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## IMO MODEL AUDIT SCHEME

### Developments concerning the proposed voluntary IMO Model Audit Scheme

#### Note by the Secretary-General

#### SUMMARY

*Executive summary:* This document provides information on further developments concerning the proposed voluntary IMO Model Audit Scheme since the issuance of document C 90/15

*Action to be taken:* Paragraph 3

*Related documents:* C 90/15 and MSC 77/26

#### Outcome of the Joint Working Group

1 The Joint MSC/MEPC/TCC Working Group on the voluntary IMO Model Audit Scheme met during MSC 77 and its report is set out at annex 1 to this document.

#### Outcome of MSC 77

2 MSC 77 considered the report of the above-referred joint working group and the outcome of its consideration is set out at annex 2 to this document.

#### Action requested of the Council

3 The Council is invited to consider annexes 1 and 2 and take action as it may deem appropriate, including instructing MEPC 49 accordingly. In particular, the Council is invited to take action as requested by the Joint Working Group in paragraph 51 of annex 1; and by MSC 77 as requested in paragraph 7.17 of annex 2.

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## ANNEX 1

### PROPOSED IMO MODEL AUDIT SCHEME

#### Report of the Joint MSC/MEPC/TCC Working Group on the Voluntary IMO Model Audit Scheme

#### General

1 The Joint MSC/MEPC/TCC Working Group on the Voluntary IMO Model Audit Scheme met from 28 May to 4 June 2003 under the chairmanship of Mr. R. Kilvington (New Zealand).

2 The group was attended by delegations from the following Member Governments:

ARGENTINA	LITHUANIA
AUSTRALIA	MALTA
BAHAMAS	MARSHALL ISLANDS
BELGIUM	NETHERLANDS
BELIZE	NEW ZEALAND
BRAZIL	NIGERIA
BULGARIA	NORWAY
CANADA	PANAMA
CHILE	PHILIPPINES
CHINA	POLAND
CYPRUS	REPUBLIC OF KOREA
DENMARK	ROMANIA
DOMINICA	RUSSIAN FEDERATION
FINLAND	SINGAPORE
FRANCE	SPAIN
GERMANY	SWEDEN
GHANA	TURKEY
GREECE	UKRAINE
INDIA	UNITED KINGDOM
IRAN (ISLAMIC REPUBLIC OF)	UNITED REPUBLIC OF
ITALY	TANZANIA
JAPAN	UNITED STATES
LATVIA	VENEZUELA
LIBERIA	

and the following Associate Member of IMO:

HONG KONG, CHINA

3 The session was also attended by observers from the following intergovernmental organization:

EUROPEAN COMMISSION (EC)

and by observers from the following non-governmental organizations in consultative status:

INTERNATIONAL CHAMBER OF SHIPPING (ICS)  
INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS (ICFTU)  
INTERNATIONAL ASSOCIATION OF DRILLING CONTRACTORS (IADC)  
INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS (IFSMA)  
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS  
(INTERTANKO)

### **Terms of reference for the Joint working group**

4 The Joint MSC/MEPC/TCC Working Group on the Voluntary IMO Model Audit Scheme, taking into account documents C 88/13/2, C 88/13/3, C 88/13/4, C 88/D, C 89/13/Add.1, C 89/13/1, C 89/13/2, C 89/13/3, C 89/D, MEPC 48/10/5, MEPC 48/10/6, MEPC 48/10/7, MEPC 48/21 (paragraphs 10.4.1 to 10.4.14), TC 52/2, TC 52/2/2, TC 52/2/3, TC 52/14 (paragraphs 2.2 to 2.17), MSC 76/9/1 and Add.1, MSC 76/9/3, MSC 76/9/5, MSC 76/9/6, MSC 76/9/7, MSC 76/9/8 (paragraphs 20 to 25) and MSC 76/23 (paragraphs 9.16 to 9.25), and those substantive issues relating to the development, operation, management, administration and financing of the scheme listed in annex 1 to document C 89/WP.1/Rev.1, and any other relevant and substantive issues which may be identified by the group, should:

- .1 using document C 88/13/2, as a basis on which to build, develop for the voluntary IMO Model Audit Scheme:
  - .1.1 clear objectives; and
  - .1.2 clear principles;
- .2 develop, as appropriate, a work plan to address the substantive issues raised, including technical co-operation activities, capacity-building and financing for the achievement of the objectives of the scheme;
- .3 based on the objectives and principles developed, identify:
  - .3.1 those areas/sectors of the competent authority of a Member State which should be audited and which would provide an objective appraisal of it, taking into account that different Member States may have different ways of discharging their responsibilities; and
  - .3.2 those IMO instruments containing safety, security and environmentally-critical responsibilities and obligations of a Party thereto which could be audited for the attainment of the objectives of the scheme;
- .4 develop, as far as practicable, a framework document of the scheme taking into account the outcome on issues referred to in paragraphs .1 to .3 above; and
- .5 prepare a report of the Joint Working Group for the Committees and the ninetieth session of Council or the twenty-second extraordinary session of the Council, as appropriate, including pertinent recommendations to bring the scheme into operation.

## **General consideration of the Voluntary IMO Model Audit Scheme**

5 Based on an analysis provided by the Chairman, the group considered which of the documents listed in its terms of reference and those submitted to MSC 77 were still relevant for its consideration and concluded that a number of documents had been superseded, redundant or the contents had been included in subsequent documents. In this regard, the group agreed that documents C 88/13/3, C 89/13/Add.1, C 89/13/3, TC 52/2, TC 52/2/3, MSC 76/9/3, MSC 76/9/5, MSC 76/9/6, MSC 76/9/7, MSC 77/7, MSC 77/7/1, MSC 77/7/2, MSC 77/7/3, MSC 77/7/4, MSC 77/INF.4 and MSC 77/INF.18 were relevant and that documents MSC 77/7/1 and MSC 77/7/2 would serve as the basis for its work, recognizing that document MSC 77/7/2 reflected fully the contents of document C 88/13/2, the basis on which C 88 approved, in principle, the concept for such a scheme to be implemented on a voluntary basis, and C 89 had instructed the group to use that document as the basis for its work.

6 As instructed by plenary, and with reference to MSC 77/7/4 (Spain), the group noted but did not discuss the possibility of a mandatory audit scheme, as this was outside its terms of reference. The matter was deemed to be one for the Council itself to determine.

7 The group discussed the organization of its work and agreed that a draft Assembly resolution, to endorse the decision of the Council on the scheme, should be developed for consideration by the Council, with a view to its adoption by the twenty-third session of the Assembly (see paragraphs 49 and 50).

8 With regard to the work of the FSI Sub-Committee and the development of the Code for the implementation of [mandatory] IMO instruments, a number of delegations were of the view that the development of the scheme and the Code should be linked, including the timeframe for their development, and that the scope of the scheme should be consistent with the Code. Other delegations, whilst recognizing that the Code would be based on the mandatory IMO instruments, did not share the view that the scheme and the Code should be intricately linked in such a way that the work on the Code would impinge on the development of the scheme.

9 After a considerable debate and recalling the decision of MSC 77 that the scheme and the Code should be compatible, the group acknowledged that the scheme would contain references to the Code, as appropriate; that the framework of the scheme would be developed in such a way that, if the Code did not materialize, the scheme would remain independent and viable; and that a detailed document containing auditable obligations and responsibilities would need to be developed as a separate document or that the Code could be developed in such a manner to serve this purpose as well. The delegation of Panama informed the group that it was totally confident that the Code would progress through FSI on the currently envisaged timetable.

10 The group gave preliminary consideration to the capacity-building aspect of the scheme and recognized that it would be an essential component for bringing the scheme into fruition. In this context, the group recognized that each Member State will have different levels of development, resources and maritime interest and activities, which should be taken into account in the development of the scheme. The group agreed to give further and specific consideration to the aspects of capacity-building and technical assistance during its work (see paragraphs 30 to 38).

## **Objectives of the scheme**

11 In its consideration of the objectives, the group recognized that the enactment of appropriate legislation, its implementation and enforcement were the three key issues on which a Member State's performance could be measured with respect to its treaty obligations and proceeded to develop an over-arching aim and ten supporting objectives of the scheme, which included compliance with the Code for the implementation of [mandatory] IMO instruments; enactment, administration and enforcement of laws and regulations; delegation of authority; control and monitoring of the execution of statutory responsibilities; discharging of other obligations and responsibilities by a Member State; capacity-building and technical assistance; and the provision of appropriate feedback to the audited Member State, the Organization's membership at large and into the work of the Organization (see section 4 of annex 1).

## **Principles of the scheme**

12 The group considered a range of principles including those established by ICAO and document MSC 77/7/3 (Spain) proposing that audit reports should not be anonymous and should be made public.

13 Whilst there was some support for the proposal of Spain, most of the delegations that spoke were of the view that the anonymity of the audited State should be retained as it was not only one of the key principles of the original proposal, but to remove it from the scheme could make it less likely for countries to submit to audits. In addition, those delegations expressed the view that, depending on the actual content of the audit summary report, the Member State to which a particular audit summary report related could be determined based on its maritime interest and activities, i.e. size of fleet, coastline, enforcement action, etc. This should be borne in mind when developing the format of the (to be published) audit summary report.

14 The group agreed that sovereignty and universality; consistency, fairness, objectivity and timeliness; transparency and disclosure; quality and inclusiveness; and continual improvement should be the principles of the scheme. The group further elaborated detailed text to fully express the philosophy of each grouping of the key elements of the principles (see section 5 of annex 1).

## **Scope of the audit**

15 The group considered the scope of the audit and agreed that the areas/sectors of the competent authority of a Member State which should be audited would be either included under the scope or would naturally be determined by the scope. It decided that the scope should be comprised of sections on IMO instruments; obligations and responsibilities of a Member State; and areas to be covered by the scheme (see section 6 of annex 1).

## ***IMO instruments***

16 The group considered the proposal of Spain (MSC 77/7/3) for the exclusion of UNCLOS and 1978 STCW Convention, as amended, from the scheme. With regard to the exclusion of UNCLOS, a number of delegations agreed with the proposal of Spain that UNCLOS was not an IMO instrument and its inclusion would be inconsistent with the terms of reference of the group. Furthermore, a number of delegations were of the opinion that UNCLOS was an umbrella convention whose provisions were implemented through other treaties developed by competent international organizations. A number of delegations supported the inclusion of UNCLOS on the list of

instruments to be covered by the audit. They cited the recommendations of MSC 76 on the safety- and security-related instruments to be included in the scheme and that UNCLOS contained obligations and responsibilities of flag, coastal and port States respectively, which should be audited.

