

**National Interest Analysis [2010] ATNIA 30**

**with attachment on consultation**

**Amendments to the Amended Convention on the  
International Mobile Satellite Organization  
adopted at the Twentieth Session of the Assembly,  
done at Malta on 2 October 2008**

**[2010] ATNIF 27**



# NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

## SUMMARY PAGE

### **Amendments to the Amended Convention on the International Mobile Satellite Organization adopted at the Twentieth Session of the Assembly, done at Malta on 2 October 2008 [2010] ATNIF 27**

#### **Nature and timing of proposed treaty action**

1. The proposed treaty action is to bring into force the proposed 2008 amendments to the *Amended Convention on the International Mobile Satellite Organization* done in London on 3 September 1976 [2001] ATS 11 (the Amended Convention). The proposed 2008 amendments were adopted at the Twentieth Session of the Assembly of the International Mobile Satellite Organization (IMSO) at Malta on 2 October 2008.
2. Pursuant to Article 18 of the Amended Convention, the proposed 2008 amendments will enter into force one hundred and twenty days after the Secretary-General of the International Maritime Organization (IMO) has received notices of acceptance from two-thirds of those States which at the time of adoption by the Assembly, were Parties to the Amended Convention. The number of Parties to the Amended Convention at the time of adoption was 93. Therefore, the number of acceptances necessary for entry into force is 62. As at 1 April 2010, none of the 93 Parties to the Amended Convention at the time of adoption had accepted the proposed 2008 amendments. However, one additional State has become a Party to the Amended Convention after 2 October 2008 and has thereby accepted the proposed 2008 Amendments. The IMSO Assembly decided to apply the proposed 2008 amendments provisionally, with effect from 6 October 2008, pending formal ratification by the requisite number of IMSO Parties.

#### **Overview and national interest summary**

3. The primary purpose of the proposed 2008 amendments is to effect two changes to IMSO's role:
  - a) The extension of IMSO's oversight responsibility to all maritime mobile satellite communications service providers for the Global Maritime Distress and Safety System (GMDSS) established by the IMO. GMDSS is the technical, operational and administrative structure for maritime distress and communications worldwide.
  - b) The enhancement of IMSO's role as the Coordinator of the Long Range Identification and Tracking of Ships (LRIT) established by the IMO. LRIT is a system for the global identification and tracking of ships which was established at the 81<sup>st</sup> Session of IMO's Maritime Safety Committee in response to the growing threat from terrorism.
4. It is in Australia's interest to accept the extension of IMSO's oversight responsibility to all maritime mobile satellite communications service providers, as Australia supports the development of a global and competitive maritime safety system marketplace, as free of distortions as is practicable.
5. Australia has participated in the discussion on LRIT throughout its development and supports the enhancement of IMSO's role as the LRIT Coordinator. The proposed 2008 amendments will improve the audit and oversight of LRIT and maritime safety generally.

## **Reasons for Australia to take the proposed treaty action**

6. Australia signed the *Convention and Operating Agreement on the International Maritime Satellite Organization* on 3 September 1976 [1979] ATS 10 (the Convention) and it entered into force generally and for Australia on 16 July 1979. The Convention originally established:

- a) a global mobile satellite communications system for maritime communications, including those related to distress and safety of life; and
- b) an international organisation attracting treaty-based rights and privileges, called the International Maritime Satellite Organization (INMARSAT), to administer and deliver its services.

7. Amendments to the Convention were adopted by INMARSAT on 16 October 1985, 19 January 1989 and 9 December 1994 to formalise expansion of its coverage in response to changing technology and needs. The title of the organization was amended to the International Mobile Satellite Organization (Inmarsat), in part to reflect the expanded coverage.

8. On 24 April 1998 the Inmarsat Assembly agreed to further amendments which provided for a process for the privatisation of Inmarsat. The 1998 amendments entered into force generally and for Australia on 31 July 2001. The new structure now comprises two entities:

- a) Inmarsat Ltd – a public limited company that took on all the commercial activities of Inmarsat and was completely privatised by the end of 2003; and
- b) IMSO – an intergovernmental body established to ensure that Inmarsat Ltd continues to meet its public service obligations, including obligations relating to the GMDSS. IMSO is an observer at relevant IMO meetings.

9. The proposed 2008 amendments principally provide for the extension of IMSO's oversight functions to all mobile satellite communications service providers for the GMDSS established by the IMO. This is a direct response to IMO's intention to allow private companies to provide GMDSS services and the need to have criteria in place against which the capabilities and performance of potential providers can be evaluated by an intergovernmental body on behalf of the international maritime community.

10. Increasing IMSO's oversight function to all maritime mobile satellite service providers approved by IMO is consistent with the Government's objective to ensure GMDSS services continue to be available to users who require them and to promote open, fair and transparent competition in the mobile and other satellite services industry.

11. The proposed 2008 amendments also give IMSO the functions and duties of the LRIT Coordinator, following the decision of the IMO Maritime Safety Committee to appoint IMSO as the LRIT Coordinator. This is a new initiative of the IMO Maritime Safety Committee to enhance international efforts to ensure maritime safety and security and to protect the marine environment by requiring all vessels to automatically transmit their identity, position and date/time at six hour intervals. LRIT allows IMO Member States to receive position reports from vessels operating under their flag, vessels seeking entry to a port within their territory, or vessels operating in proximity to the State's coastline.

