

JOINT WORKING GROUP ON THE MEMBER
STATE AUDIT SCHEME
6th session
Agenda item 6

JWGMSA 6/3
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CONSIDERATION OF DRAFT ASSEMBLY RESOLUTIONS

Draft resolutions on the Framework and Procedures for the IMO Member State Audit Scheme, and on transitional arrangements

Note by the Secretariat

SUMMARY

Executive summary: This document provides information on the process for institutionalizing the Audit Scheme and thereby suggesting a resolution for the adoption of the Framework and Procedures for the IMO Member State Audit Scheme and another resolution on transitional arrangements, leading up to the mandatory Scheme

Strategic direction: 2

High-level action: 2.0.2

Planned output: 2.0.2.1

Action to be taken: Paragraph 8

Related document: Resolution A.1018(26)

Background

1 The Secretariat, taking into account the relevant outcome of MEPC 64 and MSC 91, has prepared a revised roadmap and two draft resolutions for consideration of the JWG.

Making the III Code and auditing mandatory

2 In line with the time frame and schedule of activities for the institutionalization of the Audit Scheme (resolution A.1018(26)), the IMO bodies mentioned therein have been involved in the work on the further development of the Audit Scheme, which have culminated in the completion of the audit standard (IMO Instruments Implementation Code (III Code)) and draft amendments to the relevant mandatory IMO instruments to make the III Code and auditing mandatory. The following table provides information on the past and future planned involvement of the IMO bodies concerned on making the III Code and auditing mandatory, based on the decisions made by the MEPC 64 and MSC 91, with regard to the preferred scenario for coordinated adoption of amendments to the mandatory IMO instruments for their entry into force by 1 January 2016.

	Approval	Adoption	Acceptance	Entry into force
III Code	MSC 91 (11/12) MEPC 64 (10/12)	A 28 (11/13)		
SOLAS 1974	MSC 91 (11/12)	MSC 93 (05/14)	1/7/15	1/1/16
MARPOL and annexes	MEPC 64 (10/12)	MEPC 66 (03/14)	1/2/15	1/1/16
LL 1966	(adoption) MSC 91 (11/12)	A 28 (11/13)	unanimous acceptance (3 years) e.g. 10/16 explicit acceptance	12 mths e.g. 9/17 12 mths
LL PROT 1988	MSC 91 (11/12)	MSC 93 (05/14)	1/7/15	1/1/16
COLREG 1972	(adoption) MSC 91 (11/12)	A 28 (11/13)	tacit acceptance at a date decided by the Assembly	date as decided by the Assembly [1/1/16]
TONNAGE 1969	(adoption) MSC 91 (11/12)	A 28 (11/13)	unanimous acceptance (2 years) e.g. 10/15 explicit acceptance	12 mths e.g. 9/16 12 mths

Adoption of the resolution on the Framework and Procedures for a mandatory scheme

3 It is envisaged that the revised Framework and Procedures for a mandatory scheme will remain as an Assembly resolution and need not be made mandatory, taking into account that it contains only modalities and procedures for the conduct of audits. Therefore, the revision of the Framework and Procedures should be finalized at this session of the JWG, for the approval of C 110, in July 2013 and for subsequent adoption by A 28, in November 2013. The JWG is, therefore, invited to consider a draft Assembly resolution for the adoption of the revised Framework and Procedures by the Assembly, as set out in annex 1 to this document.

Transitional period

4 Once A 28 adopts the III Code and the revised Framework and Procedures, it would be prudent for a decision to be made that the III Code and the Framework and Procedures be used for conducting voluntary audits in the transitional period after A 28 leading up to the mandatory Scheme, which is anticipated to enter into force in January 2016. In so doing, the procedures for mandatory audits could be tested and fine-tuned through their practical implementation and related detailed practices could be improved over that preparatory period, before January 2016. It is envisaged, therefore, that the draft resolution for the adoption of the revised Framework and Procedures, as set out in annex 1 to this document, will supersede and revoke resolution A.974(24), and will exist as the only procedural document for the conduct of audits after A 28.

5 In addition, with regard to the existing non-mandatory Code for the implementation of mandatory IMO instruments, the JWG is invited to note that MEPC 64 and MSC 91 instructed the FSI Sub-Committee to develop, at its next session, a new non-mandatory instrument in the form of an Assembly resolution, solely containing the annexes to the existing non-mandatory Code, to be reviewed in the future in the same way as the annexes to the non-mandatory Code have been updated regularly, since its initial adoption. Consequently, after A 28, the III Code will be the only audit standard and the annexes to the existing non-mandatory Code, which will be periodically updated through a new resolution, will be an additional guide to Member States and auditors on the applicable requirements under the mandatory IMO instruments. Therefore, for any voluntary audits conducted before the commencement of the mandatory Scheme, the III Code will be the only applicable audit standard.

6 During the transitional period, starting after A 28 and up to the entry into force of the provisions for the mandatory Scheme, voluntary audits should be conducted based on the resolutions to be adopted by A 28, which would enable continuity of the voluntary audits, while at the same time providing valuable transition to audits under the mandatory Scheme. Preparatory work for the commencement of the mandatory Scheme, which would be undertaken concurrently (see document JWGMSA 6/5), would ensure a smooth transition from a voluntary to the mandatory Scheme and would include, inter alia, developing the schedule of audits by C 112, updating auditors' training courses and workshop materials, as well as developing a web based application as a tool to support effective implementation of audits under the mandatory Scheme.