17 After an extensive debate, the group agreed to make a generic reference to UNCLOS in the lead in paragraph under the scope to acknowledge it as an umbrella convention, but noting further that its appropriate provisions are implemented through specific IMO instruments.

18 With regard to the possible exclusion of the 1978 STCW Convention, as amended, from the scheme, the group recognized that elements of this Convention were already subjected to some degree of audit. However, in agreeing to the inclusion of this Convention in the scheme, the group recommended that the scheme should not seek to duplicate the existing mandatory audit requirements contained in that Convention and that only those aspects of that Convention which are not covered by audits in accordance with the applicable provision of that Convention should fall fully within the scope of the scheme as well as verification (only) of those parts of that Convention which had been previously evaluated.

19 The group considered the implications of subjecting SOLAS chapter XI-2 on Measures to enhance maritime security and the ISPS Code to audits under the scheme and was of the opinion that it was premature to do so given that the entry into force date of the aforementioned instruments would be July 2004. Furthermore, the group was of the view that there may well be certain sensitivities in security considerations which should be further discussed and analysed. Based on the foregoing, the group recommended that SOLAS chapter XI-2 and the ISPS Code should not be considered as being within the scope of the scheme at this time.

20 The group debated at length as to which IMO conventions and codes should be included in the scope of the scheme. Some delegations were in favour of an exhaustive list and provided arguments for the inclusion of all or most of the instruments. Other delegations were in favour of a restricted list which would provide the minimum basis for establishing the level of conformance of Member States to their safety, security (excluding SOLAS chapter XI-2 and the ISPS Code for the time being) and environmental protection obligations and responsibilities.

21 The group recommended that the issue of the inclusion of other IMO conventions should be further debated and reviewed in the future, including an optional list of additional IMO instruments, to ensure that other potentially critical areas of obligations and responsibilities of Member States are identified and included within the scope of the scheme, with a view to enhancing further the performance of all Member States as Parties to the applicable IMO instruments.

22 Recognizing that while the matter of audit under other conventions and codes should be kept under review and bearing in mind the need to identify those conventions containing critical maritime safety and security and environmental obligations and responsibilities, the group recommended that SOLAS 74, as amended and as modified by its 1978 Protocol and its 1988 Protocol; MARPOL 73/78 as modified by its 1978 Protocol; STCW 78 as amended, LL 66 as modified by its 1988 Protocol; Tonnage 69; and COLREG 72 as amended, should be included in the scope to initiate the scheme.

23 With regard to the mandatory codes referenced in the IMO instruments recommended for inclusion in the scheme, the group recognized that they were an integral part of the instruments concerned and as such would be subjected to audits as appropriate. The group noted that special consideration may need to be given to the IMDG Code due to the special circumstances under which amendments thereto would be brought into effect.

### ***Obligations and responsibilities***

24 The group considered the obligations and responsibilities that should form the core structure of the scope and concluded that they should be those contained in the applicable IMO instruments and those on which a Member State is required to act in the capacity as flag, port and/or coastal State. The group agreed that the obligations and responsibilities should be auditable in accordance with the Code for the implementation of [mandatory] IMO instruments to be developed by the Organization.

### ***Areas to be covered by the scheme***

25 The group considered a range of administrative, legal and technical areas to be covered by the scheme and agreed that jurisdiction; organization and authority; implementation (legislation, rules and regulations); promulgation of IMO instruments, rules and regulations; enforcement; control, survey, inspection, audit, verification, approval and certification functions; selection, recognition, authorization, empowerment and monitoring of recognized organizations, as appropriate, and of nominated surveyors; investigations; and reporting to IMO, other organizations and other Administrations, should be covered.

### **Responsibilities**

26 The group considered the organization and management of the scheme and the role of the IMO Secretariat in this process. In this regard, a number of suggestions were made on the process of managing the scheme, the appointment of auditors, the qualifications criteria and the maintenance of audit records.

27 The group noted the suggestion for an approval process of the list of qualified auditors similar to the process used for the list of competent persons maintained by the Secretary-General as required by the 1978 STCW Convention, as amended, and recognized that this process may not be feasible considering the cross competencies of more than one Committee in respect of the IMO instruments involved. The group agreed that a detailed qualification criteria for auditors would be useful to assist in their selection, including qualification to the appropriate ISO standards for auditors.

28 With regard to who should manage and implement the scheme, the group recommended that the Secretary-General of the IMO should assume the responsibilities for the management and implementation of the scheme; appointment of auditors in consultation with the Member State to be audited; the establishment of audit teams; ensuring auditors are appropriately qualified and trained; concluding an MoU on the audit mandate with the Member State to be audited; planning audits within an overall IMO timetable; distribution of anonymized audit summary reports; and maintaining, in confidence, appropriate documentation derived from audits of Member States (see also section 10 and section 7 of annex 1).

29 Regarding the Member State responsibilities vis-à-vis the audit process, the group recommended that a Member State volunteering for an audit should fully facilitate the audit in accordance with the MoU, including agreeing to the audit team leader and total membership of the audit team with the Secretary-General.



30 The group also considered the responsibilities of the audit team leader and that of the Members State volunteering for audit. In this context, the group recommended that the audit team leader should be responsible for, *inter alia*, the detailed audit plan; the conduct of audit interviews and meetings in accordance with established procedures; the preparation and finalization of audit reports; and follow-up verification in cases where assistance have been requested of the IMO based on the outcome of an audit.

### **Procedures for Member State audit**

31 Using annex 3 to document MSC 77/7/1 (Denmark), the group gave preliminary consideration to the draft procedures for the conduct of audits and whilst recognizing that further work would be necessary before the procedures are finalized, the group debated at length the issue of the language to be used for the conduct of the audit; the language of documentation to be provided by the Member State to the audit team, in particular, national legislation; and the reports of the audit.

32 In this context, the group noted the possibility, where practicable, of the audit proceeding in the national language of the Member State or else in one of the official languages of the IMO, i.e. Arabic, Chinese, English, French, Russian or Spanish. The audit reports shall be in one of the three working languages of the IMO, i.e. English, French and Spanish.

33 With regard to the language of documentation, the group recognized that whilst it would be useful for such documentation or summary thereof to be provided in one of the working languages of the IMO, it was not feasible nor practical to require a Member State to translate its national laws and procedures into another language. Therefore, the group decided to leave this aspect open for discussion between the Member State and the audit team leader, recognizing that the audit team would include, where possible, at least one auditor who is familiar with the national language of the Member State to be audited.

### **Capacity-building and technical co-operation of the scheme**

34 In discussing the need for capacity-building of some Member States, the group was unanimous in its view that this would be essential for the success of the scheme. Capacity-building was, in this context, considered to include an adequate supply of appropriately trained people (with maritime and auditing skills), along with appropriate hardware and software systems. As a second order of priority, some delegations also suggested the need for infrastructure building, defined as including workspace, utilities and communications equipment relevant to a Member State meeting its obligations and responsibilities under the applicable treaty to which it is a Party (see section 8 of annex 1).

35 The group had seen technical assistance (capacity/infrastructure building) to be potentially required in order:

- .1 to prepare for an audit;
- .2 to assist Member States to have available trained personnel able to engage actively in the audit process;
- .3 to implement the findings of an audit; and
- .4 to identify obstacles to completing an audit.

36 Subsequently, the group identified the following practical measures as potentially contributing to capacity/infrastructure-building, where necessary.

- .1 the need to specify in greater detail the requirements of the audit beyond the current framework document (e.g., comprehensive checklists/protocols, the MoU, etc.);
- .2 the benefits of inter-Member State partnerships, monitoring, training and exchange visits;
- .3 encouraging observers who would most likely be experts (or to be trained as experts) in auditing from a Member State to attend an audit of another Member State in an observer capacity;
- .4 relevant educational institutions such as WMU, IMLI and IMA should be invited to develop audit training courses based on the composite document of the scheme for delivery, *inter alia*, as part of their existing curriculum, through other maritime institutions and regional seminars;
- .5 IMO Secretary-General should seek to build the Organization's internal capacity in audit analysis and monitoring, and to provide guidance and assistance to Member States as may be required;
- .6 IMO should seek to ensure a sufficient number of appropriately trained and approved auditors across its membership. This should extend to Member State developing an internal audit capability;
- .7 technical assistance may be appropriate for certain Member States in preparing for the audit;
- .8 IMO Secretary-General, where requested, should seek to offer an informal "pre-audit", wherein specific resource shortfalls in a Member State might be identified, in order to strengthen the case for capacity-building;
- .9 request for audit should not be a pre-requisite for technical assistance; and
- .10 the audit report should be written with a view to assisting in influencing the government concerned to support any identified improvement within its own government for enhancing its performance (e.g., fast tracking legislative change, increased human, financial and technical resources).

37 The group noted that several of the foregoing measures are matters which can and should be pursued prior to the actual audit being undertaken.

38 The delegation of Cyprus expressed the view that, as far as paragraph 36.5 on the issue of building the capacity of the IMO Secretariat, this was an issue to be considered by the Council and eventually the Assembly, who are the competent bodies to decide whether the Secretariat should have any involvement with the voluntary audit scheme and if so, the extent of the involvement of the Secretariat.

## Funding

39 The group considered the issue of funding associated with the audit scheme and recognized that there were several elements to any possible funding requirements for the scheme. In this context, the following elements of funding were identified:

- .1 development cost for the scheme:
  - .1.1 training manuals/model training courses; and
  - .1.2 training programmes (internal and external auditors);
- .2 administrative and operational cost to implement the scheme:
  - .2.1 the role of IMO Secretariat; and
  - .2.2 auditing cost (i.e. travel, DSA, fees, etc.);
- .3 capacity-building:
  - .3.1 specific pre-audit technical assistance request;
  - .3.2 technical assistance for corrective measures to enhance further a Member State's performance based on audit reports; and
  - .3.3 elements referred to in sub-paragraph .1 above.

40 During the ensuing debate, the group recognized that it was premature to consider detailed cost estimates and possible sources of funding as the full impact of the scheme has not yet been analysed. However, work on assessing and specifying the various costs of the scheme should be considered a priority for further study. A number of suggestions were made as to possible sources of funding which included, *inter alia*, the establishment of a special fund, the Organization's TC Fund and the Integrated Technical Co-operation Programme (ITCP) with respect to costs related to capacity-building; cost-sharing with the Member State to be audited and possible grouping of countries (regional or otherwise) to provide cost effective audits; donor countries; UN programmes; international and regional organizations; and, at a later stage, integration into the regular IMO budget.

