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**GUIDANCE IN RELATION TO THE IMO MEMBER STATE AUDIT SCHEME (IMSAS) TO ASSIST IN THE IMPLEMENTATION OF THE III CODE BY MEMBER STATES**

1 The Maritime Safety Committee, at its 108th session (15 to 24 May 2024) and the Marine Environment Protection Committee, at its 81st session (18 to 22 March 2024) approved the *Guidance in relation to the IMO Member State Audit Scheme (IMSAS) to assist in the implementation of the III Code by Member States*, as set out in the annex.

2 Member Governments and international organizations are invited to bring this circular to the attention of all parties concerned.

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## ANNEX

### **GUIDANCE IN RELATION TO THE IMO MEMBER STATE AUDIT SCHEME (IMSAS) TO ASSIST IN THE IMPLEMENTATION OF THE III CODE BY MEMBER STATES**

#### **Preamble**

To assist Member States in the implementation of the *IMO Instruments Implementation Code (III Code)* in relation to the IMO Member State Audit Scheme (IMSAS), the *Guidance in relation to the IMO Member State Audit Scheme (IMSAS) to assist in the implementation of the III Code by Member States (III Code Implementation Guidance)* (MSC -MEPC.2/19), was approved by the Maritime Safety Committee, at its 108th session, and the Marine Environment Protection Committee, at its 81st session.

This Guidance:

1. provides non-mandatory guidance and brings understanding and practices to assist Member States in the implementation of the III Code, aiming to enhance their overall performance in maritime safety and environment protection, including the evaluation and review process (Part A); and
2. provides Member States with a manual to prepare for future audits under IMSAS and to assist in the planning, conduct and reporting by Member States in the execution of their duties as defined in resolution A.1067(28) on *Framework and Procedures for the IMO Member State Audit Scheme* (Part B).

**PART A**

**GUIDANCE TO ASSIST IN THE IMPLEMENTATION OF THE III CODE**

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## **PART A**

### **GUIDANCE TO ASSIST IN THE IMPLEMENTATION OF THE III CODE**

#### **Introduction**

This Guidance is structured as per the IMO Instrument Implementation Code (III Code) (resolution A.1070(28)) and provides understanding, practices and interpretations for those most recurrent provisions in the Consolidated Audit Summary Reports (CASRs) and provisions of the III Code identified for which Member States would benefit from developing associated guidance. Any relevant examples of most recurrent observations and findings that could benefit Member States are stated in part A, appendix 1 to this Guidance.

#### **Part 1 Common areas**

##### **Objective (paragraphs 1 and 2)**

1.1 States that have explicitly excluded flag State activities in their legislation may opt to preclude those from the scope of their IMO Member State Audit.

##### **Strategy (paragraph 3)**

1.2 The general aspect is whether an overall strategy<sup>1</sup> exists by the State on a national level covering all the aspects and all the entities of the State responsible for the implementation and enforcement of the requirements stemming from the mandatory IMO instruments and the provisions of the III Code. Furthermore, a methodology, also at the national level, is recommended to be established to monitor and assess whether the strategy ensures effective implementation and enforcement of relevant international obligations and responsibilities as contained in paragraphs 3 and 9 of the III Code.

1.3 The foregoing should not be confused with individual ministries' or entities' strategy and performance evaluation. Instead, the above-mentioned strategy and performance measurement is an umbrella and collective evaluation of all ministries and entities performing maritime functions relating to those mandatory IMO instruments to which the State is a party. In reviewing the overall strategy, account should be taken of the division of responsibilities among various entities of a State which participate in the implementation and enforcement of the mandatory IMO instruments. A mechanism should exist for all involved entities of a State to contribute to the overall effectiveness of the State in the discharge of its obligations and responsibilities that are derived from the applicable mandatory IMO instruments. In that context, the overall strategy should present a framework which effectively coordinates their maritime-related work and provides a mechanism for assessing the overall effectiveness of the State in meeting its international obligations under the mandatory IMO instruments.

1.4 In some instances multiple maritime Administrations are represented by a single IMO Member State as dependent territories or other political subdivisions. In such cases where the dependent territory itself has a separate national strategy, the linkages between the Member State and the dependent territories should be explained in detail.

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<sup>1</sup> Document TC 73/INF.2 can be taken into account when developing guidelines on the overall strategy.

- 1.5 The mechanism for developing strategy could include:
- .1 identifying and establishing competence and areas of responsibility of entities involved in a State's maritime activities;
  - .2 clear lines of authority for each entity, leading to an overall coordinating body, with a mandate for all maritime activities, which would then collectively constitute the maritime Administration;
  - .3 processes and procedures for determining each entity's performance against its areas of responsibility, and the overall organizational performance of those entities forming the maritime Administration; and
  - .4 a system to monitor, evaluate and improve the performance of the maritime Administration.
- 1.6 The strategy could be a high-level document, decree or official government paper, which may also provide for the appointment of a coordinating body and define its functions and powers. For this purpose, a maritime Administration may not be a single agency but a collection of entities with the implementation and enforcement responsibilities under the applicable mandatory IMO instruments. The Member State should consider questions such as:
- .1 How are the functions of the maritime Administration undertaken?
  - .2 How is the strategy communicated to all entities concerned?
  - .3 How would planning for a new convention or amendment to an existing one be done?
  - .4 How do entities communicate?
  - .5 What are some joint responsibilities and how are these allocated?
  - .6 How is performance assessed against convention obligations and future performance indicators?
  - .7 How is the overall assessment to be done?
- 1.7 The strategy may encompass items such as:
- .1 a high-level document, decree or official government paper setting out the national strategy, including the appointment of a coordinating body and its powers;
  - .2 setting of quality targets and key objectives;
  - .3 records of continuous review and verification of the State's effectiveness in respect of its international obligations; and
  - .4 assessment or performance evaluation of overall organizational effectiveness and capability, including administrative capacity to implement the instruments, e.g. qualified mariners, ship detentions.

1.8 A strategy is not the same as, for example, a national maritime transport policy or an entity's quality policy. The transport policy sets the high-level policy direction for governance, regulation and development in the maritime transport sector and is not necessarily focused on the implementation of maritime conventions to meet flag, port and coastal State responsibilities. The quality policy is a policy related to quality and again it is not necessarily focused on the implementation of maritime conventions.

1.9 To achieve, maintain and improve the performance and capability in the implementation of the III Code, the State is recommended to continuously review and improve the strategy. Specific provisions should be in place and implemented for such continuous review and improvement.

1.10 As the requirement for an overall strategy is recommendatory in the III Code, any shortcomings in this area will be recorded as an observation.

### **Initial actions (paragraph 8)**

1.11 A process for the incorporation of the mandatory IMO instruments into national legislation should be in place and it should ensure that the regulatory processes within the State do indeed deliver timely and adequate regulations on a consistent basis.

1.12 All of the mandatory IMO instruments require a party thereto to put in place legislation pertinent to the mandatory IMO instrument in question. Therefore, the Member State may use some of the recent amendments to the mandatory IMO instruments to test the viability of the process and whether enabling legislation/regulations have been properly issued, no later than the entry-into-force date of the amendment concerned or, in the case of a new treaty, the entry-into-force date for the State concerned (or compliance deadline if provided).

1.13 The Member State should ensure that the government entities<sup>2</sup> responsible for the implementation and enforcement of the mandatory IMO instruments are granted the authority to enact them into the national legislation. In some instances, national legislation only provides authority to ministries or departments to create regulations which provide greater detail necessary for actual application and enforcement including the associated investigative and penal processes. The Member State should be prepared to describe how authority from national legislation cascades down via regulation, policy and procedures. In rare instances, national legislation may be sufficiently detailed to implement directly by field personnel without intermediate regulations but there should be a policy or work instruction that describes enforcement in the individual entity.

1.14 Whilst the issue of "sufficient" personnel with maritime expertise is subjective, the discharge of those responsibilities listed in paragraph 8.3 of the III Code is a mandatory provision of the applicable IMO instruments. In that context, some States authorize non-governmental third parties to execute some of their responsibilities. These arrangements should be carefully evaluated to ensure that the delegated functions are executed effectively and are monitored and controlled by the appropriate government entity, which in some cases may require issuing relevant national legislation.

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<sup>2</sup> Different government entities may be involved and individually responsible for the relevant legislation and enforcement. They may have their own policy and/or work instruction.

1.15 To ensure that all obligations are met, identification and description of the division of responsibilities relating to the effective implementation and enforcement versus the latest version of the non-exhaustive list of obligations under the mandatory IMO instruments relevant to the III Code is recommended. This may assist the Member State in identifying the division of responsibilities, obligations and any gaps in the list of obligations.

#### **Communication of information (paragraph 9)**

1.16 Reporting requirements include the obligation of communication of information under various IMO instruments, as well as those under paragraph 9 of the III Code. An inventory of reporting requirements under IMO instruments, including associated guidance and information, is available in the Reporting Requirements Dashboard module of the Global Integrated Shipping Information System (GISIS).

1.17 Each Member State should designate an IMO Web Account Administrator for GISIS, in accordance with Circular Letter No.2892 on *Access to IMO web services, including GISIS and IMODOCS*, who should be responsible for creating and maintaining all user accounts for the Member State.

1.18 Member States may consider establishing a reporting system by identifying the obligations for communication of information under IMO instruments and assigning related responsibilities among relevant entities participating in the implementation and enforcement of the applicable IMO instruments.<sup>3</sup>

1.19 Member States may consider developing and implementing a system for communication of information, such as a comprehensive reporting plan (CRP) which includes, but is not limited to, the following:

- .1 coordinating department(s) for communication of information to IMO and other entities;
- .2 format of the reports;
- .3 frequency of reporting;
- .4 modality or modalities for reporting; and
- .5 periodical evaluation of the fulfilment of obligations.

1.20 As information may have to be communicated by several entities, Member States should first identify relevant parties, and respective reporting requirements, and whether the communication is done through GISIS or by any other means of communication, such as courier or email. While doing so, care should be taken to ensure consistency of information and to avoid repetitive reporting and excessive use of resources.

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<sup>3</sup> Refer to *Guidance on Communication of Information by Member States* (resolution A.1139(31)) and to resolutions A.1029(26) and A.1074(28) on *Global Integrated Shipping Information System (GISIS)* and on *Notification and circulation through GISIS*, respectively.

1.21 During the planning of the communication of information, the reporting time and frequency should be given due attention and the following factors may be considered:

- .1 for the information reported directly from Member States to IMO:
  - .1 reporting frequency should be followed when it is clearly stated in the instruments; and
  - .2 when reporting frequency is not clearly stated in the IMO instruments:
    - .1 the texts of national legislation should be communicated after promulgation of such legislation or, alternatively, uploaded onto relevant web pages of the Member State, with a link sent to IMO;
    - .2 for information such as the change of contact points or the outcomes of hook evaluation regarding lifeboat release and retrieval system, the communication should be made through GISIS as and when the changes take place; and
    - .3 all other information should be reported annually; and
- .2 for the information to be communicated by Member States under the IMO instruments to other international organizations or institutions, the reporting frequency should be implemented by Member States according to requirements of the organizations or the institutions.
- .3 for the information to be communicated by Member States under the IMO instruments to other Member States, the reporting approaches and frequency should be followed when it is clearly stated in the instruments or as agreed between those Member States.

1.22 Each Member State should consider establishing a mechanism to evaluate the effectiveness of its communication of information. The verification mechanism may include internal and external checks. In the context of an internal check, Member States should carry out a self-evaluation to determine whether remedial measures need to be taken to enhance implementation capabilities.

### **Records (paragraph 10)**

1.23 The Member State should ensure that records, as appropriate, are established and maintained to provide evidence of conformity to requirements and of the effective operation of the State. Records may be filed as hardcopies or electronically and may include, for example, copies of minutes of meetings, certificates, exemptions, equivalents, inspection reports, investigation reports, technical cases such as newbuilding's and ships' drawings.

1.24 The entities should ensure that a documented procedure is established to define the controls needed for the identification, storage, protection, retrieval, retention time and disposition of records. The documented procedure may be a corporate procedure for all the entities or an individual procedure for each entity, e.g. as part of the entity's quality management system.

### **Improvement (paragraphs 11-14)**

1.25 The Member State should ensure that aspects covered by paragraphs 11 to 12 of the III Code are addressed in support of both the overall organizational performance measurement and the evaluation, under flag, coastal and port State activities. Evaluation and review with respect to specific flag, coastal or port State responsibilities are also dealt with under those areas.

1.26 Further, the Government entities should take action to identify and eliminate the cause of any non-conformities in order to prevent recurrence. These actions should be documented in the individual records of each relevant entity e.g. as part of the entity's quality management system or similar system in place to ensure the improvement of its performance.

1.27 To monitor the overall improvement of the performance of the State, it could be beneficial to assess and address the outcome (on managerial level) and related actions of the separate performance of the different entities in high-level meetings of the State, to ensure sufficient priority, resources and follow-up.

1.28 For these meetings the outcome of the evaluation and review monitoring under the flag, coastal and port State areas could be taken into account and discussed to develop an overall (multi-annual) action plan and/or evaluate if amendments to the strategy are deemed necessary.

1.29 To support the overall performance and continuous improvement in combination with the suggested high-level meetings of the State, an internal audit cycle, or equivalent monitoring, assessing the status of implementation of the III Code and applicable IMO instruments could be part of the system in place.

## **Part 2 Flag States**

### **Implementation (paragraphs 15-17)**

2.1 Paragraphs 15 to 17 of the III Code provide a detailed list of areas to establish the extent of implementation of the mandatory IMO instruments by the Member State. The Member State may use those areas listed and match them with specific regulations in the mandatory IMO instruments in order to satisfy themselves of their degree of compliance.

2.2 To be able to fulfil the obligations as stipulated in the flag State activities of the III Code it is not sufficient to solely transpose provisions stipulated in the IMO instrument into the national legislation. Assigned responsibilities to the different entities or persons tasked with these responsibilities should be addressed and promulgated. To effectively implement the provisions related to the flag State activities, the State should draw up policies and specific guidance on how these tasks should be performed, as well as further guidance for the maritime industry if deemed necessary.

2.3 The use of an audit and inspection programme, independent of any administrative bodies, as stipulated in paragraph 16.2 of the III Code may be considered as fully meeting the requirements of the III Code when:

- .1 it is integrated in the Member State's own evaluation programme as far as there is independence (in terms of organization chart, own activities, reporting lines etc.) from audited/inspected activities and at the same time the necessary knowledge and skills are available; and

- .2 an external organization, with no conflict of interest and necessary competencies, assesses the activities.

To cover different flag State activities a combination of both is also an option. It is up to the Member State to demonstrate how this independence and capacity to audit/inspect has been ascertained.

2.4 One particular area which is of interest and significance in the implementation of mandatory requirements is paragraph 16.5 of the III Code, "to the satisfaction of the Administration", or equivalent. The Member State should be aware of all the areas in the mandatory IMO instruments where this terminology is used. The Member State shall take actions in respect of those provisions of the mandatory IMO instruments containing that phrase, and this may include development, documentation and provision of guidance to relevant personnel in the State, shipping companies, seafarers, nominated surveyors and recognized organizations (ROs), taking into account the types of ships flying the flag of the State. A practical approach for the Member State may be through a peel-off approach, for example:

- .1 develop, promulgate and maintain specific flag State interpretations/instructions for the relevant regulations that include "to the satisfaction of the Administration", or equivalent by making use of IMO established framework of the conventions, guidelines, guidance, recommendations or relevant interpretations;
- .2 in the absence of specific interpretations/instructions by the Administration (so are not included in the above), ROs may be instructed to use the relevant unified interpretations adopted by the Organization or other available unified interpretations, unified/procedural requirements or recommendations accepted by the Administration. In the event that a unified interpretation of the Organization is in conflict with the unified interpretation implemented by the RO either in whole or in part, the Administration shall specify which unified interpretation is to be followed by the RO; and
- .3 for interpretation of regulations not addressed by the above, interpretations might be developed on a case-by-case basis. In that case Administrations should:
  - .1 provide and publish specific instructions to ROs specifying the conditions under which ROs might perform this task; and
  - .2 communicate the outcome into the specific flag State interpretations as referenced under .1 and circulate to all ROs for uniform implementation.

### **Delegation of authority (paragraphs 18-21)**

#### ***Recognized organizations***

2.5 In most cases, Member States have delegated all or some statutory duties to ROs. The Member State should have done so in accordance with the *Code for Recognized Organizations* (RO Code) (resolutions MSC.349(92) and MEPC.237(65)), to ensure that such ROs have been duly scrutinized and confirmed to comply with the RO Code.

2.6 Another area of interest in the delegation of authority which is sometimes overlooked in terms of compliance with the RO Code, is work subcontracted by ROs to specialized entities (e.g. private companies). This may include such things as radio equipment survey and certification, cargo gear/lifting appliances and approval of grain loading manuals and authorizations among other services that are related to issuance of one or more certifications under IMO regulations. Notwithstanding the specialized nature of this type of work, the granting of authority to any entity to carry out statutory surveys should always be approved and monitored by the RO issuing the relevant statutory certificate on behalf of the Administration according to an established and documented programme for these services. This programme should include the definition of the specific requirements that the company and its personnel company are to meet in order to be able to carry out their services.

### ***Monitoring of recognized organizations***

2.7 The Member State should develop, implement and manage an effective oversight programme for ROs that act on its behalf. The oversight programme should include various monitoring activities, which may inter alia consist of:

- .1 audits of the RO local offices;
- .2 supplementary surveys and audits;
- .3 review of survey reports, certificates issued by ROs and other relevant documentation; and
- .4 regular meetings with ROs.

2.8 The RO Code provides detailed guidance relative to the establishment of an oversight programme and the management of such a programme, respectively. The Member State should have sufficient technical personnel that are capable of monitoring and evaluating the work of ROs in quantitative and qualitative terms.

2.9 The RO Code allows for cooperation and information-sharing on RO performance via memoranda of cooperation with other Member States who utilize all or some of the same ROs. In addition, the Member State may take into account the Factual Statements<sup>4</sup> issued by the International Quality Assessment Review Body (IQARB).<sup>5</sup>

2.10 In the context of monitoring the activities of ROs, some States may also use private sector organizations or independent surveyors to perform State duties, such as the conduct of flag State inspections, as a part of the flag State's responsibility to carry out oversight of their ROs. The State should regulate the authorization of such organizations or independent surveyors including full knowledge of their activities and should exert control over the quality and consistency of their work.

