To: Contracting Parties to the International Agreement on the use of INMARSAT Ship Earth Stations within the Territorial Sea and Ports ("SES Agreement")
IMSO Member States that are not Contracting Parties to the SES Agreement
Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 that are neither Contracting Parties to the SES Agreement, nor IMSO Member States
GMDSS Satellite Service Providers
IMO and IMSO Observers

From: IMSO Director General

Subject: Preparation for the International Conference on the SES Agreement

Reference: IMSO/CL/004 15 September 2020


As notified through the aforementioned invitation circular, SES Conference was originally planned for half a day of 9 November together with the 26th session of the IMSO Assembly from 9 to 13 November 2020. However it is now noted that the IMO (as the facilitator for the IMSO meeting venue) offered new dates for the Assembly from 16 to 18 December 2020 due to the Covid-19 pandemic as introduced in Circular Letter – ref. IMSO/2020/ASSEMBLY-26/024. The Director General having noted that the time allocated for A 26 in December is inadequate, requested IMO to allow 12 and 13 November exclusively for the SES Conference under virtual process, which is currently under consideration by the IMO Meeting Reconstruction Team.

Following on from the discussion held at the SES Briefings from 8 to 10 September and taking into consideration the anticipated new dates of the SES Conference, the period for document submission by State Parties and Observers has been extended, in order to allow more time to consider their position on the way forward and submit documents for consideration by the SES Conference no later than 14 days in advance of the Conference.

A template for document submissions by parties is available at IMSO website (https://imso.org/SES-conference). All documentation for the Conference will also be posted on this website.
For ease of reference, background information on the preparations for the Conference is set out in annex 1.

Furthermore, for consideration by the parties and the observers, a set of draft Rules of Procedure for the Diplomatic Conference is set out in annex 2. Comments on the rules of procedure should also be submitted within the aforementioned deadlines.

The Director General avails himself of this opportunity to convey to all Parties to the SES Agreement the assurance of his highest consideration.

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ANNEX 1

PREPARATIONS FOR SES CONFERENCE

1 Having anticipated that an additional mobile satellite service provider’s participation in the GMDSS, the IMSO Assembly at its 25th session held from 9 to 12 October 2018, discussed the necessity of amendments to the SES Agreement and the view was also expressed that termination should be seriously considered. The Assembly, noting that the SES Agreement did not contain provisions for its amendment, decided to agree with the solution of convening an international conference of Contracting Parties to the SES Agreement together with the next regular session of the Assembly in 2020 for half a day duration (A 25 Record of Decisions - paragraph 4.4.7).

2 Pursuant to this decision of the Assembly, the Director General circulated a letter IMSO/2020/SES Agreement Conference/CL/001 dated 31 January 2020 convening the International Conference of Contracting Parties to the International Agreement on the use of INMARSAT Ship Earth Stations within the Territorial Sea and Ports (here-in-after referred to as “SES Conference”) originally scheduled for 9 November 2020 but now due to be rescheduled due to Covid-19 pandemic. It is expected to be convened by virtual meeting system with interpreters. However, in the event interpretation is unavailable, the virtual meeting would be exceptionally conducted in English only.

Interactive discussion on the conference preparations

3 The Director General facilitated an interactive discussion through SES Briefing sessions, remotely convened by a video conference system from 8 to 10 September 2020, for Parties to the SES Agreement as well as other States and observers, in order to ensure the successfull deliberations of the SES Conference.

Outcome of the SES Briefings

4 The SES Briefings covered its historical background including why the SES Agreement was adopted in 1985, impact of recognition of Iridium as a new GMDSS provider, changes required on the text, issues of lacks of provisions on amendment and termination, and possible solutions to resolve.

5 Participants

Total 95 participants from:
- 40 among 49 Parties to the SES Agreement.
- 5 other States.
- 2 international organizations; and
- 2 GMDSS satellite service providers.