7 The JWG is invited to consider the arrangements as described in the preceding paragraphs and, in particular, whether voluntary audits should continue after A 28 until the entry into force of related amendments to the mandatory instruments concerned and such audits should be conducted using the III Code as the audit standard and in line with the revised Framework and Procedures, as adopted by A 28. Should these arrangements be agreeable, there will be a need for the Council and the Assembly to decide on such transitional arrangements and in this regard, a separate draft resolution has been prepared, as set out in annex 2 to this document.

Action requested of the Working Group

8 The JWG is invited to note the information contained in this document and take action as appropriate.

ANNEX 1

DRAFT ASSEMBLY RESOLUTION

**FRAMEWORK AND PROCEDURES FOR THE
IMO MEMBER STATE 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 and that, through resolution A.946(23), it approved the establishment and further development of the Voluntary IMO Member State Audit Scheme (hereinafter referred to as the "Audit Scheme") and, through resolution A.974(24) established the Framework and Procedures for the Voluntary IMO Member State Audit Scheme,

RECOGNIZING that Parties to international conventions have accepted, as part of the ratification process, 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,

RECOGNIZING ALSO that, since the commencement of audits in 2006, a number of Member States have volunteered to be audited and the audit reports issued in relation to their audits, as well as the feedback received from those States have confirmed that the Audit Scheme is a positive development in enhancing effective implementation of the provisions of the mandatory IMO instruments concerned by the Parties thereto,

REAFFIRMING that it is the primary responsibility of States to establish and maintain an adequate and effective system to exercise control over ships entitled to fly their flag, and to adopt measures to ensure that they comply with the relevant international rules and regulations,

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

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

- (a) becoming Parties thereto;
- (b) implementing and enforcing them fully and effectively; and
- (c) reporting to the Organization, as required,

NOTING ALSO that, while States may realize certain benefits by becoming Parties to instruments aiming at promoting maritime safety and security and the protection of the marine environment, those benefits can only be fully achieved when all Parties carry out their obligations as required by the instruments concerned,

NOTING FURTHER the need to assist Member Governments to improve their capabilities and overall performance in order to be able to comply with the IMO instruments, to which they are party,

CONSCIOUS of the difficulties some Member States may face in complying fully with all the provisions of the various IMO instruments to which they are party,

BEING MINDFUL of the need for any such difficulties to be eliminated to the extent possible and that the Organization has its Integrated Technical Co-operation Programme established to assist for that purpose,

BEING DESIROUS of ensuring that all Member States have a common platform and methodology for assessing and improving their capabilities, as well as their overall performance in complying with the provisions of the IMO instruments to which they are party,

BEARING IN MIND that amendments to a number of IMO instruments have been circulated, with a view to their adoption, which would make the IMO Instruments Implementation Code (III Code) and the auditing of the way in which Parties implement and enforce the provisions of those instruments mandatory, and that such audits should be conducted in line with a framework and procedures developed by the Organization,

HAVING CONSIDERED the decision of the Council at its one hundred and tenth regular session and the work undertaken by the Committees in response to resolution A.1018(26) on *Further development of the Voluntary IMO Member State Audit Scheme*,

1. ADOPTS the Framework and Procedures for the IMO Member State Audit Scheme, set out in the annex to the present resolution;
2. URGES Governments to:
 - (a) fully cooperate with all parties involved in the implementation of audits, in accordance with the said Framework and Procedures, thus contributing to the Organization's efforts to achieve consistent and effective implementation of its instruments; and
 - (b) consider contributing resources to ensure the success of the Audit Scheme in its mandatory form, which could include, inter alia, qualified auditors and the support they need to carry out their duties once appointed as an audit team leader or members;
3. REQUESTS the Council to monitor the implementation of the Scheme with a view to ensuring that its objectives are achieved and to report to the Assembly, as appropriate;
4. REVOKES resolution A.974(24).

ANNEX 2

DRAFT ASSEMBLY RESOLUTION

**TRANSITION FROM THE VOLUNTARY IMO MEMBER STATE AUDIT SCHEME
TO THE IMO MEMBER STATE 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, through resolution A.946(23), it approved the establishment and further development of the Voluntary IMO Member State Audit Scheme (hereinafter referred to as the "Audit Scheme") and, through resolution A.1018(26), the time frame and schedule of activities for the consideration and introduction of an institutionalized IMO Member State Audit Scheme,

HAVING ADOPTED resolution A.....(28) on the IMO Instruments Implementation Code (III Code) and resolution A.....(28) on the Framework and Procedures for the IMO Member State Audit Scheme, with the former being the new audit standard,

BEING DESIROUS of ensuring that Member States, wishing to be audited after the adoption of the present resolution and prior to the entry into force of amendments to the applicable IMO instruments to make the III Code and auditing mandatory, can be audited on a common platform and methodology that will be used for the foreseeable future,

HAVING CONSIDERED the decisions of the Council at its 110th regular session in this regard,

1. AGREES that all audits to be undertaken from the adoption of this resolution should be arranged and carried out in line with the Framework and Procedures for the IMO Member State Audit Scheme and using the III Code as the audit standard;
2. URGES Governments to continue to make themselves available for audits leading up to the entry into force of the aforementioned amendments;
3. RESOLVES that the Audit Scheme henceforth be named the IMO Member State Audit Scheme.