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<sup>4</sup> Regarding the organizational elements of the RO Code which are general in nature and related to effective implementation of a Quality Management System.

<sup>5</sup> Updated information on developments regarding the International Quality Assessment Review Body (IQARB), as well as Factual Statements issued by IQARB, are submitted periodically to the Maritime Safety Committee (MSC). The latest updates and the set of Factual Statements are available in documents MSC 106/18/2 and MSC 106/INF.9, respectively.

### ***Use of subcontractors***

2.11 Member States may also delegate responsibilities and authorize miscellaneous private subcontractors including handling of, for example, flag State obligations such as response to deficiencies and alleged pollution incidents.

2.12 Member States should develop and implement a control and monitoring programme as appropriate in order to:

- .1 control and record authorizations of companies;
- .2 determine that the company has adequate resources and equipment to accomplish the tasks it is being authorized to handle; and
- .3 issue specific instructions to the companies detailing the tasks they are authorized to handle.

### **Enforcement (paragraphs 22-27)**

2.13 Enforcement is a critical component in ensuring global and uniform implementation of the mandatory IMO instruments. For the maritime authority the removal or revocation of certificates from non-compliant ships is often the most effective form of enforcement. The imposition of civil and criminal penalties may not necessarily rest within the maritime laws and regulations. In some cases, this is incorporated under civil or criminal law statutes and some enforcement actions may rest with another governmental entity (e.g. Ministry of Justice). One aspect that is almost always present is what role, if any, does the maritime authority play in the collection and provision of adequate information to enforcement agencies.

2.14 Enforcement proceedings of adequate severity to discourage violation of international rules and standards should be established to meet the obligations set out in paragraph 22 of the III Code.

2.15 Enforcement powers should be provided in national legislation and authorization given to officers of the competent entity for, inter alia:

- .1 boarding and inspecting a ship or its equipment;
- .2 requiring the production of any book, certificate or document relating to any ship or persons on the ship;
- .3 detaining a ship; and
- .4 conducting investigations and instituting proceedings.

### **Flag State surveyors<sup>6</sup> (paragraphs 28-37)**

2.16 Paragraphs 28 to 37 of the III Code contain a list of issues that would be expected of an Administration if its responsibilities as a flag State were to be properly executed. Flag State surveyors are at the sharp end of implementation and enforcement. Therefore, these issues of flag State surveyors, with a view to encouraging improvement and the implementation of this part of the III Code by Member States, should be fulfilled. Paragraph 29.3 of the III Code

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<sup>6</sup> Personnel of the Member State responsible for, or performing, surveys, inspections and audits on ships and companies.

allows for accreditation of surveyors through formalized training programmes that lead to the same standards as 29.1 and 29.2. A practical view should be taken regarding the application of this equivalence. The skills necessary to be a competent flag State surveyor are not the same as those necessary to be a ship's officer. Although a basic knowledge of ships' structures and systems provides an excellent foundation for surveyors, the mere possession of a degree or a licence attesting to shipboard skills does not itself make a competent surveyor.

2.17 A documented system for training and qualifications of personnel that provides essential knowledge of the ships' systems, combined with a rigorous knowledge of applicable regulations, together with the maintenance of competencies and continuous updating of their knowledge through, for example, a surveyor mentoring programme can be seen as evidence of conformity with the requirement of paragraph 35 of the III Code.

2.18 A documented system for training and qualification of the personnel performing surveys, inspections and audits may encompass:

- .1 procedures for the documented system including definition and handling of all relevant records;
- .2 requirements for the recruitment of the personnel;
- .3 description and requirements regarding the qualifications and authorization of the personnel;
- .4 education, training and mentoring (e.g. on-the-job training programmes for the inspectors, auditors, investigators and other technical experts); and
- .5 description and requirements regarding maintenance and continuous updating of knowledge of the personnel.

2.19 The training programmes developed for flag State surveyors should encompass inspectors, auditors, investigators and other technical experts carrying out duties that require certain expertise. The Member State should ensure that other personnel assisting in the performance of such work (e.g. appointment of surveyors and auditors) has relevant training and qualifications.

### **Flag State investigations (paragraphs 38-41)**

2.20 The issue of investigation of marine casualties and pollution incidents is a mandatory requirement under a number of the mandatory IMO instruments including the Casualty Investigation Code. The threshold for mandatory investigations under the Casualty Investigation Code is particularly high with death and/or loss of the vessel as a criterion. The Member State should have adequate mechanisms in place not only to investigate casualty incidents but also to provide interested parties and the Organization with reports of investigations. Member States are always encouraged to investigate other causalities not meeting the threshold of the Casualty Investigation Code to gain lessons learned.

2.21 Marine safety investigations should be conducted by impartial and objective investigators who are suitably qualified and knowledgeable in matters relating to the casualty. The State is recommended to ensure that individual investigators have working knowledge and practical experience in those subject areas pertaining to their normal duties.

2.22 There should be national legislation or regulations that define the thresholds for timely mandatory reporting of casualties by ships to the flag State Administration. The thresholds should, as a minimum, meet the requirements for the conduct of investigations in the Casualty Investigation Code, but they may also be more extensive. The Member State may choose to require greater reporting of casualties or near-miss situations for the purpose of conducting trend analysis, but need to investigate, as a minimum, those specified by the Casualty Investigation Code. Also, there should be a linkage between reporting of ship damage for survey purposes and casualty reporting to the Administration to ensure consistency. This is especially valid when an RO is the primary recipient of damage reports, as the damage may meet the casualty reporting thresholds of the flag State.

2.23 Part of the casualty investigation process is to evaluate if there are measures that should be taken to prevent future recurrence of similar casualties. Continual improvement by an Administration relies on unbiased self-critical analysis. This process is essential to deriving the maximum organizational benefit from the casualty investigation process.

2.24 There is a mandatory requirement that investigators are impartial and objective and that results of marine safety investigations are conducted without direction or interference from any persons or organizations that may be affected by its outcome. In small Administrations, with few employees, this separation of duties between investigators and inspectors may prove difficult to achieve. It is not necessary that investigators be completely divorced from any ship inspection duties, but when they are serving as investigators their work should not be influenced by their inspector/surveyor duties or by those who supervise them as inspectors. Clear boundaries between investigators and inspectors should be defined and no conflict of interest should exist based on the organizational structure of the Administration. An important role of an investigator is to evaluate if their own or other flag Administrations' inspection processes were capable of detecting and adequately addressing the cause(s) of a casualty and thus preventing future casualties. For this reason, the Administration should carefully evaluate if casualty investigators are impartial and that they are empowered to recommend corrective actions to inspection processes inter alia. Administrations should document that investigation recommendations have been evaluated, addressed and implemented, as appropriate.

#### **Evaluation and review (paragraphs 42 - 44)**

2.25 Apart from the Member State's overall organizational performance review, separate and detailed methodology should be in place for the Member State concerned to evaluate its performance as a flag State. Paragraphs 42 to 44 of the III Code provide the recommended process for such a review. The Member State should explore this, which would also confirm whether measures taken to implement and enforce mandatory provisions on ships entitled to fly the flag of the State are effective and lessons learned are being used for continual improvement.

2.26 The Member State may consider drawing up a (combined) periodical evaluation report in which it gives insight in the progress and status of the following areas:

1. progress/status on implementation of administrative processes, procedures and resources;
2. statistics on transfer of ships (in/out);
3. port State control detention rates and number of deficiencies for ships flying their flag;

4. flag State inspection results;
5. status of qualification management of its inspectors, investigators and auditors;
6. performance of the recognized organizations;
7. casualty statistics;
8. trends and signals identified for ships flying their flag;
9. efficiency of communication and information processes;
10. annual loss statistics; and
11. assessment of adequacy of staffing, resources, including administrative procedures.

2.27 Based on this report the entities involved are recommended to identify the corrective actions to be taken based on priority and level of risk assigned to the areas of improvement. This report and actions taken could be subject to verification as part of the monitoring means described in paragraph 1.28 of this Guidance.

## Part 3 Coastal States

### Implementation (paragraphs 45-48)

3.1 A coastal State's rights and obligations have been aptly identified in part 3 of the III Code. While there are not many, they are crucial, particularly as the International Convention on Maritime Search and Rescue, 1979 (SAR 1979), is not yet included under IMSAS. Paragraph 48 of the III Code provides a non-exhaustive list of rights, obligations and responsibilities, implementation and enforcement. In this area, full use should be made of the provisions of SOLAS 1974, chapter V. Also, additional guidance has been provided in documents:

- .1 MSC 81/24/4 (IHO), included in IMO Circular Letter No.3425 (Auditor's Manual);
- .2 MSC 99/21/10 (WMO), as set out in appendix 2 of part A of this Guidance;
- .3 Guidance for Member States on pre-audit questionnaire in relation to vessel traffic services and aids to navigation, as set out in part 2 of appendix 2 of part B of this Guidance; and
- .4 IALA Guideline G1115 Preparing for an IMO Member State Audit Scheme (IMSAS) on VTS (via IALA website).

3.2 The government entities responsible for the coastal State activities should ensure that legislation, guidance and procedures are established for the consistent implementation and verification of the State's rights, obligations and responsibilities contained in the relevant mandatory IMO instruments to which it is a party.

3.3 The coastal State activities may include:

- .1 radiocommunication services;
- .2 meteorological services and warnings;
- .3 search and rescue services;
- .4 hydrographic services;
- .5 ships' routeing;
- .6 ship reporting systems;
- .7 vessel traffic services; and
- .8 aids to navigation.

3.4 In some instances, coastal States enter into bilateral or regional agreements for the sharing of coastal State responsibilities, thus leveraging scarce resources to achieve a superior outcome. The execution of coastal State responsibilities is as unique as the geography of each coastal State. In this case, it is not just the resources of the coastal State but also the combined resources which are available through the Member State's agreements with neighbouring States.

3.5 In cases where a State uses private sector organizations to perform coastal State duties, such as pollution response, search and rescue services, maintenance of aids to navigation, vessel traffic management or charting/hydrography, considerations as presented in paragraph 2.10 of this Guidance apply.

#### **Evaluation and review (paragraph 51)**

3.6 Apart from the Member State's overall organizational performance review, a separate and detailed methodology should be in place for the Member State concerned to evaluate its performance in respect of exercising its rights and meeting its obligations under the applicable international instruments as a coastal State.

3.7 The Member State may consider drawing up a (combined) periodical evaluation report in which it gives insight into the progress and status of the following areas:

- .1 evaluation of the effectiveness of policies (on enforcement, for example) in place to achieve the goals set for any coastal State activity;
- .2 evaluation of the incidents/accidents (including near misses if reported) in the coastal zone with possible assessment of the relation with its effectiveness of VTS, ship reporting systems and ships' routing systems);
- .3 (risk) analysis of activities in the coastal zone (shipping, mining, wind parks at sea, hydrographic issues, fisheries, etc.);
- .4 analysis of availability and reliability of AtoNs, including corrective measures in case of down time;
- .5 evaluation of the cooperation on SAR with passenger ships visiting the ports of the State;
- .6 evaluation and assessment of hydrographic services capability and capacity in publishing and keeping updated navigational charts and nautical publications;
- .7 efficiency of communication and information processes (including the reporting of meteorological and maritime safety warnings) and any reported failures;
- .8 evaluation of the use of dispersants in case of pollution incidents; and
- .9 assessment of adequacy of staffing, resources, including administrative procedures.

3.8 Based on this report the entities involved are recommended to identify the corrective actions to be taken based on priority and level of risk assigned to the areas of improvement. This report and actions taken could be subject to verification as part of the monitoring means described in paragraph 1.28 of this Guidance.

## Part 4 Port States

### Implementation (paragraphs 52-56)

4.1 A port State has rights and obligations. Sometimes these are heavily weighted on the right to exercise port State control (PSC) on foreign ships calling at the port of the State and the associated reporting requirement, with the latter being seen as the obligation. There are a number of other important areas of responsibility assigned to port States, as set out in paragraph 56 of the III Code.

4.2 Member States are only entitled to exercise the right on port State control for those conventions ratified, promulgated and implemented into their national legislation.

4.3 Although many States might be a member of a regional port State control regime, the III Code requires Member States to have implemented policies through issuing national legislation and guidance, which will assist in the implementation and enforcement of the requirements of all safety and pollution prevention conventions and protocols to which they are a party. This means provisions and assigned responsibilities should be provided for in the national legislation, including matters not covered by the scope of the PSC regime the Member State is a member of and the implementation of the IMO instruments the Member State has ratified.

4.4 If such port State control regimes have not issued guidance, procedures or detailed instructions (e.g. in a manual), the Member State should draft and implement these for the IMO instruments it is a party to for carrying out PSC inspections.

4.5 With regard to PSC activities, the Member State should focus on the qualification of PSC officers, and ensuring that the quality and consistency of PSC inspections are in accordance with IMO guidelines. Also, port States should engage with the ship's flag State and ROs when deficiencies are revealed by PSC officers.

4.6 To support the Member State in assessing if it has adequate and sufficient port reception facilities to ensure the acceptance of the types and quantities of wastes from ships normally using their ports, the Organization has drafted Guidelines for ensuring the adequacy of port waste reception facilities (resolution MEPC.83(44)).

4.7 Furthermore, the Organization has issued *Consolidated guidance for port reception facility providers and users* (MEPC.1/Circ.834/Rev.1) to provide detailed guidance and instructions, including good practices, for the facilities and ships delivering waste at these facilities.

4.8 Details of the port reception facilities as required by MARPOL should be uploaded onto GISIS.

4.9 For those States that are a party to the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL, Annex VI), there are requirements for them to provide certain services as port States (e.g. issues related to local fuel oil suppliers).

4.10 The III Code does not specifically refer to the port State obligations with regard to the IMDG Code. As it is one of the major obligations and high-risk activities in a port, the State should ensure that it has assigned a leading coordinating competent authority and implemented the requirements as set out in the IMDG Code for all entities involved. Subjects of special interest include, but are not limited to:

- .1 assignment of the responsible Government entity;
- .2 procedures for the handling of dangerous goods;

- .3 assigned locations for segregation of dangerous goods;
- .4 training of shore-based personnel;
- .5 sufficient and adequate means for first response to an incident;
- .6 instructions for emergency preparedness and response;
- .7 execution of drills and exercises (including those with emergency services); and
- .8 handling of radioactive materials.

4.11 In cases where a State uses private sector organizations to perform port State duties, such as waste reception, considerations as presented in paragraph 2.10 of this Guidance apply.

### **Evaluation and review (paragraph 63)**

4.12 Apart from the Member State's overall organizational performance review, a separate and detailed methodology should be in place for the Member State concerned to evaluate its performance in respect of exercising its rights and meeting its obligations under the applicable international instruments as a port State.

4.13 The Member State may consider drawing up a (combined) periodical evaluation report in which it provides insight into the progress and status of the following areas:

- .1 evaluating the effectiveness of policies (on penal systems, for example) in place to achieve the goals set for any port State activities;
- .2 achievement of targets on number of PSC inspections (agreed upon on a national or regional level);
- .3 analysis of number of accidents in their port with (dangerous) goods;
- .4 evaluation of the emergency preparedness and response (times);
- .5 analysis of incidents with foreign ships visiting their ports;
- .6 assessment of adequacy of the port reception facilities;
- .7 assessment of monitoring fuel oil suppliers;
- .8 efficiency of communication and information processes;
- .9 cross-evaluating the outcome of drills and exercises of the different entities also to be able to signal any trends;
- .10 status of qualification management of its PSC inspectors, training of personnel involved in the handling of dangerous goods, etc. and
- .11 assessment of adequacy of staffing and resources, including administrative procedures.

4.14 Based on this report the entities involved are recommended to identify the corrective actions to be taken based on priority and level of risk assigned to the areas of improvement. This report and actions taken could be subject to verification as part of the monitoring means described in paragraph 1.28 of this Guidance.

## APPENDIX 1

### EXAMPLES OF FINDINGS AND OBSERVATIONS IN MAJOR AREAS IDENTIFIED IN AUDITS, WITH RESPECTIVE ROOT CAUSES AND CORRECTIVE ACTIONS

#### Common areas

#### Observations on Strategy (paragraph 3)

##### Example 1 – Lack of an overall strategy

**Observation (OB)** (Circular Letter No.3772, annex, paragraph 250)

The Member State has not developed an overall strategy to ensure that its international obligations and responsibilities as a flag, port and coastal State are met.

**Corrective action** (paragraph 252 of annex to Circular Letter No.3772)

The State will, through the Government entities responsible for the effective implementation and enforcement of IMO instruments in the areas of flag, coastal and port State activities, develop a maritime strategy according to the provisions of the III Code in order to ensure full compliance with its international responsibilities.

##### Example 2 – No evidence for the implementation of methodology for monitoring and assessing the effectiveness of the strategy despite the existence of an overall strategy and such methodology

**OB** (Circular Letter No.3879, annex, paragraph 165)

The State had developed an overall strategy to ensure that its international obligations and responsibilities as flag, coastal and port State were met. Nevertheless, the methodology for monitoring and assessing the effectiveness of the strategy was neither established nor implemented.

**Corrective action** (Circular Letter No.3879, annex, paragraph 167)

A Strategy Implementation Follow-up Committee will be established and will meet every six months in order to follow up on the implementation of all activities specified in the State's overall Strategy and to assess the effectiveness of the Strategy. This corrective action will be completed by 30 September 2018.

##### Example 3 – Failure in covering all the obligations and responsibilities of the State despite the development of an overall strategy

**OB** (Circular Letter No.4028, annex, paragraph 204)

Although the State had developed an overall strategy, it did not ensure that all its obligations and responsibilities under the mandatory IMO instruments to which it is a party were met.

