



SES Conference
First session
Agenda item 3

SES CONF 1/3/1
Origin: Director General
Date: 30 June 2020

INTERNATIONAL CONFERENCE OF CONTRACTING PARTIES TO THE INTERNATIONAL AGREEMENT ON THE USE OF INMARSAT SHIP EARTH STATIONS WITHIN THE TERRITORIAL SEA AND PORTS

Report of the latest IMSO Assembly and Advisory Committee

Executive Summary:	This document describes the background information discussed at IMSO Assembly and its Advisory Committee on amendments or termination of the International Agreement on the Use of Inmarsat Ship Earth Stations Within the Territorial Sea and Ports Agreement, in the context of introduction of additional mobile satellite systems recognized by IMO
Action to be taken:	Paragraph 4
Related documents:	A 25/4.4, A 25/14/RD, ASSEMBLY/13/Report, ASSEMBLY/14/Report, ASSEMBLY/15/Report, ASSEMBLY/18/Report, ASSEMBLY/21/Report, ASSEMBLY/122 Report and SES Agreement

1 Background

1.1 The IMSO Assembly at its 25th session in October 2018 considered the issues (document A 25/4.4) related to the International Agreement on the use of Inmarsat Ship Earth Stations within the Territorial Sea and Ports (SES Agreement) and decided on the following course of action:

*“4.4.7 In view of the paragraph 4.4.6.2 the Assembly **DECIDED** to adopt the solution of convening an international conference of States Parties to the SES Agreement coinciding with the next regular session of the Assembly in 2020 for half-day duration.*

*4.4.8 To this end, the Assembly **DECIDED** to invite the Director General, working with the Advisory Committee, to prepare draft amendments to the SES agreement taking into account the additional mobile satellite systems recognized by IMO, for consideration at the international conference referred to in paragraph 4.4.7.”*

1.2 This document reflects the outcome of the subsequent investigations conducted by the IMSO Directorate.

1.3 The International Agreement on the Use of Inmarsat Ship Earth Stations within the Territorial Sea and Ports (SES Agreement) entered into force on 12 September 1993, at a time when the role of INMARSAT, as then constituted as an intergovernmental organization (IGO), had been incorporated as a key element in the Global Maritime Distress and Safety System (GMDSS). This was prior to the establishment of the Inmarsat Company in 1999 as a commercial business entity through the restructuring in 1999 of IMSO(INMARSAT) with its present oversight role.

1.4 At its thirteenth (Extraordinary) session in September 1998, the Assembly requested the Director General to consult Parties about proposed amendments to the SES Agreement, and to report thereon to the next session of the Assembly (ASSEMBLY/13/Report, paragraph 4.5.4.1).

1.5 At its fifteenth session in 2000, the Assembly took no decision on the future of the SES Agreement, deciding to defer further consideration of the matter until the next session of the Assembly. In the meantime, it was agreed that reference to “the International Maritime Satellite Organization (INMARSAT)” in Article 1(1) of the Agreement shall be understood to mean the company “Inmarsat Ltd. under the oversight of the International Mobile Satellite Organization (IMSO)”.

1.6 At subsequent sessions, the Assembly decided that the SES Agreement was still an important and valid Agreement, and that it should not be amended at this time. The Assembly has also urged Member States and all other States that are not Party to the SES Agreement, to accede or adhere to it at the earliest possible date in order to contribute to maritime safety and the efficiency of navigation, and to facilitate the implementation of the Global Maritime Distress and Safety System (GMDSS), as well as to enhance the use of Inmarsat SESs for ship operations and management.

1.7 At its eighteenth session in September 2006, the Assembly decided that, if and when IMSO carries out the oversight of the activities of satellite service providers other than Inmarsat, there would be a consequence on the SES Agreement, and that the Director General will report to the Assembly on this matter in due course. The Assembly also decided that the reference to “*the Director General of INMARSAT*” in 10(1) shall be understood to mean “*the Director General of IMSO*”.

1.8 At its twenty-first session in July 2010, the Assembly invited Member States to provide comments to the Director General in relation to amendments to the SES Agreement. In this regard, the Director General indicated that he would provide information to Member States, including comments previously received from Member States on the status and the future of the SES Agreement. The comments received previously from Member States, during the period 2000 to 2002, were provided in document ASSEMBLY/22/4.4.

1.9 At its twenty-second session in June 2012, the Assembly noted that, while the SES Agreement was a useful document, there will be a need for the Organization to consider the status of the Agreement once any other provider of GMDSS is approved.

1.10 Considering that no comments or new notifications on the matter had been received since the twenty-second session of the Assembly, the Director General again brought the matter of the SES Agreement to the attention of the Assembly during its twenty-fifth session in October 2018 through document A 25/4.4.