6 Dates and schedule

<table>
<thead>
<tr>
<th>Day 1</th>
<th>8 Sep</th>
<th>1300-1500 UTC</th>
<th>Europe &amp; Africa</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day 2</td>
<td>9 Sep</td>
<td>0700-0900 UTC</td>
<td>Asia &amp; Oceania</td>
</tr>
<tr>
<td>Day 3</td>
<td>10 Sep</td>
<td>1530-1730 UTC</td>
<td>N &amp; S America</td>
</tr>
</tbody>
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The briefing was tailored for each group’s time, but the core of the presentation was the same. The presentation time ranged from 1h30m to 2h00m, including Q&A post-presentation.

7 Summary of the Presentation by IMSO Directorate

7.1 The SES Agreement (the International Agreement on the use of INMARSAT Ship Earth Stations within the Territorial Sea and Ports) was adopted in 1985 to lift restrictions of the use of INMARSAT Ship Earth Stations within territorial sea and ports. The Depository of the SES
Agreement was INMARSAT before privatization but succeeded by IMSO. Number of Parties is 49 States as of 2020.

7.2 IMSO Assembly at its 25th session (2018) considered amendments but recommended that termination of the SES Agreement should be also considered. It was noted that the SES Agreement has no provisions for its amendment & termination.

7.3 Amendment, termination, modification, and protocol are available to handle the issues based on the 1969 Vienna Convention on Law of Treaties. All 49 State Parties must conclude for its termination or amendment due to the lack of pre-agreed conditions for amendment and termination.

7.4 Modification prescribed in Article 41 of the Vienna Convention may be possible, but the two conditions laid out in Article 41 must be met. If such conditions are met, two or more of Parties may conclude an agreement to modify the SES Agreement as between themselves alone without awaiting conclusions of all Parties.

7.5 Development of protocol is also one of the options. Protocol is based on Article 30 of the Vienna Convention. It may include any new provisions, but it is time consuming for reaching agreement.

7.6 The Directorate stated that the date of the Conference is rescheduled due to Covid-19, but the new date of the Conference will be informed through the IMSO website and emails as soon as decided.

8 Questions and comments by participants

8.1 Some participants expressed their confusion on the options offered to amend or terminate the SES Agreement as mentioned in the presentation (Termination, Amendment, Modification and Protocol). Difference between amendment and modification was clarified based on the Vienna Convention on the Law of Treaties 1969.

8.2 A participant expressed concerns that the modification in the Vienna Convention applies certain states only. Therefore, modification is not acceptable. Termination and amendment seem to be very difficult as they require conclusions by all States. Only feasible way is to develop protocol, the problem is arduous and time consuming. The Director General encouraged participants to submit proposals to the Conference.

8.3 A question was raised on quorum. Director General answered that in accordance with the Rule of Procedures, if a quorum is not reached, there can be no meeting.

8.4 A question was raised on the Directorate’s recommendation on options. Director General answered that there is no recommendation from the Directorate on particular option. Director General further stated that inputs from States are needed for consideration at the Conference.

8.5 Director Genera stated also that the SES Agreement has just 49 State Parties till now, and it might be more accepted if it is amended.

8.6 A question was raised on decision-making in the upcoming SES Conference. Director General answered that the Rules of Procedures will be prepared and informed to the Conference.

Draft rules of procedure for the conference

9 The Director General prepared the draft RULES OF PROCEDURE FOR THE DIPLOMATIC CONFERENCE as set out in annex 2. These Rules are expected to be adopted in the beginning of the Conference.

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ANNEX 2

DRAFT RULES OF PROCEDURE FOR THE DIPLOMATIC CONFERENCES
HOSTED BY THE DIRECTOR GENERAL OF IMSO

PART I: GENERAL

Rule 1: Application

These rules of procedure apply to the diplomatic conference hosted by the Director General (hereinafter refer to as “the Conference”.)