**Corrective action** (Circular Letter No.4028, annex, paragraph 206)

The State will:

- .1 Establish an inter-institutional working group consisting of all the entities participating in the maritime Administration, which will be tasked to develop a national overall maritime strategy that will define the responsibilities of each entity involved in the implementation and enforcement of the applicable IMO instruments and serve as a mechanism to ensure that the international obligations and responsibilities of the State as flag, port and coastal State are met.
- .2 Appoint a coordinating entity and focal point for the development of the overall maritime strategy. A methodology for monitoring and evaluation of performance in carrying out flag, coastal and port State activities will be established, based on set objectives and key performance indicators (KPI). The methodology will include a system for continuous review of the strategy through regular follow-up meetings among the entities involved.

The following excerpts from the consolidated audit summary reports (CASRs) issued under the Scheme provide examples of findings (FDs) and observations (OBs), along with related root causes, as identified by the audited Member States, and agreed corrective actions, that are associated with shortcomings reported in audits within the five major areas identified in audits (documents III 7/7, III 7/INF.27).

**I AREA OF IMPLEMENTATION (FS, CS, PS)**

**FD (Example 1 for Implementation FS)**

The Administration had not established resources and processes capable of administering a safety and environmental protection programme, which includes:

- .1 administrative instructions to effectively implement the mandatory IMO instruments to which the State is a party and their amendments;
- .2 an independent audit and inspection programme covering the entity which issues the required certificates and documentation to ships entitled to fly the flag of the State; and
- .3 policies and/or guidelines to address those requirements that are left "to the satisfaction of the Administration" and criteria for type approval of materials and equipment as required in the relevant mandatory IMO instruments to which the State was a party.

(III Code, paragraphs 16.1, 16.2 and 16.5).

**Root cause**

The following factors contributed to this finding:

- .1 lack of legal basis, as well as the lack of a system for monitoring, assessing, incorporating and implementing amendments to the applicable mandatory IMO instruments. In addition, there was insufficient trained personnel to draft national legislation and to regulate the implementation of the mandatory IMO instruments;

- .2 no specific responsibilities had been assigned for the formulation of policies related to the issuance of administrative instructions to assist in the effective implementation of the applicable mandatory IMO instruments; and
- .3 lack of a management system and procedures to establish a safety and environmental protection programme.

### **Corrective action**

The Administration will implement the following actions:

- .1 establish and implement a safety and environmental protection programme, based on the outcome and proposals of a working group, to be created. In the context of developing the overall strategy, the working group will, inter alia, be tasked with developing a system for formulating policies for the implementation and enforcement of the requirements stemming from the applicable mandatory IMO instruments and for assigning responsibilities by relevant entities;
- .2 through the aforementioned programme, the criteria for issuing subsidiary legislation and administrative instructions will be established in order to effectively implement the mandatory IMO instruments to which the State is a party, and related amendments. Appropriate procedures, guidelines and interpretations will be developed and implemented, along with the definition of related methodology and responsibility, for those requirements that are left "to the satisfaction of the Administration" and criteria for type approval, taking into account the existing criteria and guidelines developed by other Administrations, classification societies and IMO; and
- .3 a management system will be established, internal and external audits of the Administration carried out, as well as verifications that the necessary resources are managed to maintain the safety and environmental protection programme.

### **FD (Example 2 for Implementation FS)**

The Administration did not have a system in place to ensure that the State's policies and legislation had been effectively implemented while discharging its flag State responsibilities. Furthermore, the State had not assigned responsibilities for updating and revising the policies adopted (III Code, paragraphs 15.1 and 15.2).

### **Root cause**

There was a lack of understanding on the steps required to be undertaken by a flag State to effectively discharge its responsibilities and obligations under the provisions of the mandatory IMO instruments.

### **Corrective action**

The responsible entity will implement the following actions:

- .1 organize a training and familiarization programme on steps needed for implementing international conventions and protocols, for all personnel responsible for flag State implementation and enforcement;

- .2 establish relevant policies and measures through national legislation and guidance for flag State implementation and enforcement of the mandatory IMO instruments, and promulgate these policies to all stakeholders for implementation; and
- .3 designate an official and assign responsibility to periodically review and update the aforementioned adopted policies.

#### **OB (Example 3 for Implementation FS)**

The Administration did not establish documented training programmes to provide appropriate practical and theoretical knowledge of ships and their operation for flag State surveyors, investigators and auditors, including not providing the relevant national and international instruments necessary for them to perform their duties (III Code, paragraph 32).

#### **Root cause**

Owing to a lack of planning, a training and specialization programme for the personnel, according to the III Code, was not developed.

#### **Corrective action**

The Administration will develop training policies and programme that will include an analysis of resources allocation; a permanent training schedule for personnel involved in surveying, audits and investigation tasks; and an introductory programme for newly recruited flag State surveyors, auditors and investigators. The programme will be based on IMO model courses or training programmes of recognized nautical institutions and will also include provisions for in-house training.

#### **OB (Example 4 for Implementation FS)**

The State did not have a policy on conducting investigations into accidents involving personal injuries necessitating absence from duty of three days or more and any deaths resulting from occupational accidents and casualties and making the results of such investigations public (III Code, paragraph 40).

#### **Root cause**

The requirements for marine safety investigations in accordance with the Casualty Investigation Code and the III Code were not transposed into national legislation and the Administration was unaware of the requirement to make the investigation reports public.

#### **Corrective action**

The following actions will be undertaken by the State:

- .1 the principal national legislation will be reviewed and updated by the responsible ministry, and a revised act will be promulgated which will include a provision to conduct marine safety investigations in accordance with the mandatory IMO instruments, the Casualty Investigation Code and the III Code;

- .2 the responsible ministry will establish a system for an independent body to conduct marine safety investigations using qualified investigators and to communicate investigation reports to IMO and to the public, in accordance with the Casualty Investigation Code and the III Code; and
- .3 periodic evaluation and review of this system will be conducted by the responsible ministry, as required by the III Code.

#### **FD (Example 1 for Implementation CS)**

The State had not taken all steps necessary to ensure that information of any dangers to navigation was brought to the knowledge of those concerned. For example, navigational warnings had not been forwarded to ships operating in the waters under the jurisdiction of the State (SOLAS 1974, regulation V/4; III Code, paragraph 46.1).

#### **Root cause**

The lack of clarity in the assignment of responsibility, resources constraints and the lack of suitable equipment prevented the effective communication of navigational warnings. Furthermore, there was no effective coordination among the key agencies involved.

#### **Corrective action**

New national legislation has assigned the responsibility for providing navigational warnings to an agency, who had already implemented a process for the issuance of circulars to advise shipowners, operators, and master of safety issues, including navigational hazards. The agency will develop and implement a procedure to procure and make operational radiocommunication equipment to ensure that information of any dangers to navigation are brought to the knowledge of ships in coordination with all relevant agencies. The agency will assess the human and technical resources needed for performing the above-mentioned tasks and take measures to provide them accordingly.

#### **FD (Example 2 for Implementation CS)**

The maritime Administration had not established a mechanism for the provision of radiocommunication services, including the assignment of GMDSS identities, delimitation of sea areas, use of digital selective calling and provision of appropriate shore-based facilities for radiocommunication services for transmitting urgent messages relating to safety of navigation, and for receiving maritime emergency radiocommunications (SOLAS 1974, regulation IV/5; SOLAS 1974, regulation IV/5-1; SOLAS 1974, regulation V/4; SOLAS 1974, regulation V/31.2; III Code, paragraphs 47 and 49).

#### **Root cause**

The following factors contributed to this finding:

- .1 lack of awareness of coastal State obligations;
- .2 absence of a legal basis, including regulations, guidelines and procedures; and
- .3 absence of infrastructure, financial resources and coordination among relevant entities of the State.

### **Corrective action**

The responsible entities of the maritime Administration will implement the following actions:

- .1 establish an inter-institutional working group, comprising all entities involved in the implementation and enforcement of SOLAS 1974, chapters IV and V, which will be tasked to define and propose the assignment of related responsibilities and obligations of entities involved, to analyse the need for and propose development of additional national legislation for further drafting and enactment, including regulations, guidelines and procedures, and to evaluate the performance of the entities involved through a mechanism to be implemented within the new overall strategy; and
- .2 relevant authorities of the State will assess the needs of the State in establishing the radiocommunication services under SOLAS 1974, chapter IV, request additional funds from the Government and procure necessary equipment in accordance with the requirements of the mandatory IMO instruments. The need to establish specific responsible units will also be assessed, and organizational structures will be established accordingly.

### **FD (Example 1 for Implementation PS)**

There was no evidence of adequate legislation, guidance or procedures in place to ensure that the maritime Administration implemented the requirements of the IMDG and IMSBC Codes. In particular, there was no evidence that the maritime Administration:

- .1 designated competent authority for matters related to handling of dangerous goods;
- .2 ensured that periodical training of shore-based personnel was conducted;
- .3 implemented detailed instructions on emergency response and emergency medical care required in an event involving dangerous goods;
- .4 ensured the implementation of loading and unloading requirements in accordance with SOLAS 1974, chapter VI, and in compliance with the relevant provisions of the IMSBC Code; and
- .5 evaluated periodically its performance in handling of dangerous goods.

(SOLAS 1974, regulation VII/3; IMDG Code, section 1.3.1; IMSBC Code, paragraph 4.3.3; III Code, paragraphs 54, 55 and 63).

### **Root cause**

The provisions of the applicable mandatory IMO instruments related to the handling of dangerous goods were poorly understood. Moreover, there was no national legislation incorporating related mandatory requirements and there was an absence of assigned responsibilities and a mechanism for cooperation among the various entities involved in the management of dangerous goods.

### **Corrective action**

The relevant government entities will undertake the following actions:

- .1 enact and implement national legislation, promulgating the requirements of the IMDG and IMSBC Codes, as amended;
- .2 develop and implement guidance or documented procedures for the management of dangerous goods based on the requirements of the mandatory IMO instruments;
- .3 designate the "competent authority" for matters related to handling of dangerous goods and communicate this information to IMO;
- .4 develop and implement detailed instructions on emergency response and emergency medical care required in an event involving dangerous goods;
- .5 develop and implement a training programme for shore-side personnel, as well as for all staff involved in the implementation of the IMDG and IMSBC Codes, as amended;
- .6 conclude a memorandum of understanding between the State entities concerned, in order to regulate the implementation and enforcement of the requirements of the IMDG and IMSBC Codes and clearly define relevant roles and responsibilities, and to strengthen and institutionalize interministerial cooperation and relations; and
- .7 evaluate periodically their performance in handling dangerous goods.

### **FD (Example 2 for Implementation PS)**

The State did not regulate fuel oil suppliers and did not establish a monitoring programme, which includes keeping a register of fuel oil suppliers, regulating the retention of bunker delivery notes by fuel oil suppliers and verification of fuel oil quality (MARPOL, Annex VI, regulation 18.9; ILL Code, paragraphs 54, 55 and 56.3).

### **Root cause**

There was a lack of systematic supervision of fuel oil suppliers by the maritime Administration.

### **Corrective action**

The responsible ministries will implement the following actions:

- .1 a law on ports will be developed and implemented, which will define responsibilities of involved entities and, inter alia, give effect to regulations related to provision, location, capacities and notices of inadequacy of reception facilities, as well as to oversight of fuel oil suppliers;
- .2 a reporting mechanism will be established, and information will be requested regarding local suppliers of fuel oil from all relevant entities. Responsibility for keeping the register of local suppliers of fuel oil will be defined in law, the register will be kept and guidance concerning supervision of local suppliers of fuel oil and procedures for retention of bunker delivery notes by the fuel oil suppliers will be developed, circulated, implemented and monitored; and

- .3 a mechanism for periodical evaluation and review of performance with regard to the requirements stemming from MARPOL, Annex VI, will be established to ensure compliance and further improvements.

## **II Area of enforcement (FS, CS, PS)**

### **FD (Example 1 for Enforcement FS)**

The Administration had not established necessary measures and legal framework to ensure effective enforcement of the requirements stemming from the mandatory IMO instruments, such as providing penalties, including fines of adequate severity to discourage violation of international rules, regulations and standards; ensuring through national legislation the effective enforcement mechanism; and having sufficient qualified personnel to implement and enforce national legislation, including personnel for performing investigations and surveys (III Code, paragraphs 22.5, 24.1 and 24.2).

#### **Root cause**

The absence of a comprehensive legal framework to impose penalties and fines on those who violate requirements stemming from international rules and standards and the lack of assigned responsibilities between relevant entities of the State contributed to this finding.

#### **Corrective action**

The Administration will implement the following actions:

- .1 propose amendments to the Government agreement concerned, in order to establish a robust legal framework for enforcing the requirements stemming from the mandatory IMO instruments. The aforementioned law will serve as a deterrent, providing penalties and fines consistent with the severity of the offence; and
- .2 establish a working group, led by the Administration and comprising relevant entities of the State, with the task of proposing the formulation of policies for the implementation and enforcement of requirements stemming from the mandatory IMO instruments. The working group will also be responsible for proposing measures and the need for additional national legislation, if necessary, related to the enforcement of requirements emanating from the aforementioned IMO instruments. In addition, based on proposals by the working group, responsibilities will be assigned by relevant entities and key personnel will be familiarized and trained in their assigned tasks. The Administration will be responsible for monitoring the policies to be adopted and for drafting and implementing new national legislation once enacted through the existing legal process.

### **FD (Example 2 for Enforcement FS)**

Measures taken by the Administration to secure observance of rules and standards by ships entitled to fly the flag of the State were inadequate and the actions taken were not in accordance with the procedures established in national law. Periodic inspections of ships entitled to fly the flag of the State had not been conducted to verify that the actual condition of ship and its crew was in conformity with the certificates they carried. The national law did not include a provision to enable the Administration to institute proceedings against individuals holding endorsements who had violated provisions of the mandatory IMO instruments. Proceedings in accordance with national law had not been instituted in cases of violations (III Code, paragraph 22).

### **Root cause**

The following factors contributed to this finding:

- .1 lengthy legal processes and administrative difficulties hindered the enforcement of the requirements stemming from the mandatory IMO instruments;
- .2 lack of legislative provisions to deter violations;
- .3 lack of follow-up on corrective actions after reported ship deficiencies; and
- .4 lack of human resources, in particular suitably qualified and competent technical and administrative personnel in the Administration.

### **Corrective action**

The Administration will implement the following actions:

- .1 undertake legislative reform to facilitate enforcement of the requirements stemming from the mandatory IMO instruments;
- .2 develop and implement a follow-up programme, which will include simplified enforcement procedures to follow up deficiencies reported during flag State inspections and offences/violations of regulations;
- .3 develop and implement new legislation to deal with and address violations and non-conformance by ships and seafarers;
- .4 conduct a review of the current practice regarding the verification of observance of international rules and standards through the implementation and enforcement of flag State activities, and introduce measures to strengthen the programme of flag State inspections to ensure that the international obligations and responsibilities with regard to enforcement are met; and
- .5 deploy adequate technical and administrative personnel with appropriate levels of maritime expertise to carry out the aforementioned tasks.

### **FD (Example 1 for Enforcement CS)**

There was no enforcement mechanism in place under the existing ship reporting system, including relevant provisions in national law (III Code, paragraphs 47 and 49).

### **Root cause**

There was a lack of relevant provisions in national law and a lack of procedures.

### **Corrective action**

The responsible ministry and entity will implement the following actions:

- .1 the enforcement mechanism for mandatory reporting ADRIREP system will be established in the national legal framework; and

- .2 the reporting requirements under resolution MSC.139(76) will be identified and procedures will be drafted, approved and implemented.

### **FD (Example 2 for Enforcement CS)**

#### **FD**

The State had not established a mechanism for timely response to pollution incidents in its waters and had not conducted exercises to evaluate pollution control preparedness on a periodical basis (III Code, paragraph 50.2).

#### **Root cause**

The following factors contributed to this finding:

- .1 the national maritime oil spill contingency plan had not been properly implemented owing to the lack of coordination between stakeholders involved; and
- .2 there was a lack of oil spill response equipment, lack of technical capability, and related responsibility had not been assigned.

#### **Corrective action**

The following actions will be implemented by responsible entities of the maritime Administration:

- .1 collaborate with the regional environment cooperation programme to identify possible areas of assistance and advice in oil spill response;
- .2 assign responsibility for coordinating with the stakeholders in the State to conduct and record drills and exercises according to the national maritime oil spill contingency plan;
- .3 specific pollution response equipment will be identified and provided, as necessary; and
- .4 develop and implement policies and procedures to respond to any oil pollution disaster within the coastal waters of the State, which will also form part of the quality standards system to be established.

### **FD (Example 1 for Enforcement PS)**

The Administration exercised its right to carry out PSC; however, the processes to administer the programme were not completely consistent with the IMO procedures on PSC (III Code, paragraph 60).

#### **Root cause**

There was no documented procedure in place for carrying out port State control (PSC) inspections, which was largely owing to a lack of sufficient technical personnel.

### **Corrective action**

The responsible ministries will implement the following actions:

- .1 develop and implement a national programme for PSC, including relevant training to be administered, consistent with resolution A.1138(31), as may be amended. The programme will include the development of a targeting matrix for inspection of ships, based on information on ships' calls in the ports of the State; and
- .2 ensure provision of adequate personnel and enhance administrative capacity in order to facilitate the effective implementation of PSC in the State.

### **FD (Example 2 for Enforcement PS)**

Arrangements in place for the conduct of PSC inspections were not adequate, although the right to carry out PSC was exercised by the State. There were no established policies or processes to administer a PSC programme. PSCOs were not duly authorized and qualified (SOLAS 1974, regulation I/19; MARPOL, Annex I, regulation 11; TONNAGE 1969, article 12; III Code, paragraph 54; III Code, paragraph 60).

### **Root cause**

The national legislation implementing the mandatory IMO instruments was outdated and did not contain appropriate enabling provisions to exercise authority for port State control (PSC). Consequently, there was a lack of regulations and procedures for implementing and administering a PSC programme.

### **Corrective action**

The responsible entity will implement the following actions:

- .1 implement the new legislation that has recently become law which contains enabling provisions for exercising PSC;
- .2 develop and implement guidelines for authorization and training of port State control officers (PSCOs);
- .3 institute a systematic personnel training programme to address the training needs of existing staff and new recruits;
- .4 promulgate regulations and establish procedures for conducting PSC programme in line with IMO resolution A.1138(31), as may be amended; and
- .5 establish and implement a documentation system for maintaining PSC records, under a quality management system, to be established.

