

COUNCIL
113th session
Agenda item 5

C 113/5/4
31 October 2014
Original: ENGLISH

IMO MEMBER STATE AUDIT SCHEME

Submitted by the United Kingdom and the United States

SUMMARY

<i>Executive summary:</i>	This document comments on submission C 113/5/1 by the Secretary-General on the institutionalization of the IMO Member State Audit Scheme and provides further comment in relation to policy issues to be considered relating to the overall audit schedule for the audit of Member States within the audit cycle
<i>Strategic direction:</i>	2.0
<i>High-level action:</i>	2.0.2
<i>Planned output:</i>	No related provisions
<i>Action to be taken:</i>	Paragraph 17
<i>Related documents:</i>	A.1067(28), A.1068(28); C 112/INF.3, C 112/D and C 113/5/1

Background

1 The Assembly, at its twenty-eighth regular session (25 November to 4 December 2013), considered document A 28/9/2 and Corr.1, reporting on work undertaken during the last biennium on the further development of the Audit Scheme and adopted resolution A.1067(28) on *Framework and Procedures for the IMO Member State Audit Scheme* and resolution A.1068(28) on *Transition from the Voluntary IMO Member State Audit Scheme to the IMO Member State Audit Scheme*.

2 The Assembly, in its consideration of the matter, decided that the Audit Scheme should adopt a practical and pragmatic approach during the transitional period as some Member States are currently preparing themselves for audit on a voluntary basis, but will be subject to audit under the IMO Instruments Implementation Code (III Code).

3 The Assembly also adopted resolutions A.1070(28) on *IMO Instruments Implementation Code (III Code)*, A.1077(28) on *2013 Non-exhaustive list of obligations under instruments relevant to the III Code*; as well as *Amendments to the International Convention on Load Lines, 1966* (resolution A.1083(28)); *Amendments to the International Convention on Tonnage Measurement of Ships, 1969* (resolution A.1084(28)); and *Amendments to the Convention on the International Regulations for Preventing Collisions at Sea, 1972* (resolution A.1085(28)), to make the provisions of auditing and the use of the III Code under those Conventions mandatory.

4 The co-sponsors are mindful that the twenty-eight session of the IMO Assembly specifically requested the Secretary-General to produce an audit schedule for all Member States and Associate Members for the implementation of audits under the mandatory IMO Member State Audit Scheme.

5 The co-sponsors are grateful to the Secretary-General for the audit schedule which was kindly produced in accordance with the set of principles contained in paragraph 4.1.1 of the Procedures for the IMO Member States audit (resolution A.1067(28), annex, part II) and based on a random drawing of the names of Member States and an Associate Member who have not completed an audit under the voluntary Scheme, followed by those Member States and Associate Members that have completed a voluntary audit in the order in which they were audited, and presented to the Council in document C 112/INF.3.

6 During the 112th session of the Council, in response to the audit schedule presented in document C 112/INF.3, the United Kingdom raised concerns about the draft schedule.

7 C 112 noted the audit schedule for implementation of audits under the mandatory Scheme as developed by the Secretary-General in accordance with the set of principles contained in the Procedures for the IMO Member States audit (resolution A.1067(28), annex, part II), as set out in document C 112/INF.3, and invited Member States to submit proposals to ensure that the audit schedule can be conducted in the most efficient manner possible, for consideration at C 113.

8 Further to the policy issues raised by the Secretary-General in document C 113/5/1, the co-sponsors would like to put forward further comment in relation to the overall audit schedule for the audit of Member States within the audit cycle.

Discussion

Assessment of shortfall in the number of agreed audits

9 In line with the discussion in paragraphs 9 to 10 of document C 113/5/1, the co-sponsors agree that it would be prudent for the Council to agree on how shortfalls in the number of audits in any given year could be compensated for and to facilitate the opportunity, for those Member States who are willing, to be audited at short notice.

