERING** the provisions of the United Nations Convention on the Law of the Sea, 1982 and the International Convention for the Safety of Life at Sea, 1974 as amended; and

**CONSIDERING FURTHER** that developing, improving and harmonizing Marine Aids to Navigation for the benefit of the maritime community and the protection of the environment is best coordinated by international organizations;

**HAVE AGREED** as follows:

### **Article 1 Establishment**

1. The International Organization for Marine Aids to Navigation [(IALA)] (hereinafter ‘the Organization’) is hereby established under international law as an intergovernmental organization.
2. The Organization shall have a consultative and technical nature.
3. The Organization shall have its seat in France unless otherwise decided by the General Assembly.

### **Article 2 Definitions**

For the purposes of this Convention:

1. **Marine Aid to Navigation** means a device, system or service, external to a vessel, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic.
2. **Member State** means a State, which has consented to be bound by this Convention and for which this Convention is in force.
3. **Associate Member** means a territory or group of territories for which a Member State has requested membership, [in accordance with Article 5.2,] which has been approved by the General Assembly, [and National members of the International Association of Marine Aids to Navigation and Lighthouse Authorities from States that are not Member States in accordance with the Annex paragraph 1].
4. **Affiliate Member** means a manufacturer or distributor of Marine Aids to Navigation equipment for sale, or an organization providing Marine Aids to Navigation services or technical advice under contract, and any other service, organization or scientific agency concerned with Marine Aids to Navigation which has applied for membership which has been approved by the Council.

### **Article 3** **Aim and Objectives**

The aim of the Organization is to bring together governments, services and organizations concerned with the regulation, provision, maintenance or operation of Marine Aids to Navigation in order to further the objectives of:

- (a) Fostering the safe and efficient [and environmentally sustainable] movement of vessels through the improvement and harmonization of Marine Aids to Navigation worldwide;
- (b) Promoting access to technical cooperation and capacity building on all matters related to development and transfer of expertise, science and technology in relation to Marine Aids to Navigation;
- (c) Encouraging and facilitating the general adoption of the highest practicable standards in matters concerning Marine Aids to Navigation; and
- (d) Providing for the exchange of information on matters under consideration by the Organization.

### **Article 4** **Functions**

In order to achieve the aim and objectives set out in Article 3, the functions of the Organization shall be:

- (a) To provide non mandatory standards, recommendations, guidelines, manuals and other appropriate documents and to recommend these to governments, international organizations, Associate Members and Affiliate Members as appropriate;
- (b) To consider and make recommendations on standards, recommendations, guidelines, manuals and other appropriate documents that may be remitted to it by Member States, Associate Members and Affiliate Members, by any organ or specialized agency of the United Nations or by any other intergovernmental organization;
- (c) To provide mechanisms for consultation and exchange of information covering inter alia recent developments and the activities of Member States, Associate Members and Affiliate Members;
- (d) To develop international cooperation by promoting close working relationships and assistance between Member States, Associate Members and Affiliate Members;
- (e) To facilitate assistance, whether technical, organizational or training to governments, services and other organizations requesting help with Marine Aids to Navigation;
- (f) To organize conferences, symposia, seminars, workshops and other events; and

- (g) To liaise and cooperate with relevant international and other organizations, offering specialized advice where appropriate.

## **Article 5**

### **Membership**

1. The Organization shall be comprised of Member States, Associate Members and Affiliate Members.
2. [Any Member State having responsibility for the international relations of a territory or group of territories may request Associate membership for such territory or group of territories, by notification in writing to the Secretary-General].
3. The Council may require or a Member State may request that aspects of an application for Affiliate Membership be reviewed by the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or registered office. If supported by the Member State (or Member States), who requested the review, the Council shall decide accordingly. (Alternative text) [Requests for Affiliate membership shall be submitted to Council. Council shall notify the Member State (or Member States) where the applicant carries out its activities or has its principal place of business or registered office of the application. The Member State (or Member States) may review the application. Council shall proceed with its determination on Affiliate membership after having considered any views provided by the Member State (or Member States).]

## **Article 6**

### **Organs**

1. The Organization shall have as its organs:
  - (a) The General Assembly;
  - (b) The Council;
  - (c) Committees and subsidiary bodies [of the Council] necessary to support the Organization's activities; and
  - (d) The Secretariat.
2. There shall be a President and a Vice President of the Organization. The President or in his or her absence the Vice President shall chair the General Assembly and the Council. (Alternative text for national capacity) [There shall be a President and a Vice President of the Organization. The President, or in case of absence, the Vice President shall chair the General Assembly and the Council].
3. The General Regulations shall detail the Rules of Procedure that shall apply for each organ.

