To: Contracting Parties to the International Agreement on the use of INMARSAT Ship Earth Stations within the Territorial Sea and Ports ("SES Agreement")
IMO 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 IMO Member States
Recognized Satellite Service Providers
IMO and IMSO Observers

From: IMSO Director General

Subject: Background Information and Questionnaire on the International Agreement on the use of INMARSAT Ship Earth Stations within the Territorial Sea and Ports (SES Agreement)

Date: 12 April 2021

Reference: IMSO/CL/010

BACKGROUND INFORMATION AND QUESTIONNAIRE ON THE SES AGREEMENT

1 Pursuant to the outcome of the informal preparatory meeting of 29 March 2021 on Microsoft Teams platform for the SES Conference, the Director General has attached hereto the background information and a questionnaire, in order to investigate the status of application of the SES Agreement.

2 Since the SES Agreement was adopted to lift restrictions on the use of Inmarsat Ship Earth Stations within territorial sea and ports amidst concerns about interference or intrusion into national telecommunication networks, it is imperative to know the current situation of threat, if any and also the reason for not accepting the Agreement by the SOLAS Contracting Governments.

3 The Director General would appreciate if the response to this questionnaire as well as any proposal in respect of possible amendment, termination etc. could be provided before 31 May 2021 for preparation of the SES Conference, which is scheduled to be held from 19 to 21 July 2021.

4 The Director General avails himself of this opportunity to convey the assurance of his highest consideration.

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ANNEX 1
HISTORICAL BACKGROUND INFORMATION
ON CONSIDERATION OF SES AGREEMENT ISSUES

1 Introduction

1.1 This document provides the historical information on the outcome of the IMSO Assembly deliberations on the actions taken by the Director General regarding the implementation of the INMARSAT Ship Earth Stations (SES) Agreement.

2 Background

2.1 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 subsequently 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.

2.2 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).

2.3 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)”.

2.4 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.

2.5 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”.

2.6 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.

2.7 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.

2.8 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.

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

3.1 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). 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.

3.2 Following an in-depth discussion, the Assembly decided 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.”

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

3.4 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
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.

3.5 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.

3.6 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.

4 Outreach program to SOLAS Contracting Governments

4.1 The Director General has met the representatives of the following States who are not
Parties to the SES Agreement, and provided relevant information on the Agreement for its
acceptance:

Algeria; Angola; Antigua and Barbuda; Bahamas; Bangladesh; Belarus; Belgium; Belize;
Bosnia and Herzegovina; Brunei Darussalam; Cambodia; Cameroon; Colombia; Comoros;
Costa Rica; Cote D’Ivoire; Czech Republic; Democratic Republic of Congo; Dominican
Republic; Ecuador; Egypt; El-Salvador; Eritrea; Ethiopia; Fiji; Gabon; Gambia; Georgia;
Ghana; Grenada; Honduras; Iraq; Islamic Republic of Iran; Jamaica; Japan; Kenya; Kiribati;
Liberia; Mexico; Mongolia; Montenegro; Mozambique; Namibia; Nicaragua; Nigeria; Oman;
Pakistan; Panama; Papua New Guinea; Paraguay; Peru; Philippines; Plurinational State of
Bolivia; Saudi Arabia; Senegal; Solomon Islands; Sri Lanka; St. Kitts and Nevis; St. Lucia;
Sudan; Switzerland; Thailand; The Philippines; Togo; Tonga; Tunisia; Uganda; Ukraine;
United Arab Emirates; United States of America; Uruguay; Vanuatu; Venezuela; Yemen; and
Zambia.
ANNEX 2

QUESTIONNAIRE ON SES AGREEMENT

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<th>Name of State</th>
<th>Point of Contact on SES Agreement Issues</th>
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Please provide the answers to the following questions to IMSO Directorate (email: sadatoshi.koike@imso.org) by 31 May 2021. A word file of this questionnaire can be downloaded at https://imso.org/ses-conference.

Q1: What was the purpose in becoming a Party to the SES Agreement for your State?

Q2: Have you experienced any interference problems or adverse effects to your national telecommunication networks by the use of ship mobile earth stations on board vessels operating with Inmarsat or Iridium satellite systems?

   YES ☐  NO ☐

If YES, please specify details and mitigation measures implemented, if any:

Q3: Does the SES Agreement need to be updated in order to accept the use of Iridium SES within your territorial sea and ports for the provision of the GMDSS satellite service by Iridium?

   YES ☐  NO ☐

Q4: Have you legislated or amended a national law to implement the SES Agreement when you became a Party?

   YES ☐  NO ☐

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1 International Agreement on the use of INMARSAT Ship Earth Stations within the Territorial Sea and Ports
Q5: Assuming that you have a national law to accept the use of Inmarsat SES within your territorial sea and ports:

.1 do you have national laws or procedures that limit or prohibit the use of **Iridium** SES within your territorial sea and ports?

YES ☐ NO ☐

If YES, please specify details:

.2 do you have national laws or procedures that already allow the use of **Iridium** SES within your territorial sea and ports, e.g., the GMPCS MoU?

YES ☐ NO ☐

If YES, please specify details:

Q6: Do you agree with the opinion that the SES Agreement is no more needed since either the technology has been improved or the provisions in existing international regulatory framework already allow free circulation of mobile satellite terminals for GMDSS purposes?

YES ☐ NO ☐

Q7: The SES Agreement does not have any provisions on its amendment or termination. In this case, favourable conclusions from all 49 Parties will be needed for entry into force of amendment or termination. Do you support an amendment or the termination of the SES Agreement?

Amendment: YES ☐ NO ☐

Termination: YES ☐ NO ☐
Q8: If amendment or termination is not achievable, the modification or development of a protocol would be options to update the SES Agreement. Modification is based on Article 41 of the 1969 Vienna Convention on the Law of Treaties (Vienna Convention), and the development of a protocol is based on Article 30 of the Vienna Convention.

.1 Do you support the modification of the agreement or development of a protocol?
   YES ☐   NO ☐

.2 Which option do you prefer?
   .1 Modification of the agreement ☐
   .2 Development of a protocol ☐

Q9: Do you support the opinion that the SES Agreement should be left as it is? In other words, no action, such as amendment, termination, modification or protocol, is needed.

   YES ☐   NO ☐

Q10: Please describe any other opinion on possible future actions on the SES Agreement that may be considered, if any.

Q11: Please submit any proposal your Administration deems appropriate e.g. text for potential amendments to the Agreement, issues or areas to be considered in relation to the SES Agreement, measures to facilitate the global circulation of mobile satellite earth stations for GMDSS purposes, etc.

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