41 Regarding the Organization's TC Fund and ITCP, the Director of the Technical Co-operation Division informed the group of the possible impact on the conduct of audits if the process relied primarily on the TC Fund for the conduct of audits of developing countries. He further advised that the TC Fund may not be the most appropriate source for financing, and that the group should explore all possible sources of funding for all the elements of the audit process, given the limitation of the TC Fund and other priorities identified by developing countries. He pointed out that traditional official assistance e.g. donor countries and organizations may be more attracted to post-audit capacity-building activities rather than being asked to finance the actual audit process.

42 The group noted that the Technical Co-operation Committee would meet from 11 to 12 June 2003 and invited that Committee, when considering the ITCP for the biennium 2004-2005, to

consider providing some latitude in the ITCP Programmes to cater for the development work identified by the group in paragraph 39.1 above as it relates to capacity-building.

### **Substantive issues for the further development of the scheme**

43 The group reviewed those areas of further work which will be necessary to complete the audit scheme documentation. These included the following key elements for development and approval of:

- .1 completion of the “Procedures for Member State Audits” which is set out in annex 2;
- .2 an appropriate audit standard;
- .3 a Memorandum of Understanding document to be signed between the IMO Secretary-General and the Member State, which should also include a disputes procedure;
- .4 checklists/protocols for the conduct of the audit; and
- .5 a flowchart with timelines for the conduct of an audit.

44 The aforementioned elements will become further annexes to the “Framework for Member State Audits” and the “Procedures for Member State Audits” to form a composite document (audit manual) for the scheme.

45 In this context, the group invited the Council to note the progress made on the development of the scheme, in particular, the draft Framework for Member State Audits which is set out at annex 1 and the Procedures for Member State Audits which is set out at annex 2.

### **Workplan for the development of the scheme**

46 The group discussed this matter, mindful both of the need for further work, largely of a technical nature as described above, and the timeframe of the work of the FSI Sub-Committee on the Code for the implementation of IMO [mandatory] instruments.

47 In this context, the group agreed that optimum progress would be made by means of establishing a correspondence group which should report, subject to the Council’s approval, to a Joint MSC/MEPC/TCC Working Group, and which would ultimately present the final scheme to Council (June 2005) for its approval and for adoption by the twenty-fourth session of the Assembly, with a view to immediate implementation thereafter. This period of time is necessary to await development of the work of the FSI Sub-Committee; to progress the group’s own work further; to offer the useful benefit for a willing number of Member States to volunteer for audits under a “pilot” scheme, once the documentation of the scheme and other relevant matters, including the appointment of auditors by the IMO Secretary-General has taken place.

48 A possible timescale for this workplan would be approximately mid-2005 (the time of C92), allowing for the finalization of the scheme, with the exception of the Code is shown below. Proposed terms of reference for the correspondence group’s work for 2003 to 2005 is set out at annex 3.

<b>Date</b>	<b>Item</b>	<b>Action/Proposal</b>
June 2003	Working group report to Council	Consider and instruct the group accordingly
July 2003 to June 2004 (latest)	Correspondence group	Resolve outstanding substantive issues except the draft Code for the implementation of [mandatory] IMO instruments
Before June 2004	Working group reconvenes	Consider work of Correspondence Group
June 2004	Working group report to Council	Consider and instruct the group accordingly
July 2004 up to June 2005 (latest)	Pilot audit programme	To gain experience on the implementation of scheme and report back to the working group
March 2005 up to June 2005 (latest)	Correspondence group	Modify scheme in line with outcome of draft Code for the implementation of [mandatory] IMO instruments and the outcome of the pilot programme
Before June 2005	Working group reconvened	Consider work of the correspondence group
June 2005	Working group report to Council	Consider the group final report on scheme
November 2005	Twenty-fourth session of the Assembly	Adoption of scheme

### **Draft Assembly resolution on the scheme**

49 Recalling its earlier decision for the development of a draft Assembly resolution to endorse the decisions of the Council relating to the Voluntary IMO Model Audit Scheme, the group considered a draft Assembly resolution tabled by the Chairman (see also paragraph 7).

50 The group agreed to the draft Assembly resolution on the Voluntary IMO Model Audit Scheme, which is set out at annex 4, and invited the Council to consider and approve the draft resolution for submission to the twenty-third session of the Assembly for adoption.

### **Action requested of the Council**

51 The Council is invited, taking into account the recommendations of the MSC, MEPC and TCC respectively to:

- .1 note the general discussion on the scheme (paragraphs 5 to 10);
- .2 consider and take action as appropriate on:
  - 2.1 the objectives of the scheme (paragraph 11);

- 2.2 the principles of the scheme (paragraphs 12 to 14); and
- 2.3 the scope of the audit (paragraphs 15 to 25);
- .3 endorse the safety- and security-related areas for the scheme, taking into account the decisions and recommendations of MSC 77 on the matter (paragraphs 22, 6.2 of annex as appropriate and paragraph 7.15 of annex 2 and MSC 77/26;
- .4 endorse the environmentally-critical areas for the scheme, taking into account the decisions and recommendations of MEPC 49 on the matter (paragraph 6.8 and 6.2 of annex 1);
- .5 endorse the capacity-building, technical co-operation and overall funding aspect of the scheme, taking into account the decisions and recommendations of TCC 53 on the matter (paragraphs 30 to 38 and 39 to 42 and 8 of annex 1);
- .6 to consider and take action as appropriate on:
  - .6.1 the Framework for Member State audits (paragraph 45 and annex 1);
  - .6.2 the Procedures for Member State audits (paragraph 45 and annex 2);
  - .6.3 the substantive issues for the development of the scheme (paragraphs 43 and 44);
  - .6.4 the workplan for the development of the scheme, in particular, the establishment of the correspondence group and the convening of the Joint MSC/MEPC/TCC Working Group before June 2004 and June 2005, respectively (paragraphs 46 to 48);
  - .6.5 the proposed draft Assembly resolution on the Voluntary IMO Model Audit Scheme (paragraphs 49 and 50); and
- .7 approve the report in general.

## ANNEX 1

### DRAFT FRAMEWORK FOR MEMBER STATE AUDITS

#### 1 PURPOSE

1.1 The purpose of this Framework is to describe the objectives, principles, scope, responsibilities and the capacity-building aspect for Member State audits, which together constitute the strategy for the audit scheme.

1.2 The Framework is supported by the “Procedures for Member State Audits” (to include all the other annexes to be developed), [and the Code for the implementation of [mandatory] IMO instruments] to be developed by the Organization.

#### 2 APPLICATION

2.1 This Framework will apply to all those involved in Member State auditing.

#### 3 AUDIT STANDARD

3.1 The audit shall be conducted in line with the Standard (to be developed).

#### 4 OBJECTIVES

4.1 The aim of the audit scheme is to determine to what extent Member States are implementing and enforcing the applicable IMO instruments, so as to enhance further their performance. In order to achieve this, the following objectives are to be considered:

- .1 compliance with the Code for the implementation of [mandatory] IMO instruments to be developed by the Organization;
- .2 conformance of the Member State in enacting legislation, as appropriate, for the applicable IMO instruments relating to maritime safety, security and prevention of pollution to which it is a Party;
- .3 the administration and enforcement of the applicable laws and regulations of the Member State;
- .4 the delegation of authority by a Member State in terms of the implementation of conventions requirements related to safety, security and environmental protection;
- .5 the control and monitoring mechanism of the Member State’s survey and certification process and of its recognized organization(s), as appropriate;
- .6 the extent to which the Member State discharges any other obligations and responsibilities under the applicable IMO instruments;
- .7 to foster capacity-building [including, *inter alia*, infrastructure building] and the provision of related technical assistance;

- .8 to provide the Member State with feedback intended to assist in improving its capacity to implement the applicable instruments;
- .9 to provide all Member States with feedback on generic lessons learnt from audits of Member States, so that the benefits can be widely shared, while taking care to preserve the anonymity of the audited Member State; and
- .10 systematically feedback any lessons learnt from the audits, as may be appropriate, into further consideration by the Organization of the effectiveness of its legislation.

## **5 PRINCIPLES**

### **5.1 Sovereignty and universality**

5.1.1 Audits should be carried out on a voluntary basis, at the request of the Member State to be audited, and in accordance with established procedures. Nevertheless, the benefits of the scheme would be greater if all Member States of the Organization volunteered themselves to be audited. Audits should therefore be organized and conducted in such a way as to encourage Member States to submit to audit.

### **5.2 Consistency, fairness, objectivity and timeliness**

5.2.1 Audits should be pragmatic, fair and carried out in accordance with an agreed timeframe. Recognizing and appreciating that different Member States may have different ways of discharging their responsibilities, audits should be conducted by appropriately trained and qualified auditors, and in a consistent and objective manner. Standardization and uniformity in the quality of audits must be ensured.

### **5.3 Transparency and disclosure**

5.3.1 Audit reports should be confidential and available only to the audited Member State (although that should not preclude the possibility that an audited Member State might itself wish to make available details of the findings and of its own subsequent actions). After consultation with the audited Member State, an anonymized audit summary report should be given to, and circulated by, the Organization in a standardised format for information to all Member States on a periodical basis, so that the benefit of any generic lessons can be learned.

### **5.4 Quality and inclusiveness**

5.4.1 Audits should be conducted in a manner such that the Member State being audited can contribute to the audit process within an established time frame.

### **5.5 Continual improvement**

5.5.1 Audits should lead to continual improvement of the implementation and enforcement of the applicable IMO instruments by the Member State. In this regard, the Member State should carry out appropriate and agreed follow-up activities.



## **6 SCOPE**

### **6.1 General**

6.1.1 The effective implementation and enforcement of IMO treaties' obligations and responsibilities are reinforced by the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which is acknowledged as an "umbrella convention" because most of its provisions, being of a general nature, can be implemented only through specific operative regulations in other international agreements, which in this case are the IMO instruments.

### **6.2 IMO instruments**

6.2.1 Recognizing the foregoing, the IMO instruments which should be covered by audits to determine how the relevant obligations and responsibilities relating to maritime safety and security and protection of the environment are carried out by Member States, with a view to enhancing further their performance, are as follows:

- .1 the International Convention for the Safety of Life at Sea (SOLAS 74), as amended;
- .2 the International Convention for the Safety of Life at Sea (SOLAS 74), as amended, and as modified by its 1978 Protocol;
- .3 the International Convention for the Safety of Life at Sea (SOLAS 74), as amended, and as modified by its 1988 Protocol;
- .4 the International Convention for the Prevention of Pollution from Ships, 1973, as modified by its 1978 Protocol (MARPOL 73/78);
- .5 the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended;
- .6 the International Convention on Load Lines, 1966 (LL 66);
- .7 the International Convention on Load Lines, 1966 (LL 66), as modified by its 1988 Protocol;
- .8 the International Convention on Tonnage Measurement of Ships, 1969 (Tonnage 69); and
- .9 the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 72), as amended.