## **Article 7**

### **The General Assembly**

1. The General Assembly is the principal decision-making organ of the Organization and shall have all the powers of the Organization unless otherwise provided by this Convention.
2. The General Assembly shall consist only of Member States. Attendance shall also be open to Associate Members and Affiliate Members.
3. Each Member State shall designate one of its delegates[, preferably a representative from the national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation] as its principal delegate at the General Assembly.
4. Regular sessions of the General Assembly shall take place once every [three years].

5. Extraordinary sessions of the General Assembly shall be convened whenever one-third of Member States give notice to the Secretary-General that they desire a session to be arranged, or at any time if deemed necessary by the Council, after a notice of ninety days.
6. A majority of Member States shall constitute a quorum for the sessions of the General Assembly.
7. The General Assembly shall:
  - (a) Elect the President and the Vice President from amongst nationals of the Member States in accordance with the General Regulations; (Alternative text for national capacity) [Elect the President and the Vice President from amongst Member States in accordance with the General Regulations];
  - (b) Decide the overall policy and the strategic vision of the Organization;
  - (c) Review and approve the General Regulations of the Organization;
  - (d) Elect, in accordance with Article 8, the Council from amongst the Member States other than the Member States from which the President or Vice President are nationals; (Alternative text for national capacity) [Elect the Council from amongst the Member States other than the Member States holding the Presidency or Vice Presidency in accordance with Article 8];
  - (e) Elect the Secretary-General from amongst nationals of the Member States in accordance with the General Regulations;
  - (f) Review and approve the financial arrangements of the Organization, including the outline budget for the following three years and the rate of contributions for Member States and fees for Associate Members and Affiliate Members;
  - (g) Consider the reports and proposals put to it by any Member State, the Council or the Secretary-General;
  - (h) Approve standards;
  - (i) Decide on Associate membership;
  - (j) Make recommendations to Member States, Associate Members and Affiliate Members on matters within the aim and objectives of the Organization;
  - (k) Approve formal agreements with States and international organizations; and
  - (l) Decide on any other matters within the aim and objectives of the Organization.

## **Article 8**

### **The Council**

1. The Council is the executive organ of the Organization and shall be responsible for directing the activities of the Organization.
2. The Council shall consist of the President and the Vice President and twenty three Member States. (Alternative text for national capacity) [The Council shall consist of the President and the Vice President and twenty three other Member States].
3. Council members shall be elected by ballot at each regular session of the General Assembly in accordance with the General Regulations. [Council members should, as far as possible, be drawn from different parts of the world, with a view to achieve as widespread a representation as possible.]
4. At the Council Member States shall preferably be represented by a delegate from a national authority responsible for the regulation, provision, maintenance or operation of Marine Aids to Navigation of that Member State.
5. Seventeen members of the Council, at least one of which must be the President or Vice President, shall constitute a quorum for the sessions of the Council.
6. Any Member State not represented on the Council may participate in the Council meetings, but will not be entitled to vote.
7. The Council shall:
  - (a) Exercise such responsibilities as may be delegated to it by the General Assembly;

- (b) Coordinate the activities of the Organization within the framework of the overall policy, the strategic vision and the outline budget, as decided by the General Assembly;
- (c) Review and approve the financial statements, including the annual budget;
- (d) Decide on Affiliate membership;
- (e) Convene the General Assembly;
- (f) Report to the General Assembly on the work of the Organization;
- (g) Review papers submitted to it in accordance with the General Regulations;
- (h) Refer to the General Assembly all matters requiring decision by the General Assembly;
- (i) Approve recommendations, guidelines, manuals and other appropriate documents;
- (j) Approve submissions to other organizations;
- (k) Establish and terminate Committees and subsidiary bodies, appoint their Chairs and Vice Chairs and review and approve their respective terms of reference and work programs; and
- (l) Decide the venue and the year of the Organization's conferences and symposia as described in the General Regulations.

## **Article 9**

### **Committees and Subsidiary Bodies [of the Council]**

1. Committees and subsidiary bodies [of the Council] shall support the aim and objectives of the Organization.
2. The Committees shall:
  - (a) Prepare and review standards, recommendations, guidelines, manuals and other appropriate documents identified in the work programmes;
  - (b) Monitor developments in the area of Marine Aids to Navigation;
  - (c) Facilitate the sharing of expertise and experience among Member States, Associate Members and Affiliate Members; and
  - (d) Conduct any other tasks as decided by the Council.