### **III Area of improvement**

#### **FD (Example 1)**

There was no system or mechanism in place for periodic evaluation and monitoring with the aim of continually improving the effectiveness of the State in giving effect to the mandatory IMO instruments. Furthermore, no measures were in place to stimulate a culture which provided opportunities for improvement of performance in maritime safety and environmental protection activities. Drills were conducted without any records of learning points or debriefs. No action was evident to identify and eliminate the causes of existing and potential non-conformities (III Code, paragraphs 11-14).

#### **Root cause**

The following factors contributed to this finding:

- .1 lack of awareness of the requirements for record-keeping in accordance with the mandatory IMO instruments; and
- .2 lack of a documented programme for monitoring and evaluating the implementation and enforcement of the mandatory IMO instruments for continuous improvement and to eliminate existing and potential non-conformities.

#### **Corrective action**

The State will implement the following actions:

- .1 develop and implement a mechanism to gather information from the Administration, and periodically monitor and evaluate flag State's performance, as well as the port State control (PSC) inspection results with respect to ships flying the flag of the State;
- .2 develop and implement a mechanism to gather information from other entities within the maritime Administration, monitor and evaluate performance once a year, and take measures to improve flag, port and coastal State activities, such as port security, safety of maritime navigation (including aids to navigation and hydrography), PSC and mass rescue operations; and
- .3 use the aforementioned annual review and evaluation mechanism so that the State can identify existing and potential shortcomings in the implementation and enforcement of the requirements stemming from the mandatory IMO instruments and take timely corrective actions, as necessary (e.g. in relation to new legislation and additional or reallocation of resources), including measures for stimulating a safety culture.

#### **FD (Example 2)**

The State had not established a mechanism for monitoring and reviewing the measures taken to effectively implement and enforce the mandatory IMO instruments. This included the analysis of non-conformities, the implementation of the necessary corrective actions and the analysis of the adopted corrective actions, in order to eliminate the causes of non-conformities and to avoid recurrence (III Code, paragraph 11 and paragraphs 13-14).

### **Root cause**

The absence of assigned responsibilities among government entities involved in the implementation and enforcement of the mandatory IMO instruments, as well as the lack of knowledge of the obligations stemming from the III Code, contributed to this finding.

### **Corrective action**

The responsible entities of the State will implement the following actions:

- .1 develop and implement an overall strategy which will include a mechanism for monitoring and reviewing the measures adopted to effectively implement and enforce the requirements stemming from the applicable mandatory IMO instruments, with the participation of all State entities responsible for implementing and enforcing the aforementioned instruments, based on set objectives and key performance indicators. In addition, clear responsibilities will be assigned within the maritime Administration regarding the coordination and implementation of the aforementioned mechanism;
- .2 through the aforementioned mechanism, the causes of non-compliance will be identified and eliminated to prevent their recurrence. A dedicated unit will be appointed as the focal point to administer the mechanism, coordinate among other entities of the State, ensure appropriate follow-up and assess its effectiveness; and
- .3 provide training programmes for all personnel responsible for carrying out the aforementioned tasks to ensure appropriate and effective implementation of the new mechanism.

## **IV Area of delegation of authority**

### **FD (Example 1)**

There was no evidence that the Administration had:

- .1 issued specific instructions to ROs detailing actions to be followed in the event a ship was found unfit to proceed to sea;
- .2 provided ROs with all appropriate instruments of national laws and interpretations thereof; and
- .3 established or participated in an oversight programme with adequate resources for monitoring of, and communication with, its ROs.

(SOLAS 1974, regulation XI-1/1; RO Code, part 2, section 8; III Code, paragraphs 18.3, 18.4 and 20)

### **Root cause**

There was a lack of legal basis and a lack of policies and criteria for providing adequate resources for monitoring of, and communication with, the ROs. In addition, there was a lack of technical personnel and a QMS.

### **Corrective action**

The Administration will implement the following actions:

- .1 under the project on reviewing national legislation, current legislation will be updated and reorganized in accordance with the requirements of the RO Code and other IMO instruments related to the delegation of authority for statutory certification;
- .2 new legislation will be consistently implemented, including issuing specific instructions to ROs detailing actions to be followed in the event of an unseaworthy ship, as well as providing all new legislation to the ROs; and
- .3 documented procedures will be developed and implemented within the QMS to establish an oversight programme for monitoring ROs. The responsible office within the Administration will be a new dedicated unit for IMO-related matters and an appropriate number of qualified personnel will be recruited.

### **FD (Example 2)**

There was no evidence that the nomination of surveyors for the purpose of carrying out surveys, audits and inspections on behalf of the Administration was regulated. There were no instructions on procedures in place for conducting various surveys assigned to nominated surveyors or for actions to be taken when a ship was found unseaworthy (III Code, paragraphs 18.3 and 21).

### **Root cause**

Owing to the lack of a policy for the nomination of surveyors for conducting ship surveys, no documented procedures were developed for nominating surveyors or conducting surveys.

### **Corrective action**

The following actions will be implemented by the Administration:

- .1 review the current provisions in the national law for nominating surveyors and identifying gaps for improvement; and
- .2 develop and implement legislation, procedures and guidelines for the appointment and oversight of nominated surveyors and conduct of surveys.

## **V Area of initial actions**

### **FD (Example 1)**

The transposition of amendments to the mandatory IMO instruments had not always been carried out prior to their entry into force. In addition, a system for monitoring amendments to ensure that national legislation was up to date was not in place and there were insufficient personnel with maritime expertise to assist in promulgating national laws and in discharging all responsibilities of the State (SOLAS 1974, article I; MARPOL, article 1; STCW 1978, article I; LL 1966, article 1; TONNAGE 1969, article 1; COLREG 1972, article I; III Code, paragraph 8).

### **Root cause**

The following factors contributed to this finding:

- .1 responsibility for monitoring, analysing and incorporating amendments to the applicable mandatory instruments into national legislation was not assigned; and
- .2 lack of trained personnel to keep amendments to the aforementioned instruments updated.

### **Corrective action**

The responsible State entities will implement the following actions:

- .1 appoint a unit responsible for monitoring, analysing and drafting new national legislation and for incorporating amendments to the mandatory IMO instruments for further promulgation through the respective legislative process;
- .2 the responsible unit will carry out an analysis of the amendments that have already entered into force in order to identify and regularize, through national legislation, their status within the State. In addition, a mechanism for tracking amendments to the mandatory IMO instruments will be developed and implemented through a specific procedure which will include the verification of activities resulting from IMO meetings, using the IMODOCS platform and other maritime Administrations' websites in order to keep a detailed record of the date of entry into force of future amendments. This mechanism will also include coordination among the different entities of the State responsible for the implementation of the aforementioned amendments, and will be included in the overall strategy, to be developed and implemented; and
- .3 an appropriate qualifications and training programme for personnel tasked with carrying out the aforementioned tasks will be put in place in order to enhance their skills in drafting national legislation or similar and incorporating the requirements stemming from the mandatory IMO instruments and their amendments for their subsequent enactment.

### **FD (Example 2)**

There was no evidence available in the following areas in respect of the implementation and enforcement of relevant IMO instruments:

- .1 the ability of the State to promulgate laws which permit effective jurisdiction;
- .2 the establishment of a legal basis for enforcement of all relevant IMO instruments, including associated investigative and penal processes;
- .3 the availability of legal and technical personnel with maritime expertise for the promulgation of national legislation and for discharging all the responsibilities of the State; and
- .4 review and updating of the existing national legislation.

(SOLAS 1974, article I; MARPOL, article 1; STCW 1978, article I; STCW 1978, article IV; III Code, paragraph 8)

## Root cause

The reasons that led to this finding were:

- .1 insufficient expertise in the maritime Administration to develop appropriate maritime legislation;
- .2 absence of a process to monitor and periodically review and update national maritime legislation;
- .3 budgetary constraints, owing to which sufficient personnel with maritime legal expertise were not recruited in the maritime Administration; and
- .4 there was a lengthy procedure to transpose the amendments to the applicable IMO instruments entering into force under the tacit acceptance procedure into national law, the same as those applicable to a new IMO instrument.

## Corrective action

The following actions will be undertaken:

- .1 a study will be conducted by the responsible ministry to assess the number and qualification of personnel necessary for the implementation and enforcement of the requirements stemming from the mandatory IMO instruments, and to recruit them as per the job descriptions. The ministry will reorganize its maritime Administration based on the outcome of this study;
- .2 the responsible entity will organize suitable training to improve capabilities of existing legal and technical personnel, with technical support from external sources (such as IMO, the International Labour Organization, other countries in the region and relevant maritime organizations);
- .3 adequate financial resources will be provided by the responsible ministry in order to review and update the existing legislation processes to ensure that national maritime legislation is kept up to date;
- .4 the maritime Administration, in consultation with related government entities, will develop a system, including necessary procedures, guidelines and assigned responsibilities, for tracking and transposing the mandatory IMO instruments and their amendments into national legislation and for reviewing and updating existing legislation, after an in-depth analysis of the existing legal basis for enforcement including the associated investigative and penal processes; and
- .5 a "Legal Advisory Unit" chaired by a high-level official will be established to monitor the legislation process and to strengthen available human resources with a view to keeping the national maritime legislation up to date and informing all relevant government agencies about the obligations of the State.

## APPENDIX 2

### ANNEX TO DOCUMENT MSC 99/21/10

#### *Provided for guidance to Member States and auditors*

This document outlines the guidelines for Member States and auditors in relation to the implementation of SOLAS regulation V/5.

#### **1 Quality management of service provision**

Please complete the following relating to management of Met-Ocean Maritime Safety Information (MSI) service provision:

- (a) Are quality management systems implemented?
- (b) Is the responsibility for providing marine meteorological services officially assigned by your government, by decree or any other legal text, to an organization within your country? If so, please specify.
- (c) Are there regular meetings with relevant government agencies and marine users?
- (d) Is there regular assessment of the quality of marine meteorological services? (Quality may be defined as performance of accuracy, or the extent to which user requirements are met)
- (e) Is there a process for reviewing and updating the information pertaining to your national marine meteorological service in the documents: Weather Reporting (WMO-No.9), volume D – Information for Shipping, and the GMDSS Master Plan? (Auditor to record date of last review)
- (f) Do you require capacity-building support to help develop your marine meteorological services? If the answer to this question is "yes", please indicate in which aspect that support is required.

Continue to section 2 on Met-Ocean Maritime Safety Information (MSI).

#### **2 Met-Ocean Maritime Safety Information (MSI)**

Please complete the following relating to the provision of met-ocean MSI (answer as Yes, No or Partial, and comments should be added where appropriate).

- (a) Do you provide marine forecasts and warnings for ports and coastal waters within your national jurisdiction?
- (b) Do you provide marine forecasts and warnings for a METAREA, as part of your designated responsibility within the IMO/WMO Worldwide Met-Ocean Information and Warning Service (WWMIWS)?

If the answer is "no" to both of the above, please outline reasons for not providing marine forecasts and warnings for your national jurisdiction? [Proceed to section 4 on observations from ships]

If the answer is "yes" to either of the above, proceed with the following questions:

- (a) Do met-ocean MSI forecast products include wind information?
- (b) Do met-ocean MSI forecast products include sea state information?
- (c) Do met-ocean MSI forecast products include information about reduced visibility?
- (d) Are warnings for wind speeds greater than Beaufort 8 (34 knots) issued?
- (e) If you have seasonal occurrence of ships reporting on ice accretion hazards in your area, do you issue ice accretion warnings?
- (f) If annual or seasonal sea-ice (including icebergs) occurs in your area, do the MSI forecast products include information about sea-ice?
- (g) Do you provide specific assistance to authorities responsible for Search and Rescue?
- (h) Do you provide specific assistance to authorities responsible for Marine Environmental Emergency Response (e.g. oil spills, biological hazards)?

Continue to section 3 on general administration of the WWMIWS.

**3 General administration information for the IMO/WMO Worldwide Met-Ocean Information and Warning Service (WWMIWS)**

- (a) Are you a METAREA Coordinator? If so, for which area? (If you answer "no" to this question go to question c and d.)
- (b) If you are a METAREA Coordinator, who are the Issuing Services and/or Preparation Services within your METAREA for enhanced group call (EGC) broadcasts?
- (c) Are you an Issuing Service?
- (d) Are you a Preparation Service?

Continue to section 4 on facilitating observations from ships.

**4 Facilitating observations from ships**

- (a) Do you have a process to encourage vessels under your national flag to make and record weather observations, and to share these observations with the relevant meteorological service providers?

## **PART B**

### **MEMBER STATE MANUAL TO ASSIST IN THE PREPARATION FOR THE AUDIT UNDER THE IMO MEMBER STATE AUDIT SCHEME (IMSAS)**

#### **1 Introduction**

1.1 This Manual has been developed as guidance to assist in the planning, conducting and reporting by the Member States in the execution of their duties as defined in the Framework and Procedures for the IMO Member State Audit Scheme (Framework and Procedures), which was adopted by the Assembly through resolution A.1067(28), and the IMO Instruments Implementation Code (III Code), which was adopted by the Assembly through resolution A.1070(28).

1.2 This Manual is intended to provide guidance which, it is hoped, will clarify some of the "grey areas" or areas which audits conducted under the Scheme have indicated present some of the greatest challenges to States.

1.3 The Audit Scheme has a well-developed structure which seeks to ensure that the audits are conducted in a pragmatic and fair manner and carried out in accordance with an agreed time frame. Recognizing and appreciating that different Member States may have different and equally valid ways of discharging their responsibilities, Member States should be prepared to explain and/or demonstrate how their management system achieves the goals of the III Code and results in the effective implementation of the mandatory IMO instruments given the scope of their responsibilities.

1.4 The universally established procedures are outlined in the Framework and Procedures for the Scheme. This Manual will seek to provide guidance to facilitate more effective preparation by States. Where a conflict may arise in the application of this guidance, the Member State should refer to the Framework and Procedures and the III Code for the Scheme as the authoritative source.

#### **2 General guidance to the Member State**

##### **Initial notification regarding the IMO Member State Audit**

2.1 The Secretary-General will notify the Member State of the scheduled date of its audit as soon as possible but not less than 18 months in advance. Through this initial communication, the Member State is requested to appoint a Single Point of Contact (SPC) for the audit. To facilitate the planning and preparation for the audit, the Member State will be requested to respond with an acknowledgement letter indicating the name, title and full contact details, including mailing address, telephone, fax and email of the State's designated SPC for the audit. The Member State should also confirm the IMO official language chosen by the Member State to be used for the audit. The SPC will later be contacted directly by the Member State Audit of IMO (MSA) to commence the process for the audit and to prepare all the detailed arrangements. A sample road map for the IMSAS process in the Member State is set out in appendix 1.

##### **Single Point of Contact**

2.2 When designating the SPC, the Member State should identify a senior official, who is well placed to liaise with all involved government entities in preparation for the audit, but also operational enough for keeping an effective liaison with MSA services and with the audit team leader (ATL).

### **Selection of auditors**

2.3 Selection of the ATL and the audit team members (ATMs) will be carried out by the Secretary-General in accordance with the Procedures. Audit teams will possess an appropriate mix of flag, port and coastal State experience, a range of nationalities and have full command of the IMO official language chosen by the auditee Member State.

2.4 Prior to the formal appointment of the audit team by the Secretary-General, MSA will submit to the SPC the proposed audit team for comments. Member States are allowed to review the credentials of the audit team members proposed by the Secretary-General and may in exceptional circumstances request an alternate to be provided. Once the feedback from the Member State has been provided, the Secretary-General will sign the formal appointment of the audit team.

### **Channel of communication**

2.5 Communication between the Member State and IMO will start between the assigned MSA Audit Officer and the SPC before the audit team is officially formed and later the appointed ATL will communicate directly with the SPC about the audit details and planning.

2.6 All administrative and logistic-related communications between the Member State and the ATL, or with other sections of IMO, should be coordinated by, or copied to, MSA.

2.7 The ATL will establish a communication link with the SPC of the Member State concerned as soon as possible to commence planning for the audit.

### **Documentation and information management**

2.8 The control of documents and the management of information relating to the audit are crucial. Identification of documents necessary to conduct the audit is part of the audit planning (see annex of resolution A.1067(28), part II, paragraph 5.7.5).

2.9 Some top-level documents, e.g. legislation and notices, are usually available in the official audit language, some are also available in advance, either through the maritime Administration's website, pre-audit questionnaire or on request from the ATM.

2.10 The Member State is urged to ensure that all documents available through the maritime Administration's websites or GISIS are up to date with the relevant descriptions and documents in order to avoid any conflict or misunderstandings during the audit.

2.11 In principle, the audit team has access to all relevant documents and records during the audit. In certain cases the Member State may decide to restrict access or to not even hand over confidential documents to the audit team. The Member State should, therefore, consider if a solution to these cases could be to display confidential documents to the auditors rather than handing over copies. In this respect, as with other issues relating to the confidential aspects of the Audit Scheme, Member States should note that the ATMs are required to abide by their undertaking contained in the signed Statement of Confidentiality.

2.12 The Statement of Confidentiality is binding on the ATL and all ATMs in relation to their assignments as IMO Member State audit/audit follow-up team members and is applicable to all information received in any form, as a result of their association with the Audit Scheme.

2.13 Audit team members are required to ensure that all documentation relating to the audit are handled in accordance with the Statement of Confidentiality, the Memorandum of Cooperation, the Framework and Procedures and the guidance in the Auditor's Manual.

2.14 In some cases, observer auditors may be attached to audit teams, based on requests received from Member States for their nominated auditors to gain necessary training and experience through actual audits. As observer auditors will have access to the information in the audit reports of a Member State, they are also required to sign the Statement of Confidentiality as ATMs.

### **GISIS Member State Audit module**

2.15 Each SPC will be provided with a secured and dedicated username and password to the GISIS MSA module by the Secretariat. The SPC will receive a copy of the MSA Global Integrated Shipping Information (GISIS) ATL and SPC user manual. According to Circular Letter No.3587, Member States are also invited to nominate one "authorized person" to receive full access to Member State audit reports through the GISIS module.

2.16 The SPC will only be able to see Audit, Reports, Reports Overview and Other Documents areas of the GISIS MSA module.