### **6.3 Obligations and responsibilities**

6.3.1 The scheme should cover those obligations and responsibilities contained in the applicable IMO instruments to which a Member State is a Party and under which a Member State is required to act in the capacity as a flag State, port State and/or coastal State.

[6.3.2 The obligations and responsibilities should be such that measures related to maritime safety and security and protection of the environment which are undertaken by the Member State can be

audited, [taking also into account] [consistent with]\* the Code for the Implementation of [mandatory] IMO Instruments to be developed by the Organization.]

#### **6.4 Areas to be covered by the scheme**

6.4.1 The scheme would focus on the Member State's implementation and enforcement of applicable IMO instruments in its legislation; effective control and monitoring mechanism; effectiveness in promulgating IMO rules and regulations; enforcement action for the contravention of its laws and regulations; and other obligations and responsibilities under the applicable instruments.

6.4.2 The administrative, legal and technical areas which should provide the minimum scope for an audit are:

- .1 jurisdiction;
- .2 organization and authority;
- .3 implementation (legislation, rules and regulations);
- .4 promulgation of IMO instruments, rules and regulations;
- .5 enforcement;
- .6 control, survey, inspection, audit, verification, approval and certification functions;
- .7 selection, recognition, authorization, empowerment and monitoring of recognized organizations, as appropriate, and of nominated surveyors;
- .8 investigations; and
- .9 reporting to IMO, other Administrations and organizations.

6.4.3 In those instances where work to give effect to the Member State's responsibilities is divided between different organizations or offices, or delegated to others, audits should address whether the respective tasks are clearly defined and should be conducted on a technical basis with whomever or entity has been assigned those tasks.

### **7 RESPONSIBILITIES**

7.1 The Secretary-General is responsible for:

- .1 the implementation of the audit scheme;
- .2 formal appointment and maintenance of an appropriate list of lead auditors and [auditors];

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\* Refer to resolution A.911(22) – Uniform wording for referencing IMO instruments  
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- .3 establishing each audit team for Member State audit;
- .4 ensuring that lead auditors and [auditors] have the competencies as they are defined in paragraphs 4.5 to 4.7 of the Procedures for Member State Audits;
- .5 defining and ensuring appropriate standards of training of audit team members to ensure consistency;
- .6 concluding an MoU with the Member State to be audited prior to the audit;
- .7 ensuring that the audits are planned in accordance with the overall IMO audit timetable based on Member States that volunteer to be audited;
- .8 ensuring that the Member State to be audited is offered the opportunity of receiving a visit by the audit team leader 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 understanding and co-operation between the audit team and the Member State to be audited;
- .9 for maintaining appropriate records of the findings of the actual audits of Member States; and
- .10 maintenance of the scheme for all other practical purposes.

7.2 The Member State is responsible for:

- .1 fully facilitating the audit, in accordance with the agreed MoU; and
- .2 agreeing with the IMO Secretary-General, the person who shall be the audit team leader and the total membership of the audit team.

7.3 The audit team leader is responsible for:

- .1 the detailed planning of the actual audit;
- .2 performing the audit interviews and meetings, etc. in accordance with the "Procedures for Member State Audits";
- .3 preparing and completing the audit reports (interim and final);
- .4 reporting details of any non-conformities found to the audited Member State;
- .5 preparing and agreeing with the Member State on the audit summary report to be submitted to the Secretary-General;
- .6 assisting in the verification of corrective actions recommended to the Member State when this leads to requests for assistance from the IMO; and
- .7 conducting the follow-up audit, as appropriate.

## **8 CAPACITY-BUILDING**

8.1 In order to obtain the full benefits of the scheme, capacity-building is essential, particularly addressing human and financial resources. In some cases Member States should be given adequate resources and opportunity to prepare and volunteer for the audit.

8.2 Capacity-building includes an adequate supply of suitably trained personnel, with maritime and audit skills, along with the required hardware and software systems. The need for infrastructure facilities defined as including workspace, utilities and communication systems relevant to meeting initially the needs of the audit and ultimately the aims of the scheme are also to be taken into account.

8.3 Technical assistance will become part of the process with a view to facilitating:

- .1 the preparation of the audit;
- .2 the identification of obstacles to completing the audit;
- .3 the training of auditors and their counterparts to be engaged in the auditing process;  
and
- .4 the effective implementation of the findings of the audit.

8.4 Technical assistance between Member States may, *inter alia*, take the form of:

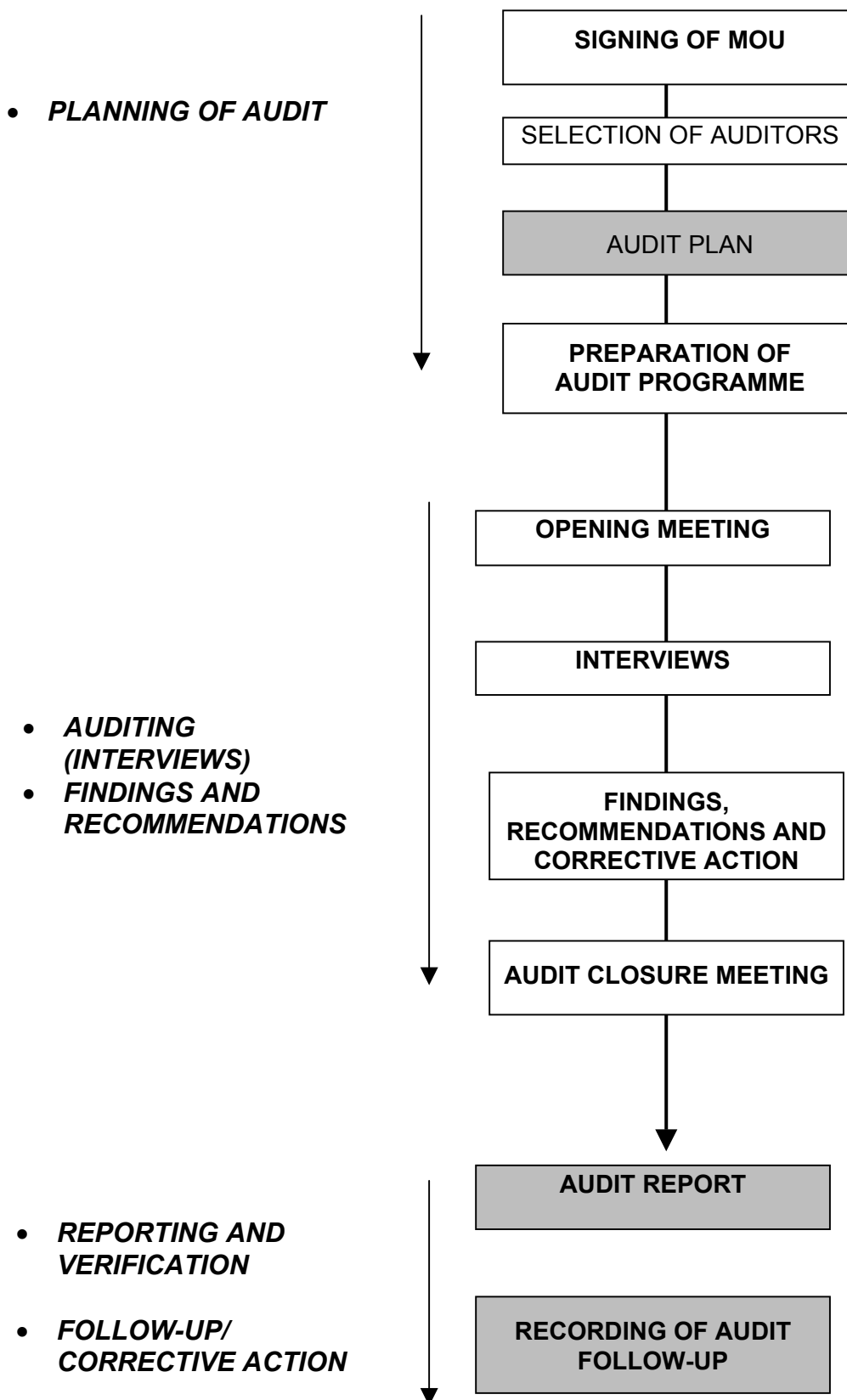
- .1 training;
- .2 exchange programmes;
- .3 provision of experts; and
- .4 participation of observers during the conduct of audits.

8.5 Account should also be taken of the need to ensure the participation of maritime experts from developing countries in the audit process. Arrangements should be provided for the training of internal auditors, who may eventually become part of audit teams.

## **9 THE AUDIT PROCESS**

9.1 The audit process is illustrated in the diagram given in the appendix.

APPENDIX  
AUDIT PROCESS (“PLAN-DO-CHECK-ACT”)



ANNEX 2

DRAFT PROCEDURES FOR MEMBER STATE AUDITS

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## PROCEDURES FOR ~~MARITIME STATE~~ MEMBER STATE AUDITS

### 1 PURPOSE

1.1 The purpose of this document is to describe the procedures for ~~maritime State~~ Member State audits including, but not limited to: preparation; the actual audit; and reporting requirements.

### 2 APPLICATION

2.1 The present procedures apply to all those involved in ~~maritime State~~ Member State audits.

### 3 DEFINITIONS

3.1 "Audit" ~~A~~ systematic, independent and documented *process* for obtaining *audit evidence* and evaluating it objectively to determine the extent to which *audit criteria* are fulfilled (*ISO 9000:2000*).

3.2 "Audit criteria" ~~A~~ set of policies, *procedures* or *requirements* used as a reference (*ISO 9000:2000*).

3.3 "Audit evidence" *Records*, statements of fact or other *information* that is relevant to the *audit criteria* and verifiable (*ISO 9000:2000*).

3.4 "Conformity" Fulfillment of a *requirement* (*ISO 9000:2000*).

3.5 "Corrective action" Action to eliminate the cause of a detected *non-conformity* or other undesirable situation (*ISO 9000:2000*).

3.6 "Document" *Information* and its supporting medium (*ISO 9000:2000*).

3.7 "Findings" A non-fulfillment of objectives or *requirements* defined by the ~~flag~~ State that goes beyond what should be subject to mandatory requirements (*IACS Guidelines on ISM*).

3.8 "Information" Meaningful data (*ISO 9000:2000*).