10 Noting resolution A.1067(28) – *Framework and Procedures for the IMO Member State Audit Scheme*, paragraph 4.1.1.2 states that "the Secretary-General will notify each Member State of the projected date of audit as soon as possible but not less than 18 months in advance".

11 Paragraph 4.1.1.3 goes on to state that "any request to postpone a scheduled audit by a Member State, due to extraordinary circumstances, should be submitted in writing at least six months prior to the audit due date and should be considered and determined by the Council."

12 The co-sponsors would like to suggest the following points for consideration by the Council, as a possible policy for assessing and addressing a possible shortfall in the audit schedule:

- .1 For the purposes of planning and executing audit work, the Secretariat should have a fixed audit schedule for the forthcoming calendar year,

- finalized a minimum of six months before the calendar year commences or for the biennium;
- .2 That "audited at short notice" means a minimum of six months between notification by the Secretary-General of the intention to audit and the audit commencing;
 - .3 The Secretary-General should invite Member States who are willing to be audited at short notice to notify IMO and specify the preferred period of time for audit notice;
 - .4 In accordance with paragraph 4.1.1.3 of the Procedures, the Secretary-General should bring to the attention of the Council, for its approval, those Member States who have advised the Secretary-General that they are not available for audit due to extraordinary circumstances;
 - .5 The Secretary-General should also bring to the attention of the Council those Member States that he deems unreasonable to audit due to exceptional circumstances which may arise or that they are not resource justifiable (e.g. have not ratified any of the relevant IMO instruments) for the audit to be undertaken;
 - .6 If the Council endorses the proposal from the Secretary-General to postpone those Member States referred to the Council, the Council should request the Secretary-General to invite Member States who have notified IMO that they are prepared to be audited at short notice, to be audited; and
 - .7 Member States should be invited to be audited in the chronological order in which they notified IMO that they are willing to be audited at short notice.

Member States who have already requested assistance through the Integrated Technical Cooperation Programme (ITCP) to help facilitate the implementation of IMO instruments

13 The co-sponsors feel when auditing those Member States who have requested assistance through the ITCP to help them implement IMO instruments, it would be unfair to assign official deficiencies/audit findings against implementation issues that a Member State has already identified to be deficient and has taken measures to address.

14 That said, the request for technical assistance should not be used by Member States to avoid their obligations to be audited under the mandatory IMO Member State Audit Scheme.

15 The co-sponsors would like to suggest the following points for consideration by the Council, as a possible policy for addressing the situation whereby a Member State scheduled for audit has already requested assistance through the ITCP to help facilitate the implementation of IMO instruments:

- .1 Those Member States who have submitted a request for technical assistance for the implementation of an IMO instrument(s) and specific areas for technical assistance have been agreed, should be audited in accordance with the *Framework and Procedures for the IMO Member State Audit Scheme* (resolution A.1067(28));

- .2 Any findings, in relation to those areas agreed for technical assistance, should not be part of the official findings and/or observations or deemed as a shortfall in the implementation of the specific IMO instrument(s);
- .3 Findings, in relation to those areas agreed for technical assistance, should make recommendations in respect of training, exchange programmes and provision of experts in order to assist the IMO to facilitate and optimize the request of the Member State through the ITCP for assistance in the implementation on IMO instrument(s); and
- .4 Findings, in relation to those areas agreed for technical assistance, should be reported separate from official findings and/or observations included in the annual report to the Council.

16 The co-sponsors are of the view that the issue of the assessment of shortfall in the number of agreed audits and addressing the situation whereby a Member State scheduled for audit has already requested assistance through the ITCP to help facilitate the implementation of relevant IMO instruments, can be addressed through policy decisions without changing the *Framework and Procedures for the IMO Member State Audit Scheme* (resolution A.1067(28)), adopted in 2013.

Action requested of the Council

17 The Council is requested to consider the actions outlined in paragraphs 12 and 15 above and take action as appropriate.