2.17 The module offers the following functionalities for the SPC:

- .1 allows for uploading of the State's completed pre-audit questionnaire (PAQ) and its annexes;
- .2 allows a quick link to check the State's reporting data in other GISIS modules;
- .3 allows for the review of preliminary audit results (draft audit interim report and executive summary report);
- .4 allows for the preparation of the corrective action plan (CAP) – "Form B"; and
- .5 allows, if authorized, to view other Member States' audit final reports, executive summary reports (ESR), CAPs and the State's comments on the progress of the implementation of the corrective action plan (CPICAPs).

### **The Memorandum of Cooperation**

2.18 The Memorandum of Cooperation (MoC) between the Member State and the International Maritime Organization concerning participation in the IMO Member State Audit Scheme will be signed by both parties and uploaded by the Secretariat in the MSA module in GISIS. A model MoC is attached as appendix 1 to the Procedures.

2.19 Through the MoC, Member States provide their authorization to IMO for the release of the audit reports, including ESR, CAP and CPICAPs. The authorization can be granted for the release of their audit results to all Member States or to the public. Member States may also make their report public through their own media, including their web pages. In addition to authorizations granted through the MoC, Member States may choose to grant further authorization to the Secretary-General for release of the audit final report to all Member States or to the public, through a separate communication.

2.20 The scope of the audit,<sup>7</sup> consistent with the applicable mandatory IMO instruments and the audit standard, is to be concluded between the Member State and the Secretary-General and included in the MoC.

2.21 It is important that, once a Member State receives the draft MoC for consideration and signature from MSA, due consideration is given to ensure that the State is properly named, that authorization for release of audit reports is dealt with and that the scope of the audit is appropriate with regard to the mandatory IMO instruments to which the State is a party.

2.22 In cases where the MoC is concluded in French or Spanish, Member States will receive for consideration and signature a French or Spanish version of the MoC, as well as the English version, both of which will need to be signed.

### **The Pre-Audit Questionnaire**

2.23 The Pre-Audit Questionnaire (PAQ) is attached as an appendix to the Procedures for the IMO Member State Audit. Please refer to paragraphs 3.6 to 3.8 of this Manual with further guidance and the PAQ with comments and guidelines to the Member State attached as appendix 2.

2.24 The PAQ will be completed by the Member State to be audited and uploaded onto the MSA Module in GISIS as soon as possible and not later than two months after receipt, and updated, as appropriate, not later than three months before the audit.

2.25 The structure of the PAQ is harmonized with the sections and provisions of the III Code. The PAQ can also be supplemented by additional information in annexes, such as organization charts of the government entities, division of responsibilities and legislation process flow charts, which can also be uploaded onto the MSA module in GISIS. This material provided may be used in the final audit report.

2.26 The PAQ, including relevant attachments and supporting documentation, is the first document based on which the audit team will start analysing the status of the implementation and enforcement of the mandatory IMO instruments in order to make an impression on how various entities comprising the maritime Administration interact and fulfil relevant responsibilities and obligations under those instruments. For this reason, required information should be elaborated in the PAQ in detail, with any attachments added to assist in understanding the organizational structure and activities of the Member State.

2.27 If the ATL finds it necessary, he or she may, after consultation with the other members of the audit team, send additional questions to the Member State on an ad hoc basis.

### **The State-specific confidential audit file**

2.28 The State-specific confidential audit, which is available in the MSA module in GISIS, consists of:

- .1 Member State's details;
- .2 MoC;
- .3 PAQ and annexes;

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<sup>7</sup> With respect to the STCW 1978 Convention, as amended, the audit will remain guided by the restriction established related to the audit as detailed in section A- 1/16 of the STCW Code (verification of compliance).

- .4 compilation of supporting documents for the Scheme, including Framework and Procedures, III Code as the audit standard, as well as terms of reference for the ATMs responsible to carry out the audit; and
- .5 blank forms of various audit reports for use by Member States and ATMs.

2.29 The ATMs will be granted access by MSA to the State-specific confidential audit file through the MSA module in GISIS on receipt of the signed Statement of Confidentiality.

2.30 The MSA module in GISIS will provide a platform for the audit team to review information about Member States to be audited. All available data for the Member State, as reported to IMO, will be available, including audit specific information. In addition, the audit team may review any relevant background information e.g. relevant websites.

2.31 The ATL may request the Member State or MSA for additional material, which can be reviewed by ATMs. Furthermore, if there has been any previous audit by IMO (e.g. VIMSAS), documents from that audit will also be reviewed.

### **The information meeting**

2.32 Under the Procedures, the Member State has the opportunity to receive a visit by the ATL in advance of the actual audit, in order to be provided with information about the intention behind the Scheme, the scope of the audit, how such an audit is carried out, and all other information needed to enhance the understanding and cooperation between the audit team and the Member State to be audited.

2.33 If the Member State has requested an information meeting, the ATL will make the necessary arrangements for such a meeting in consultation with the Member State to be audited and will keep MSA informed. The Member State will be responsible for covering any travel expenses of the ATL for such an information meeting.

## **3 Planning for the audit in the Member State**

### **Government entities involved**

3.1 The Member State should prepare an overview of all the relevant government entities that are involved in fulfilling the Member State's international obligations and responsibilities as a flag, port and coastal State under the mandatory IMO instruments. Therefore, the Member State, through the SPC, should start coordination among the entities involved in the early stages of the preparation for the audit.

3.2 A diagram showing a sample distribution of areas of responsibilities between government entities within the scope of the mandatory IMO instruments is shown in appendix 3.

3.3 The SPC should consider establishing a Member State Audit working group consisting of representatives from all the relevant government entities that are involved in the Member State's international obligations and responsibilities as a flag, port and coastal State. The SPC may arrange an initial meeting in order to present and discuss, inter alia, some of the following items:

- .1 scope, objective and purpose of the audit under IMSAS;
- .2 Member State's international obligations and responsibilities as a flag, port and coastal State;

- .3 GAP analysis of obligations versus the non-exhaustive list (also see part A, paragraph 1.15);
- .4 distribution of responsibilities and tasks regarding the preparation of the PAQ for the Member State;
- .5 outstanding issues after previous audits (VIMSAS, internal audits etc.);
- .6 conduct of an internal audit of the maritime Administration or an independent preparatory audit (e.g. by a neighbouring Member State) using the III Code;
- .7 review the consolidated audit summary reports (CASR), which are issued regularly by IMO in the form of circular letters. The CASR could be used to assist Member States to enhance further their implementation and enforcement of the mandatory IMO instruments; and
- .8 consider the possibility of requesting technical assistance with the implementation of the III Code within the scope of the IMO Technical Cooperation Programme or through any other possible means.

3.4 If the Member State has implemented an overall strategy aiming to ensure that its international obligations and responsibilities as a flag, port and coastal State are met (III Code, paragraph 3), the methodology for monitoring and assessing the strategy can be seen as a powerful management tool for the State in preparation for the audit, to evaluate its organizational performance and capability, as well as to take the necessary corrective and preventive actions to improve performance.

#### **Communication of information**

3.5 The Member State should ensure that all the required information including relevant documents relating to the mandatory IMO instruments have been uploaded onto the MSA module in GISIS and/or submitted to IMO. The non-exhaustive list of obligations may assist the Member State in identifying the requirements.

#### **Preparation of the Pre-Audit questionnaire**

3.6 The planning for the audit of the Member State will continue with the tasks regarding the completion of a draft PAQ including the chapters General Information; part 1: Common areas; part 2: Flag State; part 3: Coastal State; and part 4: Port State. It is important to involve all the relevant government entities in the preparation of the draft PAQ, regular reviews and the final approval by all the involved parties before the PAQ is uploaded onto GISIS.

3.7 The Member State should keep the descriptions/answers clear and concise and, if more convenient, link the responses to appendices or documents attached to the PAQ containing descriptions, procedures, diagrams, etc., which are relevant for answering the questions in the PAQ and to illustrate the Member State's implementation of the applicable mandatory IMO instruments. The Member State should also consider inserting links to relevant websites that may support the descriptions in the PAQ and assist the ATMs in their preparation for the audit. The Member State should ensure that the documentation, including the websites, is up to date.

3.8 As the PAQ is structured following the sections and provisions of the III Code, the responses to the questions should be clear, concise and consistent with the requirements of the III Code.

3.9 In some cases individuals may perform several duties within an administration. Where the total number of persons performing particular duties is listed by category, it should be noted if any of the persons are being counted in multiple categories.

### **Conduct a GAP analysis**

3.10 The Member State may consider doing a GAP analysis of the relevant parts and activities in the maritime Administration, as per the non-exhaustive list of obligations under the mandatory IMO instruments relevant to the III Code, as revised from time to time, as well as the III Code itself, to verify if it meets the objectives or set of requirements. The GAP analysis can be used as a ranking of "Good", "Average" or "Poor" and a specific action plan can be devised to address all identified shortcomings in order to ensure improvements.

### **Audit timetable and programme**

3.11 After the PAQ, including the relevant documents, has been uploaded onto GISIS, the ATL and ATMs will start reviewing the documents. The ATL will make contact with the SPC, who is the key partner in the Member State, as soon as possible to commence discussions on the specific areas to be covered during the audit, possible visits to other entities and locations, individuals to be interviewed during the audit, etc. In doing so, the ATL and the SPC should endeavour to establish a detailed audit timetable and programme. A model for the audit timetable and programme is set out in IMO Circular Letter No.3425 (Auditor's Manual).

3.12 In that context, the ATL will review the information provided by the Member State regarding the overall organization and functions of its relevant entities and provide the SPC with a draft timetable that includes all of the areas that need to be addressed, in accordance with the model set out in IMO Circular Letter No.3425 (Auditor's Manual).

3.13 The SPC, in turn, will act as the internal coordinator for the maritime Administration of a Member State to be audited, by identifying the appropriate government entities that should be audited and persons to be interviewed in order to address all the areas of the audit. Owing to the unique interrelationship of various entities that comprise a maritime Administration, where in some instances multiple entities may share responsibility for the implementation of an area to be audited, the SPC is expected to play an active role in providing detailed information in this regard and in preparing and coordinating all entities involved in an audit. This includes making sure that the proper entities of a maritime Administration have been contacted and that they are aware of the dates and times for their interviews and the materials that they should have available for review by the audit team, such as procedures, relevant national legislation and records.

3.14 The SPC may request all the involved entities to appoint a contact person (local SPC) who will be responsible for coordinating all activities regarding the audit interviews, including the preliminary presentation of the government entity, individuals to be interviewed, local transport, access (authorization) to visits and verification of relevant equipment.

3.15 The SPC should coordinate with all the government entities on how to introduce the Member State audit to the employees of the entities to be involved in the audit. Particular attention should be given to the individuals in the timetable selected to be interviewed by the audit team. The auditees may consider preparing themselves on, for example, the following issues:

- .1 answers to questions from the audit team with special focus on the relevant subjects within the relevant area of responsibility;

- .2 presentation of objective evidence to the audit team in the area of responsibility;
- .3 what to bring for the interview including portable computer with Wi-Fi access or similar relevant electronic systems and databases, sample reports and certificates etc.;
- .4 ensure the division of responsibilities are clear to everyone involved;
- .5 identify and arrange relevant records, files and archives and actual cases to be presented as examples; and
- .6 if the person(s) being interviewed are not in the location where relevant records are stored or readily accessible, then consideration should be given on how those records will be made accessible in a timely manner during the interviews. It may be more advantageous to conduct interviews at the location where the records are readily accessible.

3.16 The SPC, together with the entities involved, ensures that all the individuals in the timetable have appointed/defined deputies in case of absence due to illness or other reasons.

3.17 The ATL will enquire with the SPC regarding the normal work schedule for the participants and try, as much as possible, to accommodate that schedule so as not to place any undue burden on the participants that could disrupt their normal transportation arrangements to and from work or their professional or personal commitments. The SPC should also advise the ATL if there will be any scheduled events that could divert audit participants. This could include local holidays, cultural or religious customs, celebrations and ceremonies, which can be accommodated in the audit timetable. The ATL should consider their impact on the available audit time and, if necessary, request a compensatory time to be added to the audit timetable. The SPC should take this into consideration when agreeing the date of the audit in order to minimize disruptions during the audit.

### **Audit period**

3.18 The actual on-site audit would normally commence on the Saturday or Sunday (Friday or Saturday for those Member States with Sunday as beginning of the week), with the arrival of the audit team in the Member State for the face-to-face preparatory meeting of the audit team.

3.19 A preparatory meeting is normally also organized between the SPC and the audit team on arrival of the team in the country, which is an opportunity for confirmation of all practical arrangements for the conduct of the audit, including conduct of the opening meeting and any administrative issues. Issues to be dealt with in the preparatory meeting are shown in appendix 4.

3.20 The official audit will commence with the opening meeting on the first day followed by an average of five days of interviews depending on the size and complexity of the Member State. The audit team will then have a break for two days to prepare the draft interim report including the findings and observations (Form A) and the draft executive audit report to be tabled during the last day of the on-site audit.

### **Selection of locations and individuals to be interviewed**

3.21 The issue of in-country travel should be taken into account when developing the audit timetable, as the time spent travelling to field locations may significantly limit the amount of time available to do the actual audit. This is an element to be considered between the ATL and the SPC to minimize in-country travel to what is absolutely necessary. It is suggested that consideration be given to the minimum amount of time to be spent at a location and to include this in the outline audit plan.

3.22 Debriefing meetings may also be organized between the SPC and the audit team at the end of each day for the audit team to indicate areas of possible findings and observations to the auditee, but also to confirm practical arrangements for the next day.

3.23 Special arrangements should be considered when the Member State is geographically composed of a group of islands, or an entity or entities are located far away from the location planned for the audit. The SPC may need to ensure that representatives of such entities are available at the main location where the audit is planned or that other appropriate means are explored to verify relevant activities (e.g. teleconference).

### **Logistical and administrative arrangements**

3.24 Key logistical arrangements to be agreed between the SPC and ATL before the audit, include:

- .1 arrangements for the arrival at the airport of the audit team and day-to-day transport to and from the hotel, as necessary;
- .2 arrangements regarding security, as applicable;
- .3 assistance in obtaining visas or other travel permissions which may be needed for the ATMs. This should be addressed as soon as the ATL and the ATMs are known and MSA will instruct each ATM to correspond with the SPC individually to attend to these important travel matters. The SPC may need to ensure that documentation is provided to ATMs in order for them to secure the necessary entry visa (e.g. formal invitation letters); likewise, ATMs will ensure that their passport or other personal records, such as required vaccinations, are complete and up to date for the State to be visited;
- .4 suitable location of a hotel for auditors in order to reduce the time for transfers between the hotel and the audit locations. Hotels recommended should be safe, secure, sanitary and to the extent possible within IMO per diem rates for the area: If the area surrounding the hotel is potentially unsafe during the evening or at other times then the hotel should have adequate dining facilities or transport available to safe areas;
- .5 a meeting room for auditors at the audit locations to facilitate the auditor's end-of-interview briefings;
- .6 a meeting room at the hotel or the main audit location, equipped with a projector/TV screen to facilitate the auditor's end-of-day briefings, coordination and writing of the draft interim report after working hours and over the weekend, if necessary. If the meeting room is at the main audit location then it should be readily accessible on the weekend, taking into account any security access requirements as well as functional lighting, Internet Wi-Fi, AC/heat and electrical;

- .7 Internet connection in the hotel/meeting room for access to online support, GISIS, IMODOCS, etc.;
- .8 any in-country travel to other locations involved in the audit should be agreed beforehand and time spent travelling should be limited as much as is practicable; and
- .9 participation of observer(s), who may be observer auditors or individuals invited by the Member State. Observers accepted or invited by a Member State should not fulfil, in whole or in part, any of the obligations of the Member State subject to the audit (for example, observers from a Member State's RO are not permitted). Whilst it remains the prerogative of the Member State to allow observers, it should be ensured that the observers do not interfere with the smooth running of the audit and that the numbers are limited, particularly during interviews.

### **Use of interpreters and translation of supporting documentation**

3.25 The use of interpreters is discouraged whenever possible since it significantly slows the pace of the audit. However, it may be necessary when interviewing certain personnel who, for reasons of their functions, may not be fluent in the audit language.

3.26 Interpreters may be the employees of the maritime Administration and should be familiar with the technical language related to the maritime topics of the audit. Supervisors or other persons who review, control or influence the work of a person being interviewed should not serve as interpreters.

3.27 Documents and records might be available only in the national language. Consideration should be given by the Member State in advance to the scale of this issue to ensure that critical documents are available in the audit language before the audit and/or to request that interpreters are available during interviews. Although requests for translations could be made during audit, these take time and should be limited.

## **4 Commencement of the audit**

4.1 The audit will normally commence on the morning of the first working day of the audit week and the conduct of the audit should be consistent with section 6 of the Procedures (resolution A.1067(28)).

### **The opening meeting**

4.2 The opening meeting is the first event and sets the stage for the entire audit. Therefore, time will be allocated for the proper introduction of all participants in the meeting along with the audit team. An agenda, which will have been prepared earlier by the ATL, will include all the issues listed in paragraph 6.3.2 of the Procedures. The SPC will provide the ATL with a list of attendees.

4.3 The Member State decides who will attend the opening meeting, including senior representatives from all the relevant government entities involved in the audit. In some cases, the Member State decides that all representatives indicated in the audit timetable attend the opening meeting. The SPC will notify the ATL in advance about the venue and the attendees participating in the opening meeting.

4.4 The opening meeting is chaired by the ATL; however, the senior executive of the lead entity of the maritime Administration will provide introductory remarks welcoming ATMs to the Member State before handing over the meeting to the ATL, who will proceed in accordance with the agenda for the meeting.

## **5 The audit**

5.1 Immediately following the opening meeting, the audit should move onto the phase where representatives of the Member State or the lead entity present an overview of the State's institutional arrangements for carrying out the functions of a maritime Administration, including a detailed explanation of how and where the responsibilities contained in various mandatory IMO instruments included in the scope of the audit are carried out.

5.2 The Member State may provide the overview in the form of a presentation (e.g. PowerPoint). Although many separate entities may contribute to the accomplishment of the required functions, it should be demonstrated that a strategy exists, at the appropriate level, to ensure that activities are coordinated and that they are consistently and successfully carried out and evaluated, to achieve continual improvement. The overall strategy (see section 6 of this Manual) should be presented in this context.