Rule 2: Place of Conferences

The Conference shall be held in the vicinity of the Organization's headquarters unless decided otherwise. No meeting shall be held elsewhere unless the prospective host agrees to defray the additional expenditure involved.

Rule 3: Virtual Conferences

The Director General may convene a virtual conference using an e-conferencing platform if it is difficult to convene a physical conference due to unusual reasons such as pandemic. An operational guidance on a specific e-conferencing platform will be provided by the Director-General.

PART II: PARTICIPANTS

Rule 4: Delegates

Each State may designate as its delegates one representative and such alternates and advisers as it deems necessary.

Rule 5: Observers

The Director General may invite observers to the Conference:

Rule 6: Providers

The Chairman of the Board of each Provider as referred to in Article 1(c) of the IMSO Convention, or his representative, shall be invited to attend the Conference, without right to vote, on matters arising under the Public Services Agreements.

Rule 7: Credentials

(1) Original Credentials of delegations and Observers shall be transmitted to the Director General in advance of each conference.

(2) Credentials of delegations shall be signed by or on behalf of the Head of State, or Prime Minister, or Minister/Secretary of Foreign Affairs, or equivalent Ministry, or Ambassador/High Commissioner.

(3) Only duly accredited representatives shall be permitted to vote under Part VI of these Rules.

(4) The Conference shall elect a Credentials Committee, composed of five representatives, ensuring regional representation. The Credentials Committee shall appoint its own...
Chairman. The Credentials Committee shall examine the Credentials submitted, and shall report to the Conference.

PART III: AGENDA AND DOCUMENTATION

Rule 8: Agenda of the Conference

(1) The Director-General shall assemble and circulate a draft provisional agenda 40 days before the start of the Conference, taking account of any advice received from Member States.

(2) Participating States, Observers and the Director General may propose or comment on items for inclusion on the agenda of a conference. Proposals or comments shall be received by the Director General 14 days before the beginning of the Conference. Each proposal shall be in writing and shall state the nature of the proposal and the reasons why it should be considered at the Conference.

(2) The Director General shall assemble and coordinate the proposals received into a provisional agenda which shall also include all matters required by the Conference to consider. The Director General shall communicate the provisional agenda to all Participating States and Observers at least 7 days before the beginning of the conference.

(4) The Conference shall adopt the agenda by a simple majority.

Rule 9: Documentation

Participating States and Observers wishing to submit documents shall endeavour to ensure that they are received by the Director General no later than 14 days in advance of the Conference.

PART IV: OFFICERS

Rule 10: Regional Representation

(1) The Conference shall ensure that, in the election of Chairman and Vice-Chairmen of the Conference and membership of the Credentials Committee, regional representation is taken into account. For this purpose, the participants are assumed to be grouped into four regions: Africa, the Americas, Asia-Pacific and Europe.

(2) The Director General will be responsible for coordinating regional activities at the conference.

Rule 11: Chairman and Vice-Chairmen of the Conference

At the first meeting of the Conference, the Conference shall elect a Chairman and three Vice-Chairmen from among the representatives of the States, ensuring full regional representation. They shall assume office immediately and shall remain in office until the end of the Conference.

Rule 12: Temporary Chairman

At the opening of the Conference the Director General shall act as Chairman until a new Chairman has been elected.

Rule 13: Election

If an officer is not elected by acclamation, the election shall be held by secret ballot by a simple majority vote taken as follows:
(a) The Secretary shall collect the ballots and, together with two tellers appointed by the Conference by a simple majority vote, count the votes in the presence of the Conference.

(b) If two or more candidates obtain an equal number of votes a further ballot shall be held with respect to these candidates only. If the votes are again divided equally, the Chairman shall decide by the drawing of lots.

(c) If there are more than two candidates and none of them obtain a simple majority, a new ballot shall be held between the two candidates who obtained the largest number of votes. If the votes for second place are equally divided a new ballot shall be held between the candidates obtaining the largest number of votes and those in second place. If no candidate obtains a majority on the second ballot, a third ballot shall be held between the candidate obtaining the largest number of votes and one of the candidates in second place drawn by lots by the Chairman.