3.9 "Non-conformity" An observed situation where *objective evidence* indicates the non-fulfillment of a specified *requirement* (*ISM Code, as amended*).

3.10 "Observation" Statements on facts made during an audit and substantiated by objective evidence (*ISM Code, as amended*).

3.11 "Objective evidence" Quantitative or qualitative *information, records* or statements of fact, which is based on *observation*, measurement or test and which can be verified (*ISM Code, as amended*).

3.12 "Preventive action" ~~A~~ction to eliminate the cause of a potential *non-conformity* or other undesirable potential situation (*ISO 9000:2000*).

3.13 "Procedure" ~~A~~ specified way to carry out an activity or a *process* (ISO 9000:2000).

3.14 "Process" ~~A~~ set of interrelated or interacting activities that transform inputs into outputs (ISO 9000:2000).

3.15 "Records" *Documents* stating results achieved or providing evidence of activities performed (ISO 9000:2000).

3.16 "Requirements" ~~A~~ need or expectation that is stated, generally implied or obligatory (ISO 9000:2000).

3.17 "Verification" Confirmation, through the provision of *objective evidence*, that specified *requirements* have been fulfilled (ISO 9000:2000).

## 4 PLANNING

### 4.1 Scope of the audit

4.1.1 Audits of a Member State should be planned in accordance with an agreed timetable.

~~4.1.2~~ The scope of the actual audit, [to be carried out against the Maritime State Standard], should be ~~agreed-discussed~~ between the ~~Lead Auditor~~audit team leader and the ~~maritime State~~Member State to be audited and finalized.

~~4.2—Audits of a maritime State should be planned in accordance with an agreed timetable.~~

4.3 Prior to the commencement of an audit, the ~~maritime State~~Member State to be audited should agree to the contents of ~~a the~~ Memorandum of Understanding (MoU) [signed by the IMO Secretary General and the Member State]. A ~~countersigned~~ copy of the MoU signed by the Member State should be returned to [the ~~IMO Secretariat~~Secretary-General]. No audit should be conducted unless a properly signed MoU has been received by [the ~~IMO Secretariat~~Secretary-General].

4.4 The MoU will confirm that the audit will be conducted in accordance with the terms specified in the MoU, [against the Maritime State Standard] and on the basis of the criteria contained in the present Procedures.

### 4.2 Selection of the ~~A~~audit Team

~~4.5—The Audit Team should be selected from a list of competent auditors [from the IMO Member States]. In establishing the Audit Team the following key areas should be considered:~~

~~1— the selection of the Lead Auditor should be based on his/her professional qualifications as an auditor and his/her ability to lead a team of auditors;~~

~~2— the Lead Auditor and other members of the Audit Team should be fully conversant with the "Maritime State Standard";~~



- ~~.3 the Audit Team should consist of members who together have sufficient expertise and experience in the relevant technical, organizational, managerial, legal, etc. fields. In addition, the necessary capability in the chosen IMO language should be present so that at least one member of the Audit Team will have command of the IMO language chosen. When selecting the Audit Team, it should be ensured that these skills are sufficiently present among the team members (see 4.6 for further explanation);~~
- ~~.4 the Audit Team should consist of a sufficient number of auditors to ensure that the audit can be conducted in a satisfactory way within the agreed period. In some situations this should allow the team to be subdivided to conduct parallel audit activities in the maritime State being audited; and~~
- ~~.5 finally it should be assured that all of the members of the Audit Team are fully independent of the maritime State to be audited. This includes that there should be no significantly negative or positive “historical” relations to the maritime State. As far as practicable, the Audit Team should comprise auditors of different nationalities.~~

~~4.6 When selecting the Audit Team, it should be ensured that the auditors have the appropriate personal qualifications in addition to being a qualified auditor. These should include, but not be limited to, the following:~~

4.4.5 Persons to form an Audit Team should be selected following nomination from the IMO Member States. Acceptance should be by the IMO Secretary-General who should verify the competences of the relevant individuals to conduct the audit. The criteria should applied in verification should include:

- .1 audit team leader [or auditors] qualification under pertinent ISO standards;
- .2 knowledge of IMO instruments and maritime administration;
- .3 language capabilities (IMO languages and others); and
- .4 geographical mix and range of nationalities, including developing countries.

4.6 When putting together a team to carry out an individual Member State audit, the IMO Secretary-General should have regard to the need for:

- .1 all teams to aspire to the highest standards of excellence in their task;
- .2 an audit team leader, able to combine high professional qualifications as an auditor, knowledge of the relevant IMO instruments, and an ability to lead/manage;
- .3 the audit team leader to be fully conversant with the [Maritime State Standard];
- .4 necessary capability within the team leader [and/or] other team members to have full command of the IMO language chosen by the Member State and, further, if

practicable, the language of the Member State's legislation and other relevant documentation;

.5 agreement with the Member State with regard to the suitability of the team members being proposed;

.6 the audit team to consist of a number of auditors sufficient to ensure that the audit can be conducted and completed in a satisfactory way, within the agreed period. In some situations, this should allow the team to be subdivided to conduct parallel activities during the course of the audit; and

.7 stressing to all parties that all members of the audit team operate on behalf of IMO and are fully independent of both their own Member State and the Member State being audited. A range of nationalities is also preferred.

4.7 When selecting auditors as individuals, and the audit team in general, care should also extend to ensuring appropriate personal qualities and qualifications. These extend to the following:

- .1 have initiative, judgement, tact, sensitivity and the ability to maintain harmonious working relations when meeting intended or unintended obstacles during the audit, and when working in an environment with cultural differences;
- .2 have proven skills at managerial and/or senior level;
- .3 have demonstrated motivation and the ability to write clearly and concisely;
- .4 have command of one of the six official IMO languages: Arabic, Chinese, English, French, Russian and Spanish;
- .5 have in-depth knowledge of the functions of a maritime administration;
- .6 have adequate knowledge of the IMO regulatory framework; and
- .7 have the ability to use office automation equipment and contemporary computer software.

~~4.7 — Records on auditor experience, education and training should be maintained.~~

## **5 PREPARING FOR THE AUDIT**

5.1 The ~~maritime State~~Member State to be audited should be advised of the names of the audit team members prior to the commencement of the audit.

5.2 The ~~Lead Auditor~~audit team leader is responsible for obtaining the necessary background information about the ~~maritime State~~Member State to be audited. This should include the Pre-Audit Questionnaire as shown in ~~Annex 1~~the appendix as well as the latest Self-Assessment Form from the ~~maritime State~~Member State, if available. If available, the ~~maritime State~~Member State's maritime legislation should be provided in one of the IMO languages, preferable in English, to facilitate better understanding by the Audit Team.

5.3 If the ~~maritime State~~ Member State to be audited has requested an information meeting in accordance with paragraph ~~4.1~~ 7.1.8 of the Framework for the –of the “Guidelines for Maritime State Member State Audits”, the ~~Lead Auditor~~ audit team leader should make the necessary arrangements for such a meeting in consultation with the Member State to be audited.

5.4 If the ~~Lead Auditor~~ audit team leader finds it necessary, he/she may, after consultations with the other members of the Audit Team, include additional questions to the ~~maritime State~~ Member State on an *ad hoc* basis.

5.5 The ~~maritime State~~ Member State should complete and return the pre-audit questionnaire at least [two months] before the commencement of the audit.

5.6 The Audit Team should review the reply to the pre-audit questionnaire as well as any additional information provided by the ~~maritime State~~ Member State, including, but not limited to, information about its management system.

5.7 The ~~Lead Auditor~~ audit team leader should note whether the ~~maritime State~~ Member State has stated in the pre-audit questionnaire that some areas should not be included in the audit.

5.8 Based on the information given by the ~~maritime State~~ Member State in the pre-audit questionnaire and any attached documents, the ~~Lead Auditor~~ audit team leader, assisted by the other members of the Audit Team, should finalize the detailed plan for the audit.

5.9 The Audit Plan should include:

- .1 the location(s) where the audit is (are) to take place;
- .2 the purpose, scope and objectives of the audit as defined in the Framework document;
- .3 the starting and ending dates of the audit;
- .4 names of the participants in the audit – both the auditors and key personnel from the ~~maritime State~~ Member State, including a contact person designated by the ~~maritime State~~ Member State;
- .5 identification of documents necessary to conduct the audit;
- .6 time of the opening meeting;
- .7 a tentative programme of the audit activities;
- .8 travel and administration plans (entry visas, security clearances, health requirements etc.), as well as the travel schedules of Audit Team members;
- .9 the language to be used for the audit, the audit briefing preparation material for team members and the audit mission package;
- .10 assignments and responsibilities of the Audit Team members;

- .11 contents and scope of the Audit Leaders mission report; and
- .12 time of the ~~post-audit~~audit closure meeting.

5.10 Checklists are most important tools when conducting the audit in the specific fields to be audited. When preparing the audit, the ~~Lead Auditor~~audit team leader and the Audit Team should consider whether standard checklists could be used as they are, whether some parts should be left out and/or whether some questions/issues should be added. Changes may be necessary, *inter alia*, if the ~~maritime State~~Member State wishes any areas left out of the audit and/or if the information/or lack of information in the pre-audit questionnaire necessitates changes.

5.11 A ~~letter-communication~~ including relevant parts of the Audit Plan should be sent to the Member State to be audited well ahead of the audit. This allows the ~~maritime State~~Member State to make the necessary arrangements (book the calendars of members of the management and staff involved, book meeting rooms, etc.)

5.12 The ~~Lead Auditor~~audit team leader should brief the other members of the Audit Team ahead of the audit. The purpose of this briefing is to ensure that all members are aware of the results from the pre-audit questionnaire and the audit plan, including who is responsible for conducting the different parts of the audit. The briefing should at least include:

- .1 the purpose and scope of the audit;
- .2 analysis of the pre-audit questionnaire including management system if any; and
- .3 agreeing on roles and responsibilities during the audit, including the final preparations on checklists in specific fields.

## **6 CONDUCTING THE AUDIT:**

### Timeline

6.1 The audit shall proceed on the basis of the flowchart and timeline (to be developed) unless agreed otherwise by mutual consent between the IMO Secretary-General, the audit team leader and the Member State.

### **Code of Conduct for auditors**

~~6.12~~ The overall framework for the Audit Team when conducting the audit should be the objective, strategy and principles as they are described in Part 3 of the “Guidelines for ~~Maritime State~~Member State Audits”.

~~6.23~~ When conducting the audit, the members of the Audit Team should be aware that they must strive to achieve the highest degree of objectivity, confidentiality and be impartial. Correct behavior is important to avoid any impression that they have any positive or negative preferences towards the ~~maritime State~~Member State that is being audited.