5.3 The interviews of selected individuals should be directly with the individuals who are subject matter experts (SME) alone. This does not exclude the "guide" and in some cases an interpreter from being present. Having a senior manager or a team of people shadowing the audit team and answering all the questions undermines the credibility of the SMEs. Further, this may give the unintended impression to the auditors that the SMEs are being prevented from speaking freely.

5.4 As per the audit plan, the ATMs will, at some point, take on specific areas to be covered during the audit which would enable the audit team as a whole to reach objective conclusions on the flag, port and coastal State responsibilities as carried out by the State.

5.5 Taking into account that the III Code is the audit standard, a consistent review of the Member State's activities falling within the III Code should be ensured. In this context, the audit team will verify all the items enumerated in the Verification Index set out in IMO Circular Letter No.3425 (Auditor's Manual) which closely follows the requirements of the III Code. The Verification Index provides a good guide to the Member State as to the type of information the audit team will be seeking to gather/verify during the audit.

### **Findings and observations during the audit**

5.6 Auditors may indicate areas of possible findings and observations to the auditee as they arise during the audit but will not assign them as final until they have been reviewed by the audit team. The purpose of this approach is to collectively give an opinion on these and to look at ways to structure findings and observations to avoid duplication, as well as to examine the findings to see whether they are related or indicate a common problem.

5.7 Findings and observations are to be formally provided to the auditee in written format during the closing meeting. The draft audit interim report as a whole will be provided to the auditee as soon as possible and prior to the closing meeting to allow ample time for its review by the auditee.

## **Disputes during the audit**

5.8 In conducting the audit, the audit team will, as much as possible, aim to avoid and prevent disputes from arising by working closely with the Member State being audited in the most transparent and fair manner. However, disputes and differences may arise for several reasons. In the event that differences cannot be resolved through dialogue and persist to a level that an audit or an audit follow-up, as a whole or in part, is affected, a dispute resolution action should be initiated by the ATL, in coordination with MSA, as soon as possible.

5.9 The first action to resolve disputes, should they arise, prior to the audit, will be taken within MSA. Thus, an effort to resolve differences and disagreements, before they escalate to disputes, will initially be attempted by MSA through dialogue with the Member State concerned, the ATL and ATMs, as necessary.

5.10 If a dispute arises during the preparatory phase, involving the ATL and the Member State, the ATL will take all necessary measures to resolve differences prior to the audit and may solicit the assistance of MSA as necessary.

5.11 If the dispute arises during the audit, the ATL and the Member State should resolve the differences amicably (refer to the relevant section of the Memorandum of Cooperation). Paragraphs 7.2.3 and 7.2.4 of the Procedures for Member State Audit should be adhered to in resolving and/or recording disagreements and opinions.

## **6 Reporting on the audit**

### **Findings and observations**

6.1 Audit teams are to report exactly what the current status is of audited elements during the audit. In this regard, where a shortcoming has been identified that warrants the issuance of a finding or observation, the audit team is required to issue the appropriate finding irrespective of whatever ongoing action the Member State is taking to address the identified shortcoming. However, where there is an ongoing action by the Member State to address an identified shortcoming, this would be noted in the report.

6.2 Findings should only be issued for failings in the legislation, implementation and enforcement of the provisions of applicable mandatory IMO instruments or some provisions of the III Code. As some provisions of the III Code are also requirements from mandatory IMO instruments, appropriate references to the applicable provisions from the applicable mandatory IMO instrument and the III Code will be inserted in the Findings Notice.

6.3 Form/s A should be agreed and signed by the ATL and a senior representative from the Member State during the closing meeting, in two originals. One original signed Form/s A will be kept by the Member State, and another handed over to the ATL, for submission to MSA, for record-keeping.

### **The closing meeting**

6.4 The closing meeting is the final event and ends the audit. An agenda, which will be prepared earlier by the ATL, will include all the issues listed in paragraph 6.5.4 of the Procedures. The SPC will provide the ATL with a list of attendees.

6.5 The Member State decides who will attend the closing meeting including senior representatives from all the relevant government entities involved in the audit. In some cases the Member State decides that all representatives indicated in the audit timetable attend the closing meeting. The SPC will notify the ATL in advance about the venue and the attendees participating in the closing meeting.

6.6 The closing meeting is chaired by the ATL.

6.7 As the purpose of the audit is to ensure improvement, it will be emphasized during the closing meeting that the corrective action plan (CAP), using Form B (corrective action), should be prepared by the audited State for all findings and should also be prepared for observations, within 90 days after receipt of the agreed audit interim report. Member States should complete the "root cause" section in the Form B (corrective action), so that root cause(s), as identified by the Member State, can be included, together with the corrective action in the audit final report and to provide input to lessons learned to all Member States.

6.8 An orientation presentation related to the development of the CAP, next steps in the reporting from the audit, as well as the audit follow-up will be offered by the ATL, to take place at a mutually agreed time, normally after the closing meeting.

#### **Draft audit interim report**

6.9 GISIS will be used by the audit team for drafting the interim report (IR) and the executive summary report (ESR) based on the pre-loaded templates. The SPC is allowed to review the preliminary audit results (draft IR and draft ESR in GISIS). The draft IR, which is intended to be tabled at the audit closing meeting, is the only basis for fully developing and reporting on what, where and how the audit was conducted and its findings.

6.10 The draft IR will describe succinctly the actual structure of the maritime Administration in terms of all of its substantive components, entities, agencies, departments, divisions, etc. and the processes put in place to implement and enforce applicable mandatory IMO instruments.

6.11 The draft IR will also include details of findings, as narrative in the body of the report and as appendices (Form A), as well as the Verification Index, providing the list of all items verified during the audit, in accordance with the relevant requirements of the III Code. The contents of the draft IR provide the basis to confirm what and where the audit team actually visited, what was audited and the findings.

6.12 The report should also capture what the audit team found to be areas of positive development, including any best practices, as well as put forward areas where it is felt the Member State should improve. The latter can largely be deduced from the general observations of the State's maritime Administration.

6.13 The draft IR should contain concise descriptions of the processes through which relevant requirements of the III Code are implemented and enforced, as well as details of the findings and observations. Findings and observations should be drafted clearly and concisely and should reflect the appropriate provisions of the mandatory IMO instrument(s) concerned and/or the III Code. Models as provided in the Auditor's Manual, as well as practices reported through consolidated audit summary reports (CASRs), may be used as guidance.

6.14 The draft IR that is tabled at the audit closing meeting will not normally be fully fleshed out or thoroughly edited and the ATL will need to complete the report in consultation with the Member State, before it can be agreed as the IR. In this regard, the draft audit interim report will not be agreed as the final IR during the closing meeting. The IR should include a succinct description of the findings and observations found under the appropriate section of the report. MSA will assist the ATL, as necessary, to ensure completion of the IR in the standardized format and will conduct a technical review aiming at ensuring consistency across audits.

6.15 Once the IR has been finalized, the ATL is required to formally submit it to the Member State, copied to MSA, as the IR. The 90-day period in which the Member State is required to prepare and submit its CAP begins from the date of receipt of the IR by the Member State.

### **Areas for positive development and further improvement**

6.16 Member States can be further assisted to improve their capabilities and overall performance, in order to be able to comply with the mandatory IMO instruments to which they are parties, thus achieving the objective of the consistent and effective implementation of the mandatory IMO instruments, by:

- .1 putting forward any perceived best practice during the audit, listing the reference to specific provisions of the III Code or requirements contained in mandatory IMO instruments following each best practice in audit reports; and
- .2 including more information on the Member State's detailed measures and the effect of the best practice published for better reference by other Member States.

### **Executive summary report**

6.17 A draft ESR should be prepared by the ATL in accordance with the model set out in appendix 5 to the Procedures and tabled during the closing meeting.

### **Corrective action plan**

6.18 The State is encouraged to prepare the CAP – "Form B" in GISIS. As a starting point for developing corrective action(s) for each finding and/or observation identified during the audit, the Member State should aim to identify related root cause(s). Corrective actions should be seen as a systemic action aiming at eliminating a cause of detected non-compliance (finding or observation). Through these actions a mechanism for continual compliance with a requirement in the future should be established, as appropriate.

6.19 Examples of how the CAP – Form(s) B should be completed by the audited State are set out in IMO Circular Letter No.3425 (Auditor's Manual). Upon verification by the audit team and MSA, Form(s) B are to be signed by the Member State and the ATL in the appropriate sections. The ATL receives a copy of the signed Form(s) B by electronic mail from the Member State and forwards them to MSA for inclusion in the final audit report.

6.20 The Member State should consider a realistic target completion date to be inserted in the Form(s) B. Furthermore, the Member State may consider inserting intermediate dates for completion of the corrective action (e.g. date of the draft procedure to be approved and the date of full implementation of the procedure including the archiving of relevant records).

6.21 When the CAP is being prepared by the Member State, the root cause and the corrective action should answer the following questions:

- .1 is the root cause meaningful?
- .2 does the proposed corrective action address the identified root cause(s)?
- .3 who is responsible?
- .4 what is to be done?
- .5 how should it be done?
- .6 will it prevent recurrence?
- .7 is the target completion date acceptable?

6.22 The CAP will be reviewed by the audit team and MSA prior to being confirmed as appropriate to address the various findings in the IR.

#### **Audit final report**

6.23 The audit final report is the IR previously issued to the Member State, which should now incorporate the State's comments and CAP in the appropriate parts of the report. With the assistance of MSA, the ATL will finalize the audit final report.

6.24 A synopsis of the corrective action(s) and root cause will be included in the body of the audit final report after the findings and observations concerned.

6.25 Once the audit final report has been completed, it is submitted to MSA, for review and consistency check, and then submitted to the Member State concerned, through an official communication by MSA.

#### **Member State's comments on the progress of implementation of corrective action plan (CPICAP)**

6.26 When one or more target deadlines established for the implementation of agreed corrective actions from the corrective action plan (CAP) have been reached or are approaching, and in accordance with paragraph 7.5, part II, of the annex to resolution A.1067(28) on the Framework and Procedures for the IMO Member State Audit Scheme, the audited Member State is expected to provide the Secretary-General (through MSA) with relevant comments on the progress of implementation of the corrective action plan (CPICAP) and the relevant documented evidence.

6.27 In this context, the CPICAP reporting form has been established and is to be used for each finding and/or observation by describing the implemented actions and attaching the relevant documented evidence.

6.28 The submission of the CPICAP by the audited Member State is necessary to demonstrate commitment to enhancing further the effective implementation and enforcement of their international obligations and responsibilities undertaken as a party to the various mandatory IMO instruments and serves as a basis for the conduct of the audit follow-up process in accordance with the Framework and Procedures for the Scheme.

6.29 The CPICAP form contains two main fields to be completed – actions implemented and list of evidence. When reporting on implementation of a specific corrective action for an FD and/or OB, Member States should consider that such an action can comprise several sub-actions. For example, a corrective action can contain actions related to developing national legislation, quality systems, coordination among various entities of the State, assignment of responsibilities, acquisition of equipment, as well as ensuring resources (human and financial). Therefore, each separate action will need to be addressed and reported on.

6.30 Taking into account the foregoing, Member States should organize their reporting on the implementation of corrective actions accordingly and submit CPICAP forms covering all the aspects of the respective corrective actions. The list of evidence, as applicable, should also follow the sub-actions contained in the corrective action.

6.31 As an example, the following actions can be identified as part of the corrective action, and any progress made in each of them should be periodically reported through submission of CPICAP forms to MSA:

"Corrective action:

- .1 establish and implement a safety and environmental protection programme, based on the outcome and proposals of a working group (**action 1**). In the context of developing the overall strategy, the working group will, inter alia, be tasked with developing a system for formulating policies for implementing and enforcing the requirements stemming from the applicable mandatory IMO instruments (**action 2**) and for assigning responsibilities to relevant entities (**action 3**);
- .2 through the aforementioned programme, the criteria for issuing subsidiary legislation and administrative instructions will be established in order to effectively implement the mandatory IMO instruments to which the State is a party, and related amendments (**action 4**). Appropriate procedures, guidelines and interpretations will be developed and implemented, along with the definition of related methodology and responsibility, for those requirements that are left "to the satisfaction of the Administration" and criteria for type approval, taking into account the existing criteria and guidelines developed by other Administrations, classification societies and IMO (**action 5**); and
- .3 a management system will be established (**action 6**), internal and external audits of the Administration conducted, and verifications that the necessary resources are managed to maintain the safety and environmental protection programme carried out (**action 7**)".

6.32 Member States are encouraged to submit their CPICAPs to MSA periodically, as they make progress in addressing various actions. Subsequent updates of CPICAP will then communicate further progress made by the audited Member States in implementing their CAPs.

6.33 Once submitted, and in accordance with the Procedures, CPICAPs are released through the MSA module in GISIS as received, based on authorization obtained from the Member State prior to the audit (normally through MoC), without validation by the Secretariat or the ATL.

## **Feedback from the Member State**

6.34 Member States are encouraged to provide MSA with their feedback describing the conduct of the audit, including the preparation, on-site audit and reporting from the audit phases. Besides any positive elements, comments and recommendations regarding the difficulties encountered and proposals to improve the planning and conduct of audits would provide an input in the quality assurance programme for the audit scheme and enable improvements in audit planning.

## **7 Audit follow-up**

7.1 The audit will be concluded by the verification of the effective implementation of the CAP and confirmed by the ATL as being appropriate to address the various findings in the audit final report.

7.2 The verification will normally be carried out as a document-based audit (document review) by the ATL after receipt of all relevant documents showing objective evidence of the Member State's effective implementation of the CAP. Such evidence may consist of copies of new legislation or policies implemented, evidence of reporting to IMO, records of compliance, evidence of appropriate training of staff, copies of signed RO agreements, independent evaluation reports, etc.

7.3 If an on-site audit is necessary in order to verify the effective implementation of the CAP, the standard auditing procedures applied to the on-site audit follow-up are the same as for the regular Member State audit described in the Procedures. The only exception is the difference in scope, as the audit follow-up should be limited to verification of the effective implementation of the CAP.

7.4 The on-site audit follow-up team will normally consist of an ATL and other members, as required, depending on the scope of the audit.

7.5 When the effective implementation of the corrective actions has been verified through a document-based or an on-site audit, the ATL and MSA will sign off the finding and/or observation on the Form C and insert any necessary comments in the appropriate section of Form C. The original of the signed Form C will be forwarded to the Member State and a copy will be kept by MSA.

## **8 Conclusion**

8.1 This Manual draws on the experience gained from audits under both the Voluntary IMO Member State Audit Scheme and the IMO Member State Audit Scheme and it should be viewed as a dynamic document which will be updated as necessary.

## APPENDIX 1

### SAMPLE ROAD MAP FOR THE IMSAS PROCESS IN THE MEMBER STATE (MS)

Date	Activity	Remarks	Responsibility
<b>At least 18 months' notice</b>	IMO notify MS about the audit	Letter from the Secretary-General of IMO to the Minister of the MS notifying about the IMSAS audit and year/month of the planned audit.	IMO
	SPC to be appointed	MS appoints Single Point of Contact (SPC). IMO to be notified about the SPC including contact details.	MS
	Government entities	MS to identify all relevant government entities to be involved in the IMSAS audit.	MS
	Date of IMSAS audit	MS to be informed of the tentative exact date of the IMSAS audit.	SG (MSA)
	1 meeting of IMSAS audit MS task force group	MS collects representatives from all relevant government entities (ministries, agencies etc.) in order to establish an IMSAS audit task force group with local contact persons in order to prepare the pre-audit questionnaire (PAQ) and prepare for an internal IMSAS audit.	MS
	IMSAS internal auditor course	Internal IMSAS auditor course to selected personnel in the government entities.	MS
	Date of internal IMSAS audit	Date of internal IMSAS audit to be agreed with all relevant government entities.	MS
	Details of the internal IMSAS audit	Prepare selection of audit team and ATL, prepare the scope and programme for the internal IMSAS audit.	MS
	1 draft of the PAQ	First draft PAQ to be completed with all the relevant government entities and forwarded to the internal audit team members.	MS
	Internal IMSAS audit	Internal IMSAS audit of the maritime Administration to be completed.	MS
	Report from the internal audit	Internal audit report to be completed and presented to all the involved government entities.	MS
	Corrective action plan	Corrective action plan (CAP) to be developed by all the involved government entities.	MS
	CAP to be implemented	Corrective action plan (CAP) to be implemented in all the involved government entities.	MS
	PAQ to be prepared in GISIS	IMO requests the MS to start preparing the pre-audit questionnaire (PAQ) in GISIS.	SG (MSA)
	MS prepare PAQ	MS prepare the revised PAQ with all the relevant government entities.	MS

Date	Activity	Remarks	Responsibility
	Final PAQ in GISIS	Final pre-audit questionnaire to be uploaded in GISIS with relevant appendices and documents (MS confirms to MSA). Relevant websites of all the relevant government entities to be updated and all documents, including guidelines and descriptions, to be updated.	MS
	MoC to be prepared	Memorandum of Cooperation to be discussed and negotiated between MSA and the MS. Member States should provide their authorization to IMO for release of the audit reports, including executive summary report, corrective action plan and Member State comments on the implementation of the corrective action plan, of their audit to the public or to Member States. In addition, the Member State may make the report public through its own media, including their web pages.	SG + MS
	MoC to be approved	Memorandum of Cooperation to be approved by IMO and the MS. MoC to be uploaded by MSA in GISIS.	MS + SG (MSA)
	IMO appoints ATL and ATM	MSA selects the audit team and the ATL.	SG (MSA)
	MS to be informed about ATL and AT	MS to be informed about proposed ATM and ATL.	SG (MSA)
	MS provides any feedback on the AT and ATL	MS provides any feedback on the proposed ATM and the ATL to IMO.	MS
	ATM prepares the audit	Audit team members (ATM) prepare for the audit by review of PAQ and appendices, MoC, review of relevant websites, review of GISIS documentation of the MS, etc.	ATM
	MS prepare for the audit	MS prepares for the audit. Hotel, transportation and DSA for the ATM to be paid by MSA. MSA request the MS regarding suggestions for the hotel. MS should arrange for pick-up of the ATM at the airport and transport to/from the hotel all week. A working lunch to be organized by the MS (e.g. sandwiches in the meeting room). Coffee, tea and water to be arranged all week.	MS (SPC)
	Draft Audit Timetable	The draft Audit Timetable to be prepared in cooperation between the ATL and the MS (SPC) (all relevant government entities to be involved). Ensure that management key personnel are represented during the audit. Draft Audit Timetable shown in IMO Circular Letter No.3425 (Auditor's Manual). The ATL will request the SPC to complete the detailed Timetable with titles, names, locations of the interviews, etc.	ATL + MS (SPC)
	Final Audit Timetable	The final Audit Timetable to be completed by the MS (with titles, names, locations of the interviews, etc.).	MS (SPC) + ATL