2 Consideration by the twenty-fifth session of the IMSO Assembly, etc.

2.1 The following views were expressed during consideration of possible future actions on the SES Agreement during the twenty-fifth session of the Assembly:

- .1 the agreement should be amended to accommodate additional mobile satellite service providers;
- .2 the agreement did not contain provisions for its amendment;
- .3 termination of the agreement should be seriously considered;
- .4 consult with the IMO NCSR Sub-Committee to benefit from its technical expertise;
- .5 the agreement concerns only coastal States and IMSO has the competency and authority to decide on the future of it; and
- .6 Providers (Inmarsat and Iridium) should be invited to provide comments.

2.2 In view of paragraph 2.1.2 the Assembly decided to adopt the solution of convening an international conference of States Parties to the SES Agreement coinciding with the next regular session of the Assembly in 2020 for half-a-day duration.

2.3 However, it is the case that since the twenty-fifth session of the Assembly, there have been no new notifications nor comments in relation to the SES Agreement.

2.4 In reviewing the previous discussions, the Director General would further advise that the main imperative remains that all recognized satellite service providers should be treated equally, meaning that:

- .1 no preferential advantage should be given to a particular GMDSS service provider in a country's territorial sea or port areas; and
- .2 that if restrictions are imposed on the use of satellite terminals for non-GMDSS purposes then those should be applied equally to the use of terminal from any GMDSS satellite service provider.

2.5 It should be noted that restrictions on the use of Inmarsat terminals in territorial seas and port areas, before their role for GMDSS communications was codified in SOLAS, were related to concerns that, with the Inmarsat network having been developed as part of the Public Switched Telecommunication Network (as defined in regulations and recommendations of the International Telecommunication Union), there could be a loss of revenue to the local telecommunications operators, most of which at that time were part of a government owned national infrastructure. The situation is very much different now with many regions around the world having adopted a policy that telecommunication network operators should be independent of government interests.

2.6 Such restrictive practices are less and less applied as more and more countries have now adopted a liberalized market in the provision of telecommunication services. This is widely

evident in how free circulation and use of cellular telephones is now near universal. Under such liberalized regimes, it may be questioned if the original concept of the SES Agreement is any more appropriate, which would reinforce the view at paragraph 2.1.3 that termination of the agreement should be seriously considered.

3 Actions taken by the Director-General

3.1 Based on the decision by the twenty-fifth session of the Assembly, the Director General has circulated the invitation dated 31 January 2020 to the international conference of States Parties to the SES Agreement to be convened at the time of the next regular session of the Assembly in November 2020 for half-day duration.

3.2 Taking into account that there are discrepancies between the 49 Parties (**See Annex on the list of Parties**) to the SES Agreement (Note; Austria, Guatemala, Maldives, and Slovenia are not IMSO Member States) and the 105 Parties to the IMSO Convention and that the Conference is convened in the week of the next regular session of the Assembly, the Director-General decided to invite to the Conference not only the Contracting Parties to the SES Agreement but also IMSO Member States that are not Contracting Parties to the SES Agreement, Contracting Governments to the 1974 SOLAS Convention, as amended, that are neither Contracting Parties to the SES Agreement nor IMSO Member States, GMDSS Satellite Service Providers, and IMSO and IMO Observers.

4 Action requested of the Conference

The Conference is invited to:

- .1 note that, as at 1 June 2020, forty-nine (49) States are Parties to the SES Agreement as is set out in Annex to this document; and
- .2 note the information given in this paper in general and provide any comment, as it deems appropriate.

ANNEX

**LIST OF PARTIES TO THE INTERNATIONAL AGREEMENT ON THE USE OF
INMARSAT SHIP EARTH STATIONS WITHIN THE TERRITORIAL SEA AND PORTS
DONE AT LONDON ON 16 OCTOBER 1985
(Entered into force on 12 September 1993)**

(as at June 2020)