6.34 It should be recognized that the final result of the audit – the Audit Report including its findings – is a very sensitive document, as it gives the ~~maritime State~~Member State an indication of how it fulfils its role as a responsible ~~maritime State~~Member State.

~~6.45 It should also be recognized that much will be done by those being audited to give the best impression of their performance to the auditors.~~

6.6 Audits may result in raising the awareness and interest of the local media, employers' organizations, trade unions, etc., some of which may request interviews with the Audit Team. Such interviews should only be conducted with the consent of, and in the presence of, an official of the Member State. Information provided by the Audit Team should be limited to explaining its mandate and objectives.

### Opening meeting

6.57 An opening meeting between the auditors and the representatives of the ~~maritime State~~Member State to be audited should be held in order to confirm the arrangements prior to commencing the on-site audit. The ~~Lead Auditor~~audit team leader can use the opening meeting to present the objective and scope of the audit. The opening meeting is scheduled in advance and included in the audit plan.

6.68 The opening meeting may be jointly chaired by the ~~Lead Auditor~~audit team leader and the senior executive of the audited ~~maritime State~~Member State, who may also wish to provide briefing and information to the Audit Team. The agenda should include at least the following items:

- .1 introduction of the participants (a list of participants should be distributed before the meeting);
- .2 background history about the purpose of the audit;
- .3 review and confirmation of the tentative audit programme, including the objective and scope of the audit;
- .4 a short summary of the methods and procedures to be used to conduct the audit;
- .5 official communication links between the Audit Team and the ~~maritime State~~Member State's officials;
- .6 facilities and administrative arrangements;
- .7 visits to ~~maritime State~~ the Member State's regional offices, maritime schools, etc.;
- .8 time, date and place of the ~~post-audit~~audit closure meeting and any interim meetings of the Audit Team and the ~~maritime State~~Member State's senior management; and
- .9 procedures for documenting audit findings.

- 6.79 The audited ~~maritime State~~ Member State should be prepared to assist the Audit Team by providing:
- .1 working space, preferably with privacy;
  - .2 access to a photocopier and facsimile machine;
  - .3 access to facilities (i.e. building passes);
  - .4 access to electronic communication media such as the Internet and e-mail, if available;
  - .5 access to the files and records of any other relevant entity responsible for maritime regulation; and
  - .6 access to selected personnel for interviews; ~~and~~
  - ~~.7 access to experienced maritime advisors and/or liaison officers.~~

#### **The audit**

- 6.810 Audits should be conducted using checklists based on the [Maritime State Standard] and developed for the specific audit.
- 6.911 A ~~maritime State~~ Member State official from the area under audit may accompany the auditor.
- 6.102 Evidence should be collected through interviewing staff, reviewing documents and observing selected activities of the administration in the ~~maritime State~~ Member State.
- 6.113 When an auditor observes a non-conformity, he or she should discuss it with the responsible ~~maritime State~~ Member State official and record the following details as appropriate:
- .1 details of the observed non-conformity (giving the title, number and issue of any documents involved), where appropriate; and
  - .2 the location where the non-conformity was observed; ~~and~~
  - ~~.3 details of the corrective actions agreed and the date by which they are to be implemented.~~
- 6.124 To assist the ~~maritime State~~ Member State in finding early solutions to any non-conformities identified, the Audit Team may provide information on findings to their ~~maritime State~~ Member State counterparts on a daily basis.
- ~~6.135 If an auditor observes a non-conformity that constitutes a serious failure of the maritime State to comply with the requirements of the Maritime State Standard, it should be reported immediately to the responsible senior executive so that appropriate action can be taken.~~

~~6.146 Audits may result in raising the awareness and interest of the local media, employers' organizations, trade unions, etc., some of which may request interviews with the Audit Team. Such interviews should only be conducted with the consent of, and in the presence of, an official of the maritime State. Information provided by the Audit Team should be limited to explaining its mandate and objectives.~~

### **Post-audit Audit Closure meeting**

6.157 The ~~post~~-audit closure meeting provides senior executives from the audited ~~maritime State~~Member State with information relating to the findings and recommendations of the Audit Team. The meeting should ensure that the ~~maritime State~~Member State authorities clearly understand the situation as audited by the Audit Team and are able to start working on the corrective action plan, if necessary. The meeting should emphasize the most significant issues and concisely present the team's findings and opinions regarding the effectiveness of the ~~maritime State~~Member State as compared to the Maritime State Standard.

6.168 The ~~post~~-audit closure meeting should include a briefing on all findings and recommendations included in the audit interim report, which should be provided to the ~~maritime State~~Member State at the end of the audit during the ~~post-audit~~audit closure meeting.

6.179 The ~~Lead Auditor~~audit team leader should inform the ~~maritime State~~Member State senior executives of the follow-up activities, including any ~~requirement proposals for a possible for a~~ corrective action plan. The ~~Lead Auditor~~audit team leader should also inform ~~them~~the parties of critical dates for the final and summary reports and for the submission of the ~~maritime State~~any corrective action plan.

6.1820 The format of the ~~post-audit~~audit closure meeting should be as follows:

- .1 review of the objective and scope of the audit;
- .2 summary of audit procedures;
- .3 presentation of draft findings and recommendations included in the audit interim report;
- .4 information on visits to regional offices, maritime schools, ~~etc~~as applicable; and
- .5 actions by the audited ~~maritime State~~Member State following the audit.

6.1921 Specialist meetings of the Audit Team members and their ~~maritime State~~Member State counterparts may be held prior to or after the ~~post-audit~~audit closure meeting, at the discretion of the ~~Lead Auditor~~audit team leader and the senior executive of the ~~maritime State~~Member State.

## **7 REPORTING**

### **General**

7.1 The following principles should be taken into account when preparing audit reports:

- .1 consistency of findings and recommendations in the ~~post-audit~~audit closure meeting brief, audit interim report and audit final report;
- .2 substantiated conclusions with relevant references;
- .3 findings and recommendations must be stated clearly and concisely and be summarized at the end of the reports;
- .4 avoidance of generalities and vague observations;
- .5 objective presentations of audit findings;
- .6 use of widely accepted maritime terminology, avoiding acronyms and jargon; and
- .7 avoidance of criticism of individuals or positions.

7.2 With the exception of the audit summary report, all materials, notes and reports obtained or made out during the ~~maritime-State~~Member State audit should be considered confidential. Only the audited State should have the right to publish its audit final report and/or its corrective action plan and also to request the IMO to do so on its behalf.

7.3 [On completion of an audit, the ~~Lead-Auditor~~audit team leader will transmits the completed audit checklists, and any ~~accompanying~~other associated records and reports to [the ~~IMO Secretariat~~Secretary-General] for retention in confidence.

### **Audit interim report**

7.4 The audit interim report is ~~the~~ an official and formal report of findings and recommendations submitted to the ~~maritime-State~~Member State during the ~~post-audit~~closure meeting. The ~~maritime-State~~Member State corrective action plan should be based on the audit interim report. The audit interim report forms the basis for the preparation of the audit final report and is superseded by the audit final report when completed.

7.5 The audit interim report should be available only to the audited ~~maritime-State~~Member State and to the auditor team. The contents of the audit interim report should be:

#### *.1 Introduction*

- .1.1 background;
- .1.2 members of the audit team;
- .1.3 involved officials from the ~~maritime-State~~Member State; and
- .1.4 acknowledgement.

#### *.2 Objectives and activities of the audit*

#### *.3 Maritime activities in the ~~maritime-State~~Member State*

#### *.4 Summary of findings and recommendations*



- .5 *Audit results*
  - .5.1 strategy and implementation;
  - .5.2 enforcement and processes;
  - .5.3 review and evaluation; and
  - .5.4 improvement
- .6 Possible recommendations for follow-up action
- .7 *Appendices*
- .8 *Attachments*

7.6 While every endeavour shall be made by both the Member State and the audit team to avoid disagreement over the findings, it is at this stage where the Member State should notify any concerns with respect to the validity and/or interpretation of any audit findings.

### **Audit final report**

7.67 The audit final report represents the official and actual report of the audit. The structure and contents of the audit final report should be similar to the audit interim report, with the exception that the audit final report should include an analysis of the ~~maritime State~~ Member State corrective action plan submitted by the audited State, and information on the progress made by the audited State on the implementation of the ~~maritime State~~ Member State corrective action plan.

7.78 The auditor team is responsible for preparing the audit final report. The audit final report should only be available to the audited ~~maritime State~~ Member State and the auditor team.

### **Audit summary report**

7.89 An audit summary report providing an overview of an audited ~~maritime State~~ Member State adherence to the Maritime State Standard should be prepared together with the audit final report and forwarded to the audited state for comments before ~~it~~ an anonymised summary report is made available to other IMO Member States.

7.910 The primary objective of making the audit summary report available is to improve maritime safety and prevention of pollution. The audit summary report should be prepared in a format that enables other IMO Member States ~~to form their own opinion of the status of safety oversight activities in the audited maritime State~~ to benefit from the generic lessons to be learned.

7.101 The ~~Lead Auditor~~ audit team leader, assisted by the other members of the audit team, is responsible for preparing the audit summary report. The report should contain at least the following items:

- .1 background;
- .2 maritime activities in the ~~maritime State~~ Member State;

.3 summary of findings; and

.4 comments.

### ~~Lead Auditor~~ Audit team leader's mission report

7.1~~1~~2 The ~~Lead Auditor~~ audit team leader should prepare a separate report describing the conduct of the audit, difficulties encountered and proposals to improve the planning and conduct of audits. The ~~Lead Auditor~~ audit team leaders' mission report should, therefore, provide feedback on the conduct of the audit from planning to completion. The mission report is an integrated part of the quality assurance programme for the IMO Model Audit Scheme and will be used by [the ~~IMO Secretariat~~ Secretary-General] to improve audit planning.

7.1~~2~~3 A record of all feedback and recommendations made in the ~~Lead Auditor~~ audit team leaders' mission reports and of action taken to address concerns raised should be maintained.

## 8 ~~MARITIME STATE~~ MEMBER STATE ~~CORRECTIVE ACTION PLAN~~

8.1 The ~~maritime State~~ Member State corrective action plan responds to the audit findings and recommendations by proposing action to bring the ~~maritime State~~ Member State in conformance or adherence to the Maritime State Standard.

8.2 Corrective actions and deadlines, as necessary, should be established for each of the audit findings. Together, the corrective actions form the ~~maritime State~~ Member State corrective action plan.