## **Article 10**

### **Secretariat**

1. The permanent Secretariat of the Organization shall be comprised of the Secretary-General and such staff as may be required for the work of the Organization within the approved budgetary framework.
2. The term of Secretary-General shall be three years. The Secretary-General may be re-elected for up to two additional consecutive terms of three years each.
3. The Secretary-General shall be responsible for the day to day management of the Organization, subject to any guidance issued by the General Assembly or the Council.
4. The staff of the Secretariat shall be appointed by the Secretary-General on such terms and to perform such duties as the Secretary-General may determine.
5. The Secretariat shall:
  - (a) Maintain all such records as may be necessary for the efficient discharge of the work of the Organization and shall prepare, collect, and circulate any documentation that may be required;
  - (b) Administer the Organization's finances under the direction of the Council, in accordance with the General Regulations;
  - (c) Prepare the financial arrangements and the financial statements;
  - (d) Keep Member States, Associate Members and Affiliate Members and other organizations informed with respect to the activities of the Organization;

- (e) Organize and support meetings of the General Assembly, the Council, Committees and subsidiary bodies;
  - (f) Organize and support conferences and symposia as approved by the Council;
  - (g) Organize and support seminars, workshops and other events; and
  - (h) Perform such other tasks as may be assigned by this Convention, the General Regulations, the General Assembly or the Council.
6. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other source external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization. Each Member State on its part undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek influence them in the discharge of their responsibilities.

#### **Article 10bis**

##### **Voting**

1. All efforts shall be made for the General Assembly and the Council to make decisions by consensus among Member States.
2. Where decisions of the General Assembly or Council cannot be reached by consensus, the following provisions shall apply:
  - (a) Only Member States have voting rights. Each Member State shall have one vote.
  - (b) Except where otherwise specified, decisions shall be taken by a two-thirds majority of the votes cast.

#### **Article 11**

##### **Languages**

The official languages of the Organization shall be English, French and Spanish.

#### **Article 12**

##### **Finance**

1. The expenditure for the functioning of the Organization shall be met by the financial resources provided by:
  - (a) Member State contributions;
  - (b) Associate Member and Affiliate Member fees; and
  - (c) Donations, bequests, grants, gifts and other sources approved by the Council upon recommendation by the Secretary-General.
2. Each Member State shall pay a contribution and each Associate Member and Affiliate Member shall pay a fee to the Organization on an annual basis in the amount determined in accordance with Article 7.7 (f). The contribution shall be set at the same rate for each Member State.
3. Member State contributions and Associate Member and Affiliate Member fees shall be due and payable in accordance with the General Regulations.
4. Any Member State which is two years in arrears in making contributions shall, after written notification by the Secretary-General, be denied voting rights and the right to be elected to the Council [and to remain on Council] until such time as the outstanding contributions have been paid, in accordance with the General Regulations[, unless the General Assembly, at its discretion, waives this provision].

5. Following the Council's approval of the Organization's audited financial statements, these statements shall be distributed to all Member States, Associate Members and Affiliate Members in the Annual Report.

### **Article 13**

#### **Legal personality, privileges and immunities**

1. The Organization has international legal personality and has the capacity to:
  - (a) Contract and conclude agreements with governments, organizations and other bodies;
  - (b) Acquire and dispose of immovable and movable property; and
  - (c) Institute legal proceedings.
2. In the territory of each of its Member States the Organization shall enjoy, to the extent provided for in an agreement with the Member State concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfilment of its aim and objectives.
3. No Member State, Associate Member or Affiliate member shall be liable, by reason of its status or participation in the Organization, for acts, omissions or obligations of the Organization.

### **Article 15**

#### **Amendments**

1. Any Member State may propose an amendment to this Convention, in writing, to the Secretary-General.
2. The Secretary-General shall circulate the proposed amendment [in the official languages] to all Member States at least six months in advance of its consideration by the General Assembly.
3. The proposed amendment shall be adopted by vote of the General Assembly.
4. Any amendment adopted in accordance with paragraph 3 shall be sent by the Secretary-General to the Depositary. The latter shall notify all Member States of the adoption of the amendment.
5. An amendment to this Convention shall come into force for Member States having accepted the amendment six months after written notification of the acceptance to the Depositary by two-thirds of Member States and thereafter for each remaining Member State upon acceptance by it.  
[The amendment shall come into force for all Member States six months after written notifications of acceptance by two-thirds of the Member States have been received by the Depositary. The Depositary shall inform the Member States and the Secretary-General of the fact, specifying the date on entry into force of the amendment.]