12. Australia supports the enhancement of IMSO's role as LRIT Coordinator to not only ensure the timely implementation of the LRIT system, but to undertake the audit and oversight functions of LRIT.

### **Obligations**

13. The Australian Maritime Safety Authority (AMSA) established a LRIT system in February 2008 for Australian flagged vessels to which LRIT applies. Under the proposed 2008 amendments the LRIT system established by AMSA will be required to be audited by IMSO for compliance with the performance standard and functional requirements. This is supported by AMSA.

14. The proposed 2008 amendments will not impose any further obligations on Australia. However, these amendments make provision for IMSO's extended oversight role of all GMDSS service providers. In particular Article 1 of the proposed 2008 amendments sets out a range of new and amended definitions relevant to this role. New and amended definitions relevant to IMSO's role as LRIT Coordinator are also included in Article 1.

15. Article 3 of the Amended Convention has been revised to emphasise IMSO's primary purpose of overseeing the provision of services in relation to the GMDSS within IMO's legal framework. Specific references to other treaties relevant to the GMDSS have been removed from Article 3 of the Amended Convention and additional detail regarding implementation has been streamlined into Article 3(2) and incorporated into new Article 6 (Facilitation).

16. A new Article 4 (Other Functions) has been inserted to establish IMSO's role as LRIT Coordinator, in accordance with IMO decisions.

17. Article 5 provides further detail on IMSO's oversight role. This Article incorporates previous Article 4(1) and further provides that oversight will be based on conditions or obligations imposed by IMO, specific international considerations and Public Service Agreements.

18. Article 7 provides that IMSO may enter into contractual relationships with relevant entities in order to perform its functions and duties.

19. In addition, Article 8 has been renumbered Article 11 and extends the Assembly's functions to include consideration of IMSO's role as LRIT Coordinator and to empower the Assembly to take necessary steps in the negotiation and execution of its contractual relationships.

20. A number of administrative amendments have also been made to the operation of IMSO's Secretariat and other governance issues.

21. These amendments will enable IMSO to audit the compliance of AMSA's LRIT system. However, the amendments are not expected to have any particular impact upon Australia.

### **Implementation**

22. No legislative amendments are necessary to implement the proposed 2008 amendments. AMSA has included reference to the proposed amendments concerning LRIT in Marine Orders Part 21 which relate to safety of navigation and emergency procedures. AMSA also provides

guidance on the implementation of LRIT through Marine Notices. To ensure early compliance with LRIT, AMSA has put in place a commercial National Data Centre solution to cover the initial set up of the system. Australian-flagged vessels to which LRIT applies have been reporting to this National Data Centre since February 2008.

### **Costs**

23. The proposed 2008 amendments to the Amended Convention will not result in any extra costs or savings for the Government, business or individuals, other than the anticipated costs associated with the auditing of AMSA's LRIT system by IMSO for compliance with the performance standard and functional requirements. These costs are anticipated to be modest and will be absorbed within AMSA's existing budget.

### **Regulation Impact Statement**

24. The Office of Best Practice Regulation has been consulted and has confirmed that a Regulation Impact Statement is not required.

### **Future treaty action**

25. No future treaty actions arise from the proposed amendments to the Convention. Pursuant to Article 18 of the Amended Convention, amendments to the Amended Convention may be proposed by any Party and shall be circulated to all other Parties for consideration. The Assembly shall consider the amendment not earlier than six months thereafter. If adopted by the Assembly, the amendment will come into force one hundred and twenty days after the Secretary-General of IMO has received notices of acceptance from two-thirds of those States which, at the time of adoption by the Assembly, were Parties.

26. When amendments come into force they are binding only on those States Parties who have accepted them. For any other State, the amendment will come into force on the day the Secretary-General of the IMO receives its notice of acceptance. Any such amendments would be subject to Australia's domestic treaty making process, including tabling and consideration by the Joint Standing Committee on Treaties.

### **Withdrawal or denunciation**

27. Pursuant to Article 14 of the Amended Convention, any Party to the Convention may, by written notification to the Secretary-General of IMO, withdraw voluntarily from IMSO at any time and such withdrawal shall be effective upon receipt by the Secretary-General of IMO of such notification.

### **Contact details**

Maritime Safety, Environment and Liner Shipping Section  
Infrastructure and Surface Transport Policy Division  
Department of Infrastructure, Transport, Regional Development and Local Government.

## **ATTACHMENT ON CONSULTATION**

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#### **CONSULTATION**

28. State and Territory Governments were consulted through the Commonwealth-State/Territory Standing Committee on Treaties process. Information on the proposed 2008 amendments to the Amended Convention has been included in the quarterly treaties schedule provided to committee representatives. The most recent advice was provided in the March 2009 schedule of multilateral treaties.

29. No further consultation has been undertaken as there is no impact on any individuals or organisations other than the Australian Maritime Safety Authority (AMSA). AMSA is responsible for implementation of the Global Maritime Distress and Safety System (GMDSS) within Australia and is also responsible for the implementation of the Long Range Identification and Tracking (LRIT) of ships. AMSA supports the enhancement of IMSO's role as LRIT Coordinator to not only ensure the timely implementation of the LRIT system, but to undertake the audit and oversight functions of LRIT.

30. Any changes that impact upon the operation of the GMDSS and the LRIT are communicated to stakeholders as required by AMSA through Marine Notices or any necessary changes to regulations.