8.3 The ~~maritime State~~ Member State corrective action plan should be submitted to the audit team within [30] calendar days after receiving the audit interim report, which was submitted to the ~~maritime State~~ Member State during the ~~post-audit~~ audit closure meeting.

8.4 The ~~maritime State~~ Member State corrective action plan should contain information relevant to the audit conducted and respond to each recommendation resulting from an audit finding. The ~~maritime State~~ Member State corrective action plan should provide detailed information of action to be taken, including a time frame for the commencement of and completion of each action, and must be signed by the chief executive(s) of the organization(s) audited.

8.5 The audit final report should include information on the possible corrective action plan proposed by the ~~maritime State~~ Member State. If the ~~maritime State~~ Member State is not required to submit a corrective action plan or has not submitted one within the period agreed upon, the final audit report will be prepared and submitted without any corrective action plan. In the latter case, the final report will indicate that the ~~maritime State~~ Member State has failed to provide a ~~maritime State~~ Member State corrective action plan within the prescribed period.

8.6 An auditor review meeting should consider the effectiveness of corrective action arising from audits in general and on issues selected for individual discussion.

8.7 Appropriate corrective actions may, *inter alia*, be:

.1 revision of a procedure or work instruction;

- .2 issue of a new procedure or work instruction;
- .3 ensuring that ~~maritime-State~~Member State personnel adhere to the existing procedures; and
- .4 further training/education.

## 9 RECORDS AND FOLLOW-UP

9.1 Records from all ~~maritime-State~~Member State audits conducted should be maintained. Such records should include:

- .1 ~~maritime-State~~Member State audit interim and final reports including findings and recommendations;
- .2 ~~maritime-State~~Member State audit summary reports;
- .3 ~~maritime-State~~Member State audit corrective action plans, if any; and
- .4 ~~lead Auditor~~audit team leaders' mission report.

9.2 An audit follow-up should be conducted between one and two years following a ~~maritime State~~Member State audit, in order to determine the status of implementation of the corrective action plan, or in the absence of a corrective action plan, the status of correction of findings noted during the ~~maritime-State~~Member State audit.

9.3 The standard auditing procedures applied to the audit follow-up are the same as for a regular ~~maritime-State~~Member State audit. The only exception is the difference in scope, as the audit follow-up can be limited in certain cases only to issues identified during the initial audit.

9.4 The audit follow-up team will normally consist of an ~~Lead Auditor~~audit team leader and other members as required depending on the scope of the audit. Audit team members for an audit follow-up may or may not have been members of the original audit team.

Appendix

**PRE-AUDIT QUESTIONNAIRE**

*I General information*

- 1 Name of the State
- 2 Full contact details for each relevant Government entity
- 3 Number of ships on the register(s) – specified for each register, as appropriate – by type (passenger, cargo, fishing, other) and trade (international or domestic). (An upper tonnage limit, based on GT, may be set)
- 4 Number of employees of the relevant Government entities by category (management, technical, surveyors and other technical, legal, educational, clerical, etc.) and location
- 5 Organizational structure (relevant entities) – which entity is responsible for what?
- 6 How are surveyors recruited, trained, etc.?

*II Information on international instruments*

- 1 Which mandatory international instruments have been ratified or acceded to?
- 2 For each listed instrument the following questions should be answered:
  - .1 How has it been incorporated into national legislation?
  - .2 Has information on national laws, etc. been communicated to the relevant international organization?
  - .3 Which government entity(s) is responsible for the implementation and enforcement of this instrument?
  - .4 Which equivalents/exemptions have been issued under this instrument and reported, as appropriate, to the relevant international organization?
  - .5 Have the obligations, or part of the obligations, under this instrument been delegated to one or more recognized organizations? (brief reply with reference to Part III of this questionnaire)
  - .6 Have you requested other Contracting Governments or Parties to act on your behalf in relation to this instrument?

*III Information on human resources*

*IV Information on recognized organizations*

- 1 Which RO's have been authorized to act on behalf of the Administration?

- 2 The scope of the authorization(s).
- 3 Is there a written agreement with each RO in accordance with MSC/Circ.788-MEPC/Circ.325? Please attach a copy of all agreements.
- 4 How do you verify and monitor the performance of such RO's?

*V Information on investigation and analysis of marine casualties and pollution incidents*

- 1 National legislation.
- 2 Organizational structure.
- 3 Analyses/databases.
- 4 Reporting to the IMO.

*VI Information on actions in relation to own ships detained by PSC*

~~*VII Information on registration of ships*~~

~~*VIII Information on Port State Control (PSC) activities*~~

~~*IXVIII Information about management systems*~~

1 The State can declare whether it uses quality management systems for part of its activities. Manuals can be copied and submitted together with the pre-audit questionnaire. The State can declare whether it uses other management system as for example internal contracts between the management and the subdivisions, external contracts between the organisation to be audited and its superiors of either a political and/or administrative nature. Copies of such contracts (in an appropriate language) can be submitted together with this questionnaire.

*LX Scope of the audit*

1 The State can declare whether it wants some of the areas formally included in [the Maritime State Standard] not to be included in the audit. Reasons for this could ~~include~~ be that it is not a contracting party to some international instruments or only recently has acceded to a particular instrument, or; that it wants the audit to be concentrated to specific organizational and/or legislative areas, etc.

ANNEX 3

**PROPOSED TERMS OF REFERENCE FOR THE CORRESPONDENCE GROUP  
ON THE AUDIT SCHEME**

1 To progress further the development of the IMO audit scheme through the compilation of various technical annexes for the composite document of the scheme to the correspondence group should develop the following subject matter:

- .1 completion of the “Procedures for Member State Audits (annex 2);
- .2 an appropriate audit standard;
- .3 a Memorandum of Understanding (MoU);
- .4 audit checklists and standard reporting forms; and
- .5 development of an Audit flowchart, with timelines.

2 The group should refer for further detail to the report to Council of the Joint MSC/MEPC/TCC Working Group and the concurrent development of the Code for the implementation of [mandatory] IMO instruments.

3 The group should produce full written material in time for consideration by the above-referred Joint Working Group prior to the latter’s meeting in [June 2004].

ANNEX 4

**DRAFT ASSEMBLY RESOLUTION  
[THE VOLUNTARY IMO MODEL AUDIT SCHEME]**

THE ASSEMBLY,

RECALLING Article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety and the prevention and control of marine pollution from ships,

RECALLING ALSO that one of the goals of the Organization is to ensure the consistent and effective implementation of IMO instruments globally and compliance with their requirements,

RECALLING FURTHER that, through resolutions A.777(18) and A.900(21), it reaffirmed the contents of resolution A.500(XII) and thus the assignment of the highest priority to promoting the implementation of relevant international instruments for the improvement of maritime safety and pollution prevention,

RECOGNIZING that Governments are required to meet and fulfil the obligations and the responsibilities which are set forth in international regulations, procedures and practices contained in IMO instruments and other mandatory instruments to which they are Parties, and to take any steps which may be necessary to secure their observance,

RECOGNIZING ALSO that Parties to international conventions such as the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 1974) and its 1988 Protocol; the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended (MARPOL 73/78); the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended (COLREG 1972); the International Convention on Load Lines, 1966 (LL 1966) and its 1988 Protocol; the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW) and the International Convention on Tonnage Measurement of Ships, 1969 (TONNAGE 1969) have, as part of the ratification process, accepted the obligation under applicable international law to fully meet their responsibilities and to discharge their obligations as prescribed by the conventions and other instruments to which they are Party,

REAFFIRMING that States have the primary responsibility to have in place an adequate and effective system to exercise control over ships entitled to fly their flag, and to ensure that they comply with relevant international rules and regulations,

REAFFIRMING ALSO that States, in their capacity as port and coastal State, have other obligations and responsibilities under applicable international law in respect of maritime safety and security and protection of the marine environment,

NOTING that, while States may realize certain benefits by becoming Party to instruments aiming at promoting maritime safety and the prevention of pollution from ships, these benefits can only be fully achieved when all Parties carry out their obligations as required by the instruments concerned,

NOTING ALSO that the ultimate effectiveness of any instrument depends, *inter alia*, upon all States:

- (a) becoming Party to the instruments mentioned above;
- (b) implementing them fully and effectively; and
- (c) reporting to the Organization, as required,

CONSCIOUS of the difficulties a number of Governments may face in giving full and complete effect to all the provisions of the various IMO instruments to which they are Party,

RECOGNIZING that any such difficulties need to be minimized and that, for that reason, the Organization has established and maintains an Integrated Technical Co-operation Programme,

BEING DESIROUS to further assist Governments in improving their capabilities and overall performance in giving full and complete effect to the instruments to which they are Party,

HAVING CONSIDERED the recommendations made by the Council at its [ninetieth regular session] [and twenty-second extraordinary session],

1. ENDORSES the decisions of the Council relating to the development of a Voluntary IMO Model Audit Scheme;
2. APPROVES the establishment and further development of the [Voluntary IMO Model Audit Scheme] to be implemented on a voluntary basis;
3. REQUESTS the Council to develop, as a matter of high priority, procedures and other modalities for the implementation of the scheme;
4. URGES Governments to volunteer to be audited in accordance with the scheme, when developed, to assist the Organization in its efforts to achieve consistent and effective implementation of IMO instruments, recognizing that the principle of sovereignty should be fully respected;
5. RESOLVES that the process and results of the audits be used for further enhancing the implementation of instruments and for determining technical co-operation assistance needs of audited States that would otherwise be unable to remediate identified shortcoming and enhance further their recognized efforts on critical areas of implementation; and
6. DECIDES that the contents of resolution A.901(21) on IMO and Technical Co-operation in the 2000s be extended to encompass technical co-operation needs, including capacity-building, that would be derived from the results of the audits.

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## ANNEX 2

## OUTCOME OF MSC 77

**7 PROPOSED IMO MODEL AUDIT SCHEME****General**

7.1 The Committee recalled that MSC 76 had considered the request of C 88 and C 89 relating to work that should be carried out concerning the proposed IMO Model Audit Scheme (MAS) and had identified safety- and security-critical areas that might be covered by the Scheme. MSC 76 had noted the outcome of MEPC 48 and TC 52 on this matter and concurred with their decision that a Joint MSC/MEPC/TCC Working Group on the proposed Voluntary IMO Model Audit Scheme be established to meet during this session of the Committee, with terms of reference as approved by C 89.