Date	Activity	Remarks	Responsibility
		To be approved and confirmed by the ATL.	
	Personnel to be informed about the IMSAS audit	<p>Top Management, management and leaders, and personnel at all the involved government entities to be informed about the IMSAS audit, including the final Audit Timetable with all names and locations of the interviews.</p> <p>Please note that the ATL may decide to amend the Timetable during the audit and ask for additional personnel for interviews.</p> <p>Also prepare for backup to be ready, etc. in case of sickness or other reasons for persons to be absent during the audit.</p>	MS
	IMSAS audit	Audit Team Members arriving in the MS during the weekend before the IMSAS audit.	MS + AT
<b>Day 1 of the IMSAS</b>	IMSAS audit Opening meeting	Opening meeting in the MS presenting the scope of the IMSAS, Audit Timetable and practical details of the audit programme.	MS + AT
<b>Day 1 – 5 of the IMSAS</b>	IMSAS audit	IMSAS audit interviews to be implemented of the MS.	MS + AT
	IMSAS audit	Audit Team preparing the draft interim report, including findings and observations.	AT
		If possible, the MS will review a first draft of the interim report before the closing meeting.	MS
<b>Last day of the IMSAS audit</b>	IMSAS audit closing meeting	<p>Closing meeting in the MS presenting a draft interim report with findings and observations.</p> <p>The Form/s A with the findings and observations to be signed by the Member State and the ATL, in two originals.</p> <p>One original Form/s A will be kept by the Member State and another handed over to the ATL.</p>	ATL + MS
	MS reviews the draft Interim Report	MS starts to review the draft Interim Report.	MS
	MSA review the draft Interim Report	MSA reviews the draft Interim Report, revises and amends the draft, as applicable, and prepares the Interim Report. ATL approves the Interim Report and forwards it to the MS, including an Executive Summary Report.	MSA + ATL
	CAP to be prepared within 90 days	CAP to be completed by the MS and forwarded to the ATL and MSA within 90 days from the date of submission of the Interim Report by the ATL to the MS (SPC).	MS
	Final Audit Report to be prepared	<p>ATL prepares a draft Final Audit Report (CAP to be integrated in the Interim Report), with support from MSA.</p> <p>Final Audit Report to be submitted by the ATL to the MS (SPC).</p>	ATL + MSA
	Feedback to MSA	Feedback from MS to be forwarded to MSA.	MS

Date	Activity	Remarks	Responsibility
	Audit follow-up	Audit follow-up normally to be completed as a document review not later than three to four years following the audit. MSA requests the MS about documents (objective evidence) to be reviewed by the ATL.	MSA + ATL + MS
	IMSAS audit	Next IMSAS audit after approximately seven years.	SG + MS

MS Member State  
SG IMO Secretary-General  
MSA IMO Member State Audit  
ATL Audit team leader  
AT Audit Team

## APPENDIX 2

### GUIDANCE ON THE PRE-AUDIT QUESTIONNAIRE

#### Part 1

#### Guidelines for filling out pre-audit questionnaire

*(including comments and guidelines in italic)*

The pre-audit questionnaire (PAQ) should be returned, duly completed, by the Member State to be audited, as soon as possible and not later than two months after receipt, and updated, as appropriate, not later than three months before the audit.

The structure of the PAQ is harmonized with the sections and provisions of the IMO Instruments Implementation Code (IIC Code) and this should be referred to when completing the form.

Any material provided may be used in the final report.

The Member State should keep the descriptions/answers clear and concise and, if more convenient, link the responses to appendices or documents attached to the PAQ containing descriptions, procedures, diagrams, etc. which are relevant for answering the questions in the PAQ and to illustrate the Member State's implementation of the applicable IMO instruments.

#### GENERAL INFORMATION

1	Name of State:	
2	Full contact details for the designated <i>Single Point of Contact</i> for the audit:  <i>Key figure (Preferably: Managerial/senior level but not top management) for Member State (MS). Communication during the audit cycle is between the MSA/ATL and MS/SPC.</i>	
	<b>Name and Title</b>	
	<b>Address</b>	<b>Telephone No.:</b> <b>Fax No.:</b> <b>Email address:</b>

3 *Full contact details of all government body/bodies covering the following areas of responsibility (when the responsibility is divided between more than one entity please insert details of each of the government bodies):*

*Insert full and accurate information in all available blocks. Do not forget the main national laws. Websites needed for easy reference, preparation for the auditors.*

*Under the Safety part, also provide the relevant information regarding STCW, including responsible parties.*

<b>Safety</b>						
	<b>Flag State</b>	<b>IMO instruments and main national laws/regulations the body has responsibility for</b>	<b>Coastal State</b>	<b>IMO instruments and main national laws/regulations the body has responsibility for</b>	<b>Port State</b> <i>May include for Port authorities</i>	<b>IMO instruments and main national laws/regulations the body has responsibility for</b>
<b>Name(s) of government body(ies)</b>	<i>Entity 1 Entity 2 Entity 3 Etc....</i>		<i>Entity .. Entity... Etc....</i>		<i>Entity.. Entity.. Etc....</i>	
<b>Address</b>						
<b>Website</b>						
<b>Environmental Protection</b>						
	<b>Flag State</b>	<b>IMO instruments and main national laws/regulations the body has responsibility for</b>	<b>Coastal State</b>	<b>IMO instruments and main national laws/regulations the body has responsibility for</b>	<b>Port State</b>	<b>IMO instruments and main national laws/regulations the body has responsibility for</b>
<b>Name(s) of government body/bodies</b>						
<b>Address</b>						
<b>Website</b>						

4 Please provide a description, preferable as an organization chart and/or a diagram, depicting the area of responsibility of each of the above-mentioned government bodies (responsibilities should be described according to the general obligations emanating from the IMO instruments).

**Required information: (English language)**

1. *Organization chart of the Maritime Administration as a whole, clearly indicating lines/interrelation between all involved entities.*
2. *General organization chart for each involved entity.*
3. *Detailed organization chart for the appointed sections within the entities.*
4. *Also indicate key functions, including responsibilities and tasks.*
5. *The legal basis for empowerment to execute their duties, as indicated in the national laws, for these responsible/involved entities/appointed personnel.*
6. *Include for a supporting short description regarding the set-up of your maritime Administration and how the involved/responsible entities communicate/interact.*

**Information under 4 and 5 should preferably be submitted in a matrix/table format**

5 Please indicate the number of employees of each relevant government body by category and by location (**repeat the table as many times as necessary**). Include any additional explanations regarding number and location of employees.

*Insert extra rows as applicable and give the complete overview of all involved in your Maritime Administration.*

Category	No. of employees	Location
Entity 1...		
Flag State surveyors/inspectors/auditors		
Port State control officers		
Investigators		
Management		
Support staff		
<i>Entity 2...</i>		
<i>Legal staff</i>		
<i>Policy staff</i>		
<i>Management</i>		
<i>Support staff</i>		

6 Please indicate the number of ships on your State's register according to the following types and the nature of the trade in which they are involved. Please provide the information separately for each register, where applicable.

**Nature of trade:**

*Commercial /Pleasure/International/National/Length/Tonnage 69.*

*If available an extract of the register per identified parameters is acceptable as well.*

	Number	Nature of Trade
<b>Passenger</b>		
<b>Cargo</b>		
<b>Fishing</b>		
<b>Other</b>		

7 Please indicate the number and location of ports in your State according to the following types.

	Number	Location(s)
<b>Passenger</b>		..... / ..... / .....
<b>Cargo</b>		
<b>Other</b>		

8 Please provide information on *any relevant organizations and/or entities fulfilling functions required by the mandatory instruments*, their relationship to the maritime Administration and details of the functions they provide.

**Relevant organizations/and or entities:**

*E.g: Port Authorities, Agencies (Telecom) institutes (Elevators/escalators/).*

Submit this information preferably in a **matrix format** including:

- Name of Authority/agency/institute
- Location of the above-mentioned
- Description of their activities
- Relation to the relevant entity within the Maritime Administration
- Reference law regarding the authorization
- Valid Agreement or authorization in place?

**Note:**

1. *For the recognized organizations this information should be entered under Part.2 Flag State, item.17 Delegation of Authority.*

**(PLEASE USE III CODE AS A GUIDE WHEN COMPLETING THIS PAQ AFTER THIS POINT)**

**PART 1 – COMMON AREAS**

**Strategy (paragraphs 3 and 9)** *All the following references are the relevant paras. in the III Code.*

9 Please provide the *overall maritime policies and strategy of your State* to implement the applicable IMO instruments and *also how this is communicated to all concerned.*

*The overall maritime policies and strategy and how to implement it in the maritime administration of the Member State. Consequently, this should require input / output from all involved responsible entities within the Maritime Administration.*

**It should be clear** *how the applicable IMO instruments are implemented (Division of responsibility, authorization by law, etc.);*

**Lines of communication** *established between the involved entities (if a platform is available?);*

**How the policies and the Strategy are communicated:** *to all concerned.*

- *Gazette, emails, letters, websites etc.;*

**to all concerned: e.g.**

- *Shipping Industry/shipowners*
- *Recognized organizations (ROs)*
- *Organizations including the seafarers*
- *Other (involved) Government entities*
- *.....*

### General (paragraphs 4 and 5)

- 10 *Please describe how your State:*
- .1 develops and promulgates legislation and takes all other steps to give the applicable IMO instruments full and complete effect (include a flow chart); and
  - .2 incorporates amendments to IMO instruments into national legislation.

**Describe as indicated** pt. 1 and 2. above taking into account the following additional notes:

**How does your legal system function** e.g.

**For .1** describe the process for monitoring of new amendments to the IMO conventions/instruments > development of new legislation > approval by > Ministry > Parliament > promulgation > implementation > enforcement;

**For .2** describe the process for incorporating/transposing the relevant IMO instruments into national law;

**For both .1 and .2 provide a flow chart/diagram** of this process for better understanding. Include the required time frame for these processes, e.g. how long does it take before new conventions and/or amendments to existing conventions are enacted/implemented and transposed into national law);

**Provide/submit** English translations of the main national laws (Merchant Shipping Code, Port Law, etc.) and sub-law acts developed for implementation of main IMO instruments (SOLAS, MARPOL, STCW, Tonnage, LL) and their latest amendments and instruments made mandatory. (May be links to Internet websites of the maritime Administration, containing this information);

**Provide/submit** in matrix/table format, Information about in which national law the ratified IMO conventions are included and how this was communicated to IMO.

### Scope (paragraphs 6 and 7)

- 11 Please provide INDIVIDUALLY FOR EACH OF THE INSTRUMENTS:
- .1 the number of equivalent/exemptions issued under this instrument and reported, as appropriate, to IMO; and
  - .2 whether information on national laws, etc. has been communicated to IMO.

*Pt. 1: Submit in Matrix / Table format for clear overview/understanding.*

**III Code: Pt. 7.8 / 7.9 / 8.3 / 9 / 23.1 >> reporting obligations.** Refer to the "non-exhaustive list of obligations under instruments relevant to the IMO Instruments Implementation Code" for common, flag State, coastal State and port State areas.

- 12 Please describe how policies are developed to implement legislation, including administrative procedures and examples thereof.

**Describe as indicated** taking into account the following additional notes.

*What structure is in place to deal with these obligations,  
Which entity(s)/departments is/are appointed/responsible for what.*

*Personnel /authorized/tasks assigned.  
Who is responsible for monitoring/feedback.*

*Describe this process, supported by a flow diagram/procedures/instructions etc.  
Submit an overview in matrix/table format.*

### **Records (paragraph 10)**

13 Please describe *which records are retained* and for what period.

*Submit national legislation on record-keeping.  
Describe the process/instructions/guidelines in place.*

*Overview matrix/table for those applicable for the maritime Administration.*

### **Improvement (paragraphs 11 to 14)**

14 Please describe how your State:

- .1 stimulates a culture which provides for improvement of performance in relevant maritime activities;
- .2 identifies and eliminate the root causes of any non-conformities; and
- .3 anticipates potential non-conformities in order to prevent their occurrence.

*For the maritime Administration (combined result from each entity) in relation to the overall maritime strategy.*

*Has the entity developed and implemented a Quality Management system or similar using **the PDCA CYCLE?***

**PLAN** (plan the processes and activities) – **DO** (implement what was planned) – **CHECK** (monitor and measure the processes including the results) – **ACT** (take actions to improve performance)

*Quality system and performance measurement system developed and implemented?  
KPIs set?*

*Regular monitoring of performance etc. (external audits, internal audits, management review etc.)?  
Follow up on deviations, non-conformities, near-miss etc.?*

*What monitoring system have you developed and implemented to monitor compliance of the effective implementation and enforcement of the ratified conventions (this should include all the involved/responsible Government entities)?*

*Does your State perform regular internal audits to monitor the quality/effectiveness/efficiency of your maritime Administration?*

*Objective evidence presenting the outcome of monitoring, evaluation, trend analysis and root cause analyses taken the continuous improvement into account for (Plan-Do-Check-Act, PDCA Cycle).*

*This can be, for example, management reports including actions for implementing decisions made for improvement, into the adapted strategy/policy/inspection programmes/etc.*

## PART 2 – FLAG STATE

### Implementation (paragraphs 15 and 16)

15 Please describe how your State assigns responsibilities for implementing relevant legislation and national policies including how these are periodically reviewed.

**Submit regulations** in national law attending the authorities as a flag State, in matrix/table format

*How is your flag State unit/department organized?*

**Submit organization chart**, including for the appointed personnel, tasks, responsibilities and authorizations.

**Describe processes for:**

1. Implementation of the legislation, national policies, etc.
2. Surveys and certification.
3. Periodical review for e.g. FSC Inspection programme.

16 Please describe how your State develops or implements:

- .1 an independent audit and inspection programme for ships entitled to fly the flag; and
- .2 guidance for those requirements in the IMO instruments that are to "the satisfaction of the Administration".

*.1 Submit the (Yearly) Inspection programme on basis of which the section FSC performs the inspections.*

*.2 To the Satisfaction of the Administration:*

- *How is this attended?*
- *Which persons are appointed/responsible, in each individual entity?*
- *Submit Process > procedures/instructions in place.*  
*Example: SOLAS chapter II-1/29.6.3 Steering Gear.*

### Delegation of authority (paragraphs 18 to 21)

17 *List the recognized organizations (ROs) and/or nominated surveyor(s) that are appointed to act on behalf of your State for conducting surveys, inspections and audits, issuing of certificates and documents, marking of ships and other statutory work required by the IMO instruments.*

*Submit a list of ROs, including a copy of the latest version of the agreements for each contracted RO.*

*If you have uploaded this information in to the GISIS unit please indicate so, and ensure it is the latest version uploaded.*

18 Please provide a matrix indicating which functions (plan approvals, surveys, certification, exemptions and equivalent arrangements) have been delegated. The formal agreements or equivalent arrangements with ROs should also be attached.

**Matrix:** *Overview is normally part of the agreement as an appendix.*

*If you have uploaded this information in to the GISIS unit please indicate so, and confirm it is the latest version including the Matrix uploaded.*

19 Please describe how your State maintains oversight of the functions delegated to ROs and/or nominated surveyors.

*Submit Monitoring & Inspection programme for supervision on the ROs for the last two years.*

*This should include for the results on defined KPIs and evaluation and adaptations in the programme based on the outcome of the evaluation.*

### Enforcement (paragraphs 22 to 27)

20 What *enforcement actions* has your State undertaken during the preceding 12 months where breaches of provisions of the IMO instruments have been identified.

**Submit in matrix/table format** the Regulations in national law, attending proceedings and penalizing (to ratio of severity) for the relevant IMO instruments.

**Submit an overview** of enforcement actions as per the relevant IMO instruments and national legislation.

21 Please *describe how your State*:

- .1 follows up on detentions of ships entitled to fly its flag;
- .2 ensures that international certificates are only issued or endorsed to a ship when it is determined that the ship meets all applicable requirements; and
- .3 ensures that an international certificate of competency or endorsement is only issued to a person when it is determined that the person meets all applicable requirements.

**For all the items 21.1. 21.3:**

*Submit (In matrix/table format) the applicable regulations including authorization, in national legislation, for the relevant IMO instruments.*

*Submit the Processes/procedures/instructions, for the items mentioned.*

*Indicate appointed and authorized personnel (in the organization charts).*

*Verify the inclusion for this requirement in the agreements with the RO's.*

### Flag State surveyors (paragraphs 29 to 36)

22 Please describe your State's requirements for the following:

- .1 surveyor/inspector/auditor/investigator recruitment criteria; and
- .2 the initial and in-service training requirements for surveyors/inspectors/auditors/investigators.

**For all the items 22.1 > 22.2:**

**Submit processes /procedures/instructions.**

**Submit training** Matrices indicating the minimum requirements and training needs, for both new entrants and current personnel.

**Submit overview**, in matrix/table format, of tasks, responsibilities, authorization for FSC/PSC surveyors, investigators and auditors.

### Flag State investigations (paragraphs 40 and 41)

- 23 Please describe how your State:
- .1 maintains records, databases, etc. of the number of accidents involving personal injuries, occupational accidents and casualties to ships, and pollution incidents that are investigated by your State and/or other States during the last two years;
  - .2 ensures that investigations are impartial and objective;
  - .3 ensures reportable personal injuries, accidents and casualties are reported and the criteria for determining what is reportable;
  - .4 ensures that accidents, casualties and injuries are investigated and the criteria for determining what to investigate; and
  - .5 reports accidents and casualties to IMO.