### **Article 16**

#### **Interpretation and Disputes**

Member States shall make every effort to prevent disputes, and shall use their best efforts to resolve any disputes by amicable means which may include consultation and negotiation with each other. Disputes that remain unresolved [after a period of three [six] months] may, with the agreement of all parties to the dispute, be referred to a panel of three independent arbitrators appointed by the Secretary-General of the Permanent Court of Arbitration for a non-binding resolution, unless the parties to the dispute agree upon another mode of dispute settlement.

[Any dispute concerning the interpretation or application of this Convention which is not settled by negotiation or by the good offices of the Secretary-General shall, at the request of one of the parties to the dispute, be referred to an arbitrator designated by the President of the International Court of Justice.]

**Article 17**  
**Signature, Ratification and Accession**

1. This Convention shall be open for signature by any State that is a member of the United Nations at [xxx] and remain open until [xxx].
2. This Convention is subject to ratification, acceptance or approval by the signatory States.
3. This Convention shall be open for accession by any State that is a member of the United Nations which has not signed this Convention from the day after the date on which this Convention closes for signature.
4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary, who shall then notify all Member States and the Secretary-General thereof.
5. No reservation can be made to this Convention.

**Article 17bis**  
**Depositary**

The French Republic shall serve as the Depositary for this Convention.

**Article 18**  
**Entry into force**

1. This Convention shall enter into force on the [thirtieth day] after the date of deposit of the [thirtieth] instrument of ratification, acceptance, approval or accession.
2. For each State ratifying, accepting, approving or acceding to this Convention after its entry into force the Convention shall enter into force on the thirtieth day after the deposit of its instrument of ratification, acceptance, approval or accession.
3. The transitional arrangements that shall apply upon entry into force of this Convention are set out in Annex.

**Article 19**  
**Withdrawal**

1. Any Member State may withdraw from this Convention by giving at least twelve months written notice to the Depositary, who shall immediately inform all Member States and the Secretary-General of such notification.
2. Notification of withdrawal may be given at any time after the expiration of six months from the date on which this Convention has entered into force.
3. The withdrawal shall take effect on 31<sup>st</sup> December following the expiration of the notice.

**Article 20**  
**Termination**

1. This Convention may be terminated by a vote at a regular session of the General Assembly.
2. The date of termination shall be twelve months after the date of the above decision, and in the intervening period the Council shall be responsible for the winding up of the Organization in accordance with the General Regulations.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective governments, have signed the present Convention.



DONE at [xxx] on [xxx] in the [English, French and Spanish] languages, each text being equally authentic, the original of which shall be deposited in the archives of the Depositary. The Depositary shall transmit certified copies thereof to all the [signatory and acceding] governments and to the Secretary-General of the Organization.

### **Transitional Arrangements**

At the XIIth General Assembly held in A Coruña from 25th to 31st May 2014 International Association of Marine aids to Navigation and Lighthouse Authorities adopted a Resolution affirming that the status of an International Organization would best serve its objectives and determining that such status should be achieved as soon as possible by the means of the adoption of an international convention.

As a consequence the Constitution, Article 13, of the association was amended to facilitate the winding up of the International Association of Marine aids to Navigation and Lighthouse Authorities and the transition of its assets to the Organization.

The purpose of the Transition Arrangements is to ensure the uninterrupted international efforts to develop, improve and harmonize Marine Aids to Navigation and to facilitate the transition from the International Association of Marine aids to Navigation and Lighthouse Authorities to the Organization.

1. Upon the entry into force of this Convention the President, Vice President and the Council of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall become the President, Vice President and Council of the Organization and will operate as such until the first General Assembly convened under this Convention has elected a President, Vice President and Council, which must be within a period not exceeding six months.
2. The Committees of the International Association of Marine Aids to Navigation and Lighthouse Authorities will operate until Committees are established under this Convention.
3. Until such time as the Secretariat of the Organization has been established the secretariat of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall serve as, and perform the functions of, the Secretariat. The Secretary-General of the International Association of Marine Aids to Navigation and Lighthouse Authorities shall serve as the Secretary-General of the Organization until the General Assembly elects the Secretary-General in accordance with this Convention.
4. Until such time as the Organization has adopted General Regulations, it shall function in accordance with the General Regulations of the International Association of Marine Aids to Navigation and Lighthouse Authorities mutatis mutandis.
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 request, become Associate Members of the Organization for a duration of (xx) years from the date of entry into force of this Convention.
6. In the event that a State which has Associate membership under this Convention becomes a Member State the Associate membership shall cease on the date on which this Convention enters into force for that State. In the case of a Member State having more than one Associate membership under this Convention that Member State may decide to retain Associate memberships.
7. All Associate and Industrial Members of the International Association of Marine Aids to Navigation and Lighthouse Authorities holding financial, non-suspended status shall, subject to their request, become Affiliate Members of the Organization.