State	Date of Signature or Deposit of Instrument by State	Date of Entry into Force of International Agreement for State
ARGENTINA (signature) ^{1/}	9 September 1992	-
AUSTRALIA (signature)	2 April 1987	12 September 1993
AUSTRIA (signature)	11 June 1990	12 September 1993
BAHRAIN (accession)	13 June 1996	13 June 1996
BELGIUM (ratification)	22 January 1990	12 September 1993
BRAZIL (ratification)	18 December 1995	18 December 1995
BULGARIA (accession)	26 June 1995	26 June 1995
CANADA (signature)	15 March 1988	12 September 1993
CHILE (signature)	18 October 1990	12 September 1993
CHINA, People's Republic of (accession) <u>6/ 7/</u>	3 November 1993	3 November 1993
CROATIA (accession)	19 July 1996	19 July 1996
CUBA (accession)	15 September 1993	15 September 1993
CYPRUS (accession)	29 March 1994	29 March 1994
DENMARK (signature)	2 April 1987	12 September 1993
FINLAND (ratification)	18 June 1990	12 September 1993
FRANCE (signature) ^{4/}	27 July 1990	12 September 1993
FEDERAL REPUBLIC OF GERMANY (ratification)	26 October 1988	12 September 1993
GREECE (ratification)	28 May 1992	12 September 1993
GUATEMALA (accession)	3 June 1999	3 June 1999
HUNGARY (accession)	3 March 2000	3 March 2000
ICELAND (accession)	26 October 1998	26 October 1998
INDIA (ratification)	21 June 1991	12 September 1993
INDONESIA (signature)	13 August 1993	12 September 1993
ISRAEL (ratification)	29 April 1998	29 April 1998
ITALY (signature)	2 April 1987	12 September 1993
KUWAIT (ratification) ^{2/}	11 May 1989	12 September 1993
LATVIA (accession)	30 July 1997	30 July 1997
LEBANON (accession)	22 April 1997	22 April 1997
LIBERIA (accession)	13 June 1995	13 June 1995
MALDIVES (accession)	18 February 1994	18 February 1994
MALAYSIA (accession)	27 July 1994	27 July 1994
MARSHALL ISLANDS (accession)	2 November 1998	2 November 1998
MAURITIUS <u>8/</u>	1 March 2012	1 March 2012
MOROCCO (signature) ^{1/}	7 May 1992	-
NETHERLANDS (acceptance) ^{3/}	24 June 1987	12 September 1993

NORWAY (signature)	3 October 1986	12 September 1993
POLAND (ratification)	29 February 1988	12 September 1993
PORTUGAL (accession) ^{7/}	4 October 1995	4 October 1995
QATAR (signature)	5 May 1993	12 September 1993
ROMANIA (ratification)	8 October 1992	12 September 1993
RUSSIAN FEDERATION (signature) ^{5/}	9 October 1986	12 September 1993
SINGAPORE (signature)	3 October 1990	12 September 1993
SLOVAK REPUBLIC (accession)	7 April 2000	7 April 2000
SLOVENIA (accession)	21 August 1995	21 August 1995
SOUTH AFRICA (signature)	18 April 1989	12 September 1993
SPAIN (ratification)	3 May 1989	12 September 1993
SWEDEN (signature)	20 July 1988	12 September 1993
TURKEY (accession)	1 March 2000	1 March 2000
UNITED KINGDOM (ratification)	20 September 1991	12 September 1993

TOTAL 49 PARTIES

Notes:

^{1/} Subject to ratification

^{2/} Kuwait - With the following Statement:

"It is understood that the Ratification of the State of Kuwait of the International Agreement on the Use of INMARSAT Ship Earth Stations within the Territorial Sea and Ports does not mean in any way a recognition of Israel by the Government of the State of Kuwait. Furthermore, no treaty relations will arise between the State of Kuwait and Israel."

^{3/} Netherlands - Acceptance for the Kingdom of the Netherlands in Europe. The Agreement also applies to the Caribbean part of the Netherlands (the Islands of Bonaire, Sint Eustatius and Saba), Curaçao and Sint Maarten. The Agreement does not apply to Aruba.

^{4/} France - With the following Declaration:

"En signant sans réserve d'approbation l'Accord international sur l'utilisation des stations terriennes INMARSAT de navires dans les limites de la mer territoriale et des ports, adopté à Londres le 16 octobre 1985 lors de la quatrième session de l'assemblée des parties d'INMARSAT, le Gouvernement de la République française déclare qu'il est dans ses intentions, dans le strict respect des dispositions des articles 3 et 4 du dit Accord, de restreindre l'exploitation du système INMARSAT dans ses ports et dans ses eaux territoriales, chaque fois que les circonstances l'exigeront."

Unofficial translation into English : "In signing without reservation the international agreement on the use of INMARSAT ship earth stations within the territorial sea and ports, adopted at London on 16 October 1985, at the Fourth Session of the Assembly of Parties of INMARSAT, the Government of the French Republic declares that it is its intentions, in strict respect for the provisions of articles 3 and 4 of the said agreement, to restrict the exploitation of the INMARSAT system in its ports and in its territorial waters, each time that circumstances require."

^{5/} Russian Federation - Signed by former USSR

^{6/} China - By a Note dated 5 June 1997, the Government of the People's Republic of China stated that this Agreement shall continue to apply to the Hong Kong Special Administrative Region with effect from 1 July 1997.

^{7/} China/Portugal - Notifications have been received from the Portuguese Republic as well as the People's Republic of China that, in accordance with the Joint Declaration of the Government of the Portuguese Republic and the Government of the People's Republic of China signed on 13 April 1987, the Agreement will apply to the Macao Special Administrative Region with effect from 20 December 1999, and the Government of the People's Republic of China will assume responsibility for the international rights and obligations arising from the application of the Agreement to the Macao Special Administrative Region.

^{8/} Mauritius includes the islands of Mauritius, Rodrigues, Agalega Tromelin, Cargados Carajos and the Chagos Archipelago, including Diego Garcia and any other island comprised in the State of Mauritius.