**Describe as indicated .1 > .5 taking into account the following additional notes.**

**Submit regulations** in national law attending the authority for FSC / PSC surveyors to conduct FSC/PSC investigations (overview in Matrix / Table format)

**Confirm if the Accident Investigation Code and Resolution A.1075(28) Guidelines Investigation, are used as basis and as part of National law.**

**Submit overview** of Accidents investigated over the last four years.

**Clarify if and when applicable, the agreements / requirements for using non-Government personnel. Are procedures in place to be followed, documents to be signed? etc.**

**Submit an overview** with nominated investigators and procedures to be followed.

**Confirm whether reports were sent to the IMO or uploaded in GISIS.**

### Evaluation and review (paragraphs 42 to 44)

24 *Please describe* how your State evaluates its performance in meeting the requirements of the IMO instruments. In particular, evaluation of detention rates, inspection results, casualty statistics, communication processes, annual loss statistics and other performance indicators.

*Also refer to >> Improvement (Item: 14 paragraphs 11 to 14) > Plan > Do > Check >Act.*

*Par. 42 > 44 in the III Code give examples of the parameters / KPIs that can be utilized.*

*Submit the Processes / procedures / instructions. Indicate appointed personnel (in the organization charts). Evaluation reports and action(s) taken based on the evaluation results, to be readily available during the audit.*

## PART 3 – COASTAL STATE

### Implementation (paragraphs 45 to 48)

- 25 Please describe how your State fulfils the following:
- .1 promulgating navigational warnings and dangers to navigation;
  - .2 establishment and maintenance of any navigational aids within waters for which it has responsibility and how information relating to these is promulgated;
  - .3 putting measures in place to encourage the collection of meteorological data and what use is made of this data;
  - .4 establishing arrangements for maritime distress communication monitoring and coordination and rescue within your State;
  - .5 establishing arrangements for investigating reported incidents of pollution;
  - .6 arrangements for the provision of hydrographic services; and
  - .7 any other measures undertaken by your State to evaluate its effectiveness in implementing the above provisions.
- Please describe, if applicable:
- .8 any maritime traffic routing schemes or restricted areas enforced within waters for which your State has responsibility and which have not been adopted by IMO, and any ship reporting systems;
  - .9 any IMO maritime traffic routing system or restricted area within waters under the jurisdiction of your State and how it is managed; and
  - .10 any reporting system or VTS system adopted by IMO that is within your State.

**For all the items 25.1 > 25.10:**

*Support the answers to the questions by:*

*Submit (In matrix/table format) the applicable regulations including authorization, in national legislation, for the relevant IMO instruments.*

*Submit the Processes/procedures/  
Instructions, for the mentioned items.*

*Indicate appointed and authorized personnel (in the organization charts)*

### Enforcement (paragraph 50)

- 26 Please describe how your State fulfils the requirements of the III Code for:
- .1 considering, developing and implementing a control and monitoring programme;
  - .2 the timely response to pollution incidents; and
  - .3 cooperating with other flag and/or coastal States for the investigation of maritime casualties.

**For all items 26.1 > 26.3:**

*Support the answers to the questions by:*

*Submit the Processes/procedures/instructions.*

*Indicate appointed and authorized personnel (in the organization charts).*

*Provide, if available, the programme in place and evaluation of the results and adjustment.*

*Provide system in place for cooperating with other States and provide annual reports, evaluation of the enforcement requirements.*

### Evaluation and review (paragraph 51)

27 Please explain how your State evaluates its performance as a coastal State, e.g. exercises to test counter-pollution measures, rescue of distressed persons, etc.

*Submit the Processes/procedures/instructions.*

*Indicate appointed personnel (in the organization charts).*

*Evaluation reports and action(s) taken based on the evaluation results, to be readily available during the audit.*

### PART 4 – PORT STATE

#### Implementation (paragraphs 52 to 56)

- 28 If applicable please indicate:
- .1 what legislation is in place permitting port State control to be undertaken on foreign ships visiting your ports and the procedures for undertaking them;
  - .2 the regional port State control regimes your State is affiliated to;
  - .3 the recruitment criteria and qualifications for port State control officers engaged in port State duties;
  - .4 the arrangements in place to enable port State control interventions to be transmitted "forthwith" to all parties concerned;
  - .5 how many port State control inspections have been carried out by your State over the last two years, and how these relate to national and regional targets;
  - .6 whether your State has reception facilities for ship-generated wastes under the MARPOL Convention and provide details of this and the adequacy of these arrangements; and
  - .7 whether a register of fuel oil suppliers is maintained and who maintains it.

**For all the items 28.1 > 28.7:**

*Support the answers to the questions by:*

- *submitting (in matrix/table format) the applicable regulations including authorization, in national legislation, for the relevant IMO instruments.*
- *submit the processes/procedures/instructions.*
- *indicating appointed and authorized personnel (in the organization charts).*

**For 28.6:** refer to MEPC.1-CIRC.834. Rev.1 "Consolidated guidance for port reception facility providers and users" and MEPC.Res.83(44).

**For. 28.7:** Only when MARPOL Annex VI is ratified as relevant instrument.

#### Evaluation and review (paragraph 63)

29 Please explain how your State evaluates its performance as a port State.

- *Submit the Processes/procedures/instructions.*
- *Indicate appointed personnel (in the organization charts)*
- *Evaluation reports and action(s) taken based on the evaluation results, to be readily available during the audit.*

## Part 2

### GUIDANCE FOR MEMBER STATES ON PRE-AUDIT QUESTIONNAIRE IN RELATION TO VESSEL TRAFFIC SERVICES AND AIDS TO NAVIGATION

This section is intended to assist Member States in responding to the pre-audit questionnaire for maritime administrations responsible for vessel traffic services (VTS) and aids to navigation (AtoN) prior to being audited in the IMO Member State Audit Scheme (IMSAS).

**SOLAS regulation V/12** provides for VTS and sets out, inter alia, that Contracting Governments:

- .1 undertake to arrange for the establishment of VTS where, in their opinion, the volume of traffic or the degree of risk justifies such services;
- .2 shall, wherever possible, follow the guidelines developed by the Organization (resolution A.1158(32) on *Guidelines for vessel traffic services*<sup>\*</sup>); and
- .3 shall endeavour to secure the participation in, and compliance with, the provisions of VTS by ships entitled to fly their flag.

**Resolution A.1158(32)** describes the purpose, general principles and provisions for the operation of a VTS and participating vessels. It also describes the roles and responsibilities of Contracting Governments, competent authorities for VTS and VTS providers and the qualifications and training for VTS personnel. It also sets out the regulatory and legal framework and states that Contracting Governments are encouraged to take into account IALA standards and associated recommendations, guidelines and model courses.

The Guidelines are associated with SOLAS regulation V/12 and should be taken into account by Contracting Governments to the Convention when planning, implementing and operating vessel traffic services (VTS) under national law. Members of the Organization that are not Contracting Governments to the Convention are also encouraged to take these Guidelines into account.

**SOLAS regulation V/13** provides for the establishment and operation of AtoN and sets out, inter alia, that each Contracting Government undertakes to:

- .1 provide, as it deems practical and necessary either individually or in cooperation with other Contracting Governments, such AtoN as the volume of traffic justifies and the degree of risk requires;
- .2 take into account the appropriate recommendations and guidelines of IALA and SN/Circ.297 on the IALA Maritime Buoyage System, when establishing such aids; and
- .3 arrange for information relating to AtoN to be made available to all concerned.

IALA publishes standards, recommendations, guidelines and model courses suitable for direct citation by States in the interest of an efficient and harmonized global network of VTS and AtoN. These documents are available for download in pdf format at [www.iala-aism.org](http://www.iala-aism.org).

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\* Resolution A.857(20) was revoked by resolution A.1158(32) on 15 December 2021 at the thirty-second session of the Assembly.

In particular, the following IALA guidelines provide guidance on IMSAS:

- .1 Guideline *G1115 on Preparing for an IMO Member State Audit Scheme (IMSAS) on Vessel Traffic Services* provides guidance for Contracting Governments to meet the objectives of an IMO IMSAS audit with respect to the implementation and delivery of VTS and to assist in demonstrating that they are fulfilling their responsibilities under the general provisions of treaty law and IMO Conventions for promulgating laws and regulations; and
- .2 Guideline *G1054 on Preparing for an IMO Audit on Aids to Navigation Service Delivery* provides guidance for Contracting Governments to meet the objectives of an IMO IMSAS audit with respect to the implementation and delivery of AtoN and to assist in demonstrating that they are fulfilling their responsibilities under the general provisions of treaty law and IMO Conventions for promulgating laws and regulations.

This pre-audit questionnaire has been developed in accordance with appendix 2 of the annex to resolution A.1067(28) on *Framework and Procedures for the IMO Member State Audit Scheme*.

## **VESSEL TRAFFIC SERVICES (VTS)**

### **GENERAL INFORMATION**

#### **Coastal State:**

- 1 Please provide full contact details of:
  - .1 the competent authority for VTS; and
  - .2 each VTS provider.
- 2 Please provide a description, preferably as an organization chart and/or a diagram, depicting the area of responsibility of each VTS body mentioned in paragraph 3 above.

### **PART 3 – COASTAL STATE**

#### **Implementation (paragraphs 45 to 48)**

- 3 Please describe how your Government/State has:
  - .1 established a legal basis for VTS that gives effect to SOLAS V/12;
  - .2 appointed and authorized a competent authority for VTS;
  - .3 established a regulatory framework for establishing and operating a VTS in accordance with relevant international Conventions and IMO instruments, IALA standards and national law; and
  - .4 determined how the volume of traffic or degree of risk justifies the establishment of a VTS.

- 4 Please describe whether your Government or competent authority for VTS:
- .1 is a member of IALA; and
  - .2 is establishing VTS and has identified that capacity-building support is required to assist in their planning, implementation and operation. If the answer is yes, please indicate in which areas this is required.

**Enforcement (paragraph 50)**

- 5 Please describe the policies and procedures in place to monitor:
- .1 compliance with the audit standard;
  - .2 the enactment of legislation, as appropriate, for the delivery of VTS under SOLAS V/12;
  - .3 the administration and enforcement of the applicable laws and regulations; and
  - .4 the mechanism and controls in place by which the delegation of authority to a recognized organization, for the purposes of implementing and delivering a VTS, is effected.
- 6 Please describe the policies and procedures in place for the competent authority for VTS to ensure that VTS providers:
- .1 are authorized to operate VTS within a delineated VTS area;
  - .2 conform with the regulatory framework set by the competent authority for VTS;
  - .3 set operational objectives for the VTS that are consistent with improving the safety and efficiency of ship traffic and protection of the environment and that these are routinely evaluated to demonstrate they are being achieved;
  - .4 provide appropriate equipment, systems and facilities for the delivery of a VTS; and
  - .5 have adequate staff and that VTS personnel are appropriately trained and qualified.

**AIDS TO NAVIGATION (AtoN)**

**GENERAL INFORMATION**

**Coastal State:**

- 7 Please provide full contact details of:
- .1 the competent authority for AtoN; and
  - .2 any subsidiary competent authorities/AtoN providers.

8 Please provide a description, preferably as an organization chart and/or a diagram, depicting the area of responsibility of each AtoN body mentioned in paragraph 3 above.

### **PART 3 – COASTAL STATE**

#### **Implementation (paragraphs 45 to 48)**

9 Please describe how your Government/State has:

- .1 established a regulatory framework for establishing and operating AtoN in accordance with relevant international Conventions and IMO instruments, IALA standards and national law which gives effect to SOLAS V/13;
- .2 appointed and authorized a competent authority or authorities for AtoN. If not, please indicate how AtoN are established and operated;
- .3 provided, as it deems practical and necessary, either individually or in cooperation with other Contracting Governments, such AtoN as the volume of traffic justifies and the degree of risk requires; and has implemented applicable processes used for determining your AtoN provision;

10 Please describe whether your Government or competent authority for AtoN:

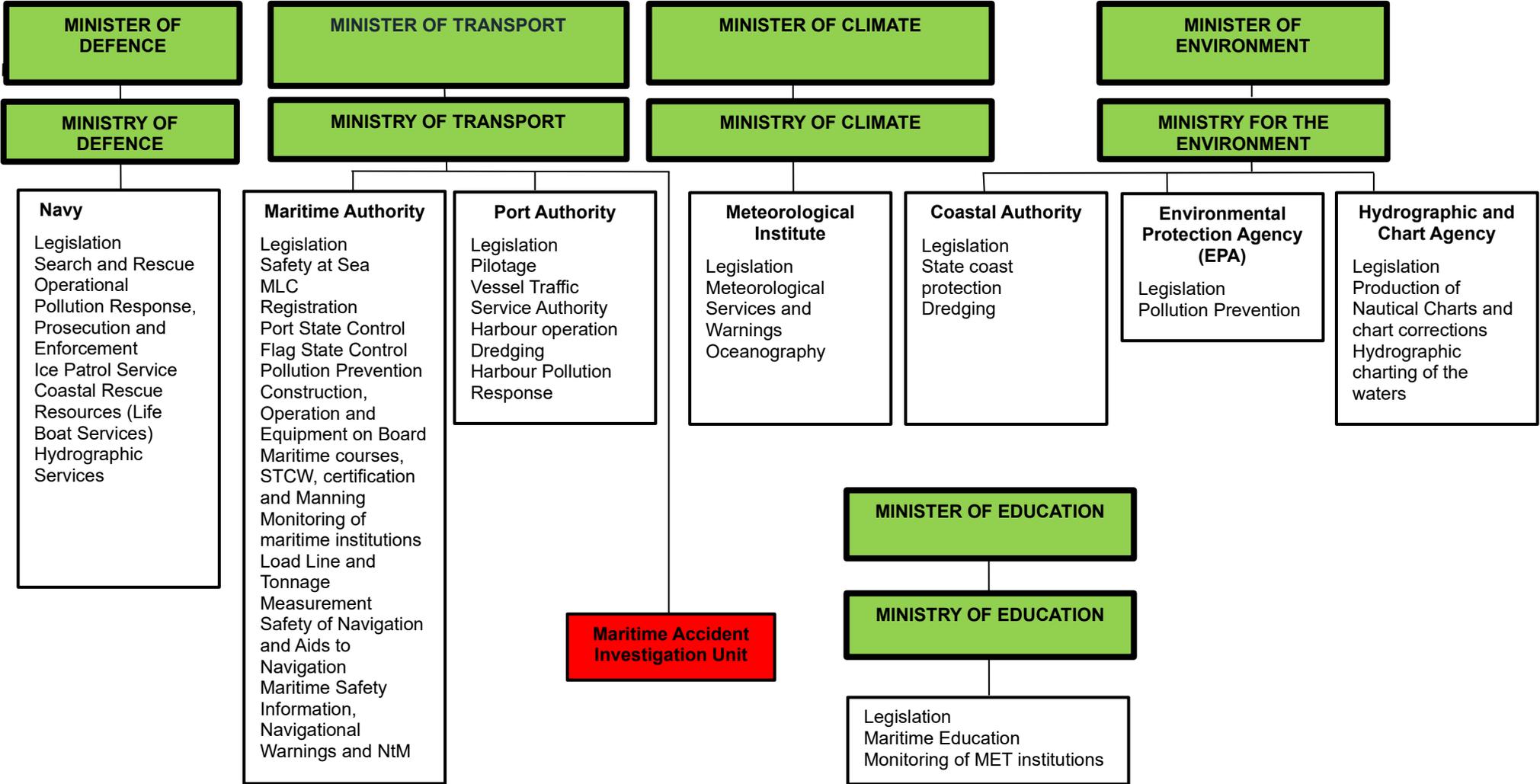
- .4 is a member of IALA; and
- .5 is establishing AtoN services and has identified that capacity-building support is required to assist in their planning, implementation and operation. If the answer is yes, please indicate in which areas this is required.

#### **Enforcement (paragraph 50)**

11 Please describe the policies and procedures in place for the competent authority for AtoN to ensure that AtoN providers:

- .1 take into account the international recommendations and guidelines when establishing such aids including the IALA Maritime Buoyage System and other IALA standards and their associated normative recommendations and guidelines;
- .2 arrange for information relating to AtoN to be made available to all concerned; and
- .3 ensure that changes in the transmissions of position-fixing systems which could adversely affect the performance of receivers fitted in ships are avoided as far as possible and are only effected after timely and adequate notice has been promulgated.

**APPENDIX 3**  
**SAMPLE DISTRIBUTION OF AREAS OF RESPONSIBILITIES BETWEEN GOVERNMENT ENTITIES**  
**WITHIN THE SCOPE OF THE IMO CONVENTIONS (THE MARITIME ADMINISTRATION OF THE MEMBER STATE)**



#### APPENDIX 4

##### AGENDA FOR THE FIRST MEETING OF ATMS AND SPC/DELEGATES FROM THE MEMBER STATE PRIOR TO THE AUDIT

- 1 Introductions in general, ATMs, SPC, delegates of Member State. Get telephone numbers, emails and other relevant information of the key personnel involved.
- 2 Any security matters involving the country, warnings, any climate alert.
- 3 Review and coordination of the provisional timetable and any inland travel or visit to ports and any regional office; coordination in the situation of a split between the audit team, transportation, escorting, any last moment adjustment.
- 4 Opening meeting: review of time, place and date, maximum authority attending the meeting, any request from the authorities, speeches, presentations.
- 5 Confirmation of facilities and administrative arrangements: daily transportation from the hotel to the place(s) of the audit, train, buses, walking; transportation to the airport after closing meeting; working space for the ATMs at the Administration and hotel according to previous coordination; lunch break; dress code for the opening and closing meetings and clothing to be used the rest of the days.
- 6 Audit work methodology (issues related to interviews, small group of people during the interviews, objective evidence, etc).
- 7 Daily meetings with the SPC at the end of the audit day in order to inform about any deviation or possible finding/observation; and coordination of the activities for the next day.
- 8 Issues regarding submission of objective evidence in case they could not be provided on time (a deadline for submission is normally midday of the last auditing day).
- 9 Audit reporting issues and post audit reports and forms (Draft Interim Report, Draft Executive Summary Report, Forms A, B, C and CPICAP).
- 10 Any other issue or activity.