7.2 The Committee noted document MSC 77/7 (Secretariat) providing information on the outcome of the consideration by MSC 76 of the aforementioned request of Council. It also noted that the fifty-seventh session of the General Assembly of the United Nations, when adopting, on 12 December 2002, a resolution on Oceans and the law of the sea, had welcomed the decision of IMO to develop the Model Audit Scheme and encouraged the Organization to work to this end. The Committee noted further document MSC 77/WP.2 reproducing the terms of reference for the aforementioned joint working group as approved by C 89.

**Development of the details of the Model Audit Scheme**

7.3 The Committee had for its consideration documents submitted by:

- .1 Denmark, proposing a draft maritime State standard, guidelines for maritime State audits and a procedure for carrying out an audit (MSC 77/7/1);
- .2 France, Japan, Luxembourg, the Marshall Islands, Norway, the Republic of Korea, Singapore, Sweden, the United Kingdom and the United States, proposing objectives, principles and scope for the Model Audit Scheme (MAS) as well as commenting on issues relating to capacity-building, administration and management of the Scheme, and other matters for the development and implementation of the MAS (MSC 77/7/2);
- .3 Spain, commenting on specific paragraphs of document MSC 77/7/2 and proposing that the Scheme be developed on a mandatory basis for all flag States whose ships are engaged on international voyages; and that the results of audits be made public through the IMO or other information systems such as Equasis (MSC 77/7/3 and MSC 77/7/4);
- .4 Japan, containing a study of the ICAO Universal Oversight Audit Programme (MSC 77/INF.4); and
- .5 ICS, BIMCO, INTERCARGO and INTERTANKO, providing information on the industry initiative on flag State performance (MSC 77/INF.18).

7.4 In the ensuing debate, the Committee, having noted that the proposal by Spain (MSC 77/7/4) for the MAS to be made mandatory had also been submitted to the Council, agreed that this was a

matter for the Council to decide. With regard to the inclusion of UNCLOS and the STCW Convention in the MAS, there were diverging opinions expressed by several delegations on the merits of such an inclusion and the Committee referred the matter to the working group for consideration and advice.

7.5 In the context of the MAS, the Committee considered the outcome of FSI 11 relating to a draft proposed Code for the implementation of [mandatory] IMO instruments (MSC 77/15, paragraphs 9 to 11 and 14.6) and noted the progress made by the Sub-Committee in the development of the draft Code. The Committee endorsed, in principle, the Sub-Committee's recommendations concerning:

- .1 the stakeholders to be covered by the Code (namely, flag States, coastal States and port States);
- .2 the timeframe for the Sub-Committee's work on the Code, aiming at finalizing the draft Code and the associated draft Assembly resolution for submission to MSC 80 and MEPC 52 for approval and subsequent adoption by the Assembly; and
- .3 the need for the Joint MSC/MEPC/TCC Working Group on the Voluntary IMO Model Audit Scheme and the FSI Sub-Committee to remain apprised of developments on both issues to ensure compatibility between the Scheme and the Code. The Committee instructed the Secretariat to act accordingly.

7.6 The Committee also noted that the present title given to the IMO Model Audit Scheme might not be appropriate for the scheme when developed and consideration should, therefore, be given to this at the appropriate time.

### **Convening of the Joint MSC/MEPC/TCC Working Group**

7.7 The Committee convened the Joint Working Group on the proposed Voluntary IMO Model Audit Scheme with the following terms of reference as approved by the Council, which should also take into account comments made and decisions taken in plenary:

The Joint MSC/MEPC/TCC Working Group on the voluntary IMO Model Audit Scheme, taking into account documents C 88/13/2, C 88/13/3, C 88/13/4, C 88/D, C 89/13/Add.1, C 89/13/1, C 89/13/2, C 89/13/3, C 89/D, MEPC 48/10/5, MEPC 48/10/6, MEPC 48/10/7, MEPC 48/21 (paragraphs 10.4.1 to 10.4.14), TC 52/2, TC 52/2/2, TC 52/2/3, TC 52/14 (paragraphs 2.2 to 2.17), MSC 76/9/1 and Add.1, MSC 76/9/3, MSC 76/9/5, MSC 76/9/6, MSC 76/9/7, MSC 76/9/8 (paragraphs 20 to 25) and MSC 76/23 (paragraphs 9.16 to 9.25), and those substantive issues relating to the development, operation, management, administration and financing of the scheme listed in annex 1 to document C 89/WP.1/Rev.1, and any other relevant and substantive issues which may be identified by the group, should:

- .1 using document C 88/13/2, as a basis on which to build, develop for the voluntary IMO Model Audit Scheme:
  - .1.1 clear objectives; and
  - .1.2 clear principles;

- .2 develop, as appropriate, a work plan to address the substantive issues raised, including technical co-operation activities, capacity-building and financing for the achievement of the objectives of the scheme;
- .3 based on the objectives and principles developed, identify:
  - .3.1 those areas/sectors of the competent authority of a Member State which should be audited and which would provide an objective appraisal of it, taking into account that different Member States may have different ways of discharging their responsibilities; and
  - .3.2 those IMO instruments containing safety, security and environmentally-critical responsibilities and obligations of a Party thereto which could be audited for the attainment of the objectives of the scheme;
- .4 develop, as far as practicable, a framework document of the scheme taking into account the outcome on issues referred to in paragraphs .1 to .3 above; and
- .5 prepare a report of the Joint Working Group for the Committees and the ninetieth session of Council or the twenty-second extraordinary session of the Council, as appropriate, including pertinent recommendations to bring the scheme into operation.

### **Report of the joint working group**

7.8 Having received the report of the joint working group (MSC 77/WP.14), the Committee noted the general discussion the group had had on the scheme and, in particular, that the scheme would contain references to the Code for the implementation of [mandatory] IMO instruments, as appropriate to be developed by the Organization; that the framework of the scheme would be developed in such a way that, if the Code did not materialize, the scheme would remain independent and viable. The Committee further noted that the group had agreed that the obligations and responsibilities should be auditable in accordance with the Code.

7.9 During the general discussion, the Committee noted the view of some delegations that the timeframe contained in the table to paragraph 12.3 of the report of the group (MSC 77/WP. 14, annex) should be amended to reflect a proposed concurrent adoption of the scheme and the Code for the implementation of [mandatory] IMO instruments by the twenty-fourth session of the Assembly in 2005, as both issues were to be seen as complementary and co-joined. Other delegations were of the view that there was no need to amend the timeframe as suggested and that paragraph 3.4 of the group's report clearly set out the reason for not twinning the adoption of the scheme and the Code. The Committee considered that this matter should be for further consideration by the Council, as appropriate.

### **Objectives of the scheme**

7.10 The Committee endorsed the group's view that the enactment of appropriate legislation, its implementation and enforcement were the three key issues on which a Member State's performance could be measured with respect to its treaty obligations and the over-arching aim and ten supporting objectives of the scheme, which included compliance with the Code for the implementation of [mandatory] IMO instruments; enactment, administration and enforcement of laws and regulations; delegation of authority; control and monitoring of the execution of statutory responsibilities;

discharging of other obligations and responsibilities by a Member State; capacity-building and technical assistance; and the provision of appropriate feedback to the audited Member State, the Organization's membership at large and into the work of the Organization.

### **Principles of the scheme**

7.11 The Committee also noted the group's discussion on the retention of the anonymity of the audited State and endorsed its decision that sovereignty and universality; consistency, fairness, objectivity and timeliness; transparency and disclosure; quality and inclusiveness; and continual improvement should be the principles of the scheme.

### **Scope of the audit**

7.12 With regard to the scope of the audit, the Committee noted the group's decision that the scope should be comprised of sections on IMO instruments; obligations and responsibilities of a Member State; and areas to be covered by the scheme, as well as the group's discussion of the proposal of Spain (MSC 77/7/3) for the exclusion of UNCLOS and 1978 STCW Convention, as amended, from the scheme and endorsed the group's decision, subject to MEPC's and TCC's concurrent decisions, to include a generic reference to UNCLOS in the lead-in paragraph under the scope to acknowledge it as an umbrella convention, but noting further that its appropriate provisions were implemented through specific IMO instruments.

7.13 The Committee approved the group's recommendation on the inclusion, in the scheme, of the 1978 STCW Convention, as amended; that the scheme should not seek to duplicate the existing mandatory audit requirements contained in that Convention; and that only those aspects of that Convention which were not covered by audits in accordance with the applicable provisions of that Convention should fall fully within the scope of the scheme as well as verification (only) of those parts of that Convention which had been previously evaluated.

7.14 In noting the group's consideration of the implications of subjecting SOLAS chapter XI-2 on Measures to enhance maritime security and the ISPS Code to audits under the scheme, that it was premature to do so given that the entry-into-force date of the aforementioned instruments would be July 2004 and that there might well be certain sensitivities in security considerations which should be further discussed and analysed, the Committee approved the group's recommendation that SOLAS chapter XI-2 and the ISPS Code should not be considered as being within the scope of the scheme at this time.

7.15 The Committee noted the group's discussion and recommendation that the issue of the inclusion of other IMO conventions should be further debated and reviewed in the future, including an optional list of additional IMO instruments, to ensure that other potentially critical areas of obligations and responsibilities of Member States were identified and included within the scope of the scheme, with a view to enhancing further the performance of all Member States as Parties to the applicable IMO instruments. In this regard, the Committee approved the group's recommendation of the following instruments, as appropriate, containing critical obligations and responsibilities which should be included in the scheme:

- .1 SOLAS 74, as amended and as modified by its 1978 Protocol and its 1988 Protocol;
- .2 STCW 78, as amended;

- .3 LL 66, as modified by its 1988 Protocol;
- .4 Tonnage 69; and
- .5 COLREG 72, as amended,

and noted the group's discussion on those mandatory codes referenced in the recommended IMO instruments for inclusion in the scheme; that the codes were an integral part of the instruments concerned and as such would be subjected to audits as appropriate; and that special consideration might need to be given to the IMDG Code due to the special circumstances under which amendments thereto would be brought into effect.

### **Overall work on the development of the scheme**

7.16 Having taken the aforementioned actions, the Committee noted further the progress made by the group on:

- .1 the Framework for Member State Audits;
- .2 Procedures for Member State Audits;
- .3 the substantive issues for the development of the scheme; and
- .4 the workplan for the development of the scheme,

and endorsed the proposed draft Assembly resolution on the Voluntary IMO Model Audit Scheme, set out in annex 4 to the annex to MSC 77/WP.14, for approval by C 90 and submission to the twenty-third session of the Assembly for adoption.

### **Action requested of the Council**

7.17 The Committee, having approved the report of the group as far as maritime safety and security matters were concerned, invited the Council to take the outcome of its consideration of the report of the Joint Working Group into account, as appropriate, during its deliberations on the matter.

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