Rule 14: Chairman’s Voting

(1) The Chairman or the acting Chairman of the conference shall not vote.

(2) The Chairman of a subsidiary organ may vote for his delegation unless he has designated another member of his delegation to do so.

PART V: CONDUCT OF BUSINESS

Rule 15: Quorum

(1) The Conference shall not take place unless there is a quorum present.

(2) A quorum shall consist of [30] States.

(3) In order to avoid the risk that an conference will have to be abandoned or cancelled in the event of lack of quorum, the Director General, in the invitation to the Conference, shall urge States to make every effort to be represented at the Conference, and shall draw attention to the Consequence of a quorum not being achieved. One week before the start of the Conference, the Director General shall advise Participating States and organizations of the likely status of quorum.

(4) At the commencement of the first meeting of the Conference, the Secretary will announce whether or not a quorum is present.

(5) In the event that there is no quorum present, the formal opening of the Conference may be delayed for no more than half a day.

(6) The quorum may be checked at any time during the Conference.

Rule 16: Public and Private Meetings

(1) Meetings of the Conference shall not be open to the general public or press, unless otherwise decided.

(2) The Conference may decide to limit attendance to any meeting to Parties to a specific treaty, a convention or an agreement only. In that case, only members of delegations may receive documents relating to such a meeting unless otherwise decided.
Rule 17: Responsibilities of the Chairman

(1) The Chairman shall exercise the powers of his office in accordance with customary practice. He or she shall remain under the authority of the meeting.

(2) The Chairman shall open and close the meetings, direct the deliberations, ensure that these Rules are applied, give the floor to speakers, put questions to the vote and announce decisions adopted.

(3) The Chairman shall ensure that discussion is confined to the point at issue. He may interrupt any speaker who departs therefrom.

Rule 18: Procedural Motions

(1) Speakers on procedural motions and points of order shall be given priority over speakers on the substance, but may not then deal with the substance of the matter under discussion.

(2) The following motions shall have precedence, in the order indicated below, over all other proposals or motions:

(a) to suspend a meeting;
(b) to adjourn a meeting;
(c) to adjourn the debate on the question under discussion;
(d) to close the debate on the question under discussion.

Permission to speak shall be granted only to one speaker in favour of the motion in addition to the proposer and to two speakers against, after which it shall immediately be put to the vote.

(3) During the discussion of any matter a delegate may raise a point of order. The Chairman shall immediately decide the point of order in accordance with these Rules.

(4) A delegate may appeal against a ruling of the Chairman. The appeal shall be put to the vote and the Chairman’s ruling shall stand unless overruled by a simple majority.

Rule 19: Substantive Proposals

(1) Substantive proposals shall normally be presented in writing before their consideration at any meeting.

(2) A proposal may be withdrawn by its author before voting on it has begun if no amendments have been made by other delegates. The proposal may be reintroduced at any time by any delegate.

Rule 20: Reconsideration

When a proposal has been adopted or rejected it may not be reconsidered at the conference unless the conference by a two-thirds majority decides in favour of reconsideration. Permission to speak on a motion to reconsider shall be accorded only to one speaker in favour of the motion in addition to the proposer and to two against, after which it shall immediately be put to the vote.
Rule 21: Speeches

(1) No delegate may speak without permission of the Chairman. Speakers shall be called upon in the order in which they request the floor.

(2) During the discussion, the Chairman may read the list of speakers and declare the closure of that list. Nevertheless, he or she may grant the right of reply to any delegate when an intervention made after the closure of the list of speakers makes it necessary.

(3) The Chairman may limit the time given to each speaker or the number of speeches by each delegation on a given question. When the debate is restricted and a delegate exceeds the time granted, the Chairman shall call the speaker to order.

