

## **BRIEFING NOTE FOR THE UN-GGIM MEETING IN NEW YORK, AUGUST 2015**

### **THE DRAFT CONVENTION ON GEOINFORMATION PROPOSED BY THE IBA**

The need for a Geoinformation Convention can be likened to the need for rules of the highway on roads. A commonly understood code of conduct that accounts for human and technical realities and for foreseeable risks assists free circulation and serves the amenity and security of all. The alternative – unbridled freedom, once thought by some desirable for our roads– is chaos and harm, particularly as the means for circulation become more complex and extensive.

Geoinformation is quintessentially a global commodity, its collection, processing and/or use will often be transnational while the risks attendant on error, misunderstanding or misuse similarly respect no frontier.

As the world forum joining private, academic and governmental lawyers, the IBA has devoted its attention over several years to whether there is a clear need for such a global code of conduct. It has concluded that there is, since neither technological advance nor the market, on their own, is suited to providing one or mitigating the effects of not having one. The proposed Convention's aim is thus to suggest a working basis for establishing such a global code of conduct.

More specifically, technological advance in this field has been shown not to generate all the solutions automatically. This is often because particular systems are designed to meet particular objectives and not more general concerns. A recent case in point was the tragic loss of the Malaysian Airlines Flight 370 aircraft with all on board. While the technical systems involved were operating normally, information about the plane's location before its disappearance was not shared in the timely manner required nor made available in a format which was useful.

For its part, as several participants from the private sector emphasized during IBA discussions, it is not the job of firms to create the general frameworks for their activities. This must be the job of governments. Other industry sources consulted during the drafting of the proposed Convention agreed with this position, while clearly expecting to be consulted during the Convention's making.

Above all, industry voices favoured an *international* framework for geoinformation. Anything less would expose firms to varying national regimes, with the uncertainty this entails. By contrast, an international approach will engender the greatest legal security and thereby foster investment and the growth of this vital field for the economy and societal well-being. This concern has been recognized and shared by governmental organizations consulted in preparing the draft Convention.

The proposed draft Convention has been prepared in light of best-practice examples of information society law-making. These apply a "light touch" approach and engage stakeholder responsibility to the greatest extent possible. The text does not in general seek to be prescriptive about the way geoinformation is to be used. Its central feature is to assist in ensuring that when geoinformation is used its provenance will be known and its accuracy and purpose can be attested. This facilitative goal will not be achieved overnight, but, by incorporating a consultative committee structure, a process will be initiated to encourage the availability of pertinent standards and guidelines. A minimum set of principles will furthermore include respect for basic privacy rights in a form that corresponds to existing international principles and widespread national legislation globally.

Geoinformation is a crucial resource for national security. This too is respected in the proposed Convention draft, as it must be. However, striking the right balance between security and freedom of access to information is one of the information society's most difficult challenges. Discussion with UN-GGIM participants on this balance has already been fruitful and its continuation will be valuable.

Geoinformation is proving useful in many public sector areas and the Convention seeks specifically to facilitate its admissibility as evidence in court and administrative proceedings with appropriate safeguards. The dialogue with the UN-GGIM and other United Nations bodies is welcomed on the IBA side, which it hopes will result in the benefits for nations, economic actors and citizens that a global code of conduct can provide for the maximum growth of this integral sector of the information society.

**IBA steering group chairs, Christopher Rees, Taylor Wessing LLP and Prof. Kevin Madders**

**London, June 2015**