Rule 22: Working Methods

(1) At its discretion, the Conference may organize its work by establishing subsidiary Committees and Drafting Committee as it may consider necessary. The selection of Chairmen and Vice-Chairman to manage their business shall be subject to the same procedure of acclamation or election as provided for in Rule 11, again respecting the objective of achieving a balance of regional representation.

(2) The subsidiary Committees and Drafting Committee shall work *mutandis mutandis* in accordance with the same procedures as set out in Rules 17 through to 21 above and Parts VI and VII of these Rules hereunder.

Rule 23: Records

(1) The Director General shall prepare records and final acts of the Conference as the Chairman of the Conference may determine. Records shall contain:

(a) the record of decisions.

(b) a summary of the discussions; and

(c) statements submitted by representatives in accordance with paragraph (2).

(2) Individual representatives wishing to include in the record statements made during the discussion shall, before the end of each meeting, submit the complete texts to the Director General.

(3) The records and final act shall be approved by the Conference before the end of the Conference and shall be the only official record of the conference's proceedings.

PART VI: VOTING

Rule 24: Majority Required

(1) Each State shall have one vote in the Conference. In case of an amendment or a termination of a specific treaty, a convention or an agreement, only State Parties shall have votes.

(2) Decisions on matters of substance shall be taken by a two-thirds majority, and on procedural matters by a simple majority.

(3) Decisions whether a question is procedural, or substantive shall be made by the Chairman. His decisions may be overruled by a two-thirds majority.
(4) Simple and two-thirds majorities are always calculated on the basis of the States which have votes. States which abstain from voting shall be considered as not voting.

Rule 25: Method of Voting

(1) Unless technical means are used, or the vote is taken by secret ballot in accordance with paragraph (2), votes shall be taken by a show of hands or, if any delegate so requests, by roll call. Roll calls shall be taken in the alphabetical order of the English names of the States, beginning with the State chosen by the Chairman by random.

(2) Voting shall be by secret ballot when at least three delegations so request.

Rule 26: Interruption of the Voting

After the Chairman has announced the beginning of a vote, no delegate shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. Delegates may explain their votes after the voting, except when the vote is secret. The Chairman may limit the time to be allowed for such explanations.

Rule 27: Voting Upon Parts of a Proposal

(1) A delegate may move that part of a proposal or of an amendment shall be voted on separately.

(2) If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to one speaker in favour in addition to the proposer and two speakers against.

(3) If the motion for division is carried, those parts of the proposal or of the amendment which are subsequently approved shall be put to a vote as a whole.

(4) If all operative parts of the proposal or the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Rule 28: Order of Voting on Amendments

(1) When an amendment is moved to a proposal, the amendment shall be voted on first. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal.

(2) When two or more amendments are moved to a proposal, the conference shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote.

(3) If one or more amendments are adopted, the proposal as amended shall then be voted upon.

Rule 29: Order of Voting on Proposals

Several proposals relating to the same question shall be put to the vote in the order in which they are received, unless otherwise decided. After each vote the meeting may decide not to vote on the other proposals. If there are more than two proposals, an indicative vote may be held first.
Rule 30: Equally Divided Votes

If on any issue, other than elections, the votes are equally divided, a second vote shall be taken immediately after a 30 minute break for consultations. If in the second vote the votes are again equally divided, the proposal is regarded as rejected.

PART VII: MISCELLANEOUS

Rule 31: Languages

(1) The official languages of the conference are English, French, Russian and Spanish. The working language is English.

(2) Speeches made in any of the four official languages shall be interpreted into the three other official languages.

(3) Exceptionally, Conferences that have to be convened as virtual meeting under the condition of force majeure (e.g., the Covid-19 pandemic) may be conducted in English only, instead of all of the official languages of the Organization, in order to avoid considerable technical and procedural difficulties that could compromise the smooth running of the Conference and result in its failure.

Rule 32: Amendment of the Rules

The Conference may amend these Rules by a two-thirds majority. Proposals for amendment shall be considered at the Conference.