

JOINT WORKING GROUP ON THE MEMBER  
STATE AUDIT SCHEME  
6th session  
Agenda items 3 and 4

JWGMSA 6/5  
21 January 2013  
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## REVIEW OF THE FRAMEWORK AND PROCEDURES FOR THE SCHEME

### Outstanding discussion items for the review of the Framework and Procedures for the Scheme

#### Note by the Secretariat

#### SUMMARY

*Executive summary:* This document contains outstanding discussion items, as identified by the Secretariat, which the Joint Working Group is invited to use as a preliminary basis in finalizing its review of the Framework and Procedures for the Scheme

*Strategic direction:* 2

*High-level action:* 2.0.2

*Planned output:* 2.0.2.1

*Action to be taken:* Paragraph 23

*Related documents:* JWGMSA 5/WP.1; C 102/6/1; C 106/8/2, C 106/8/3; C 108/D, C 108/SR.3; C 109/D, C 109/3/1, C 109/4(e) and C 109/INF.2

#### General

1 Based on the outcome of the 5th session of the Joint Working Group on the Member State Audit Scheme (JWG), as contained in document JWGMSA 5/WP.1, as well as other documents for this session of the JWG (JWGMSA 6/2, JWGMSA 6/3 and JWGMSA 6/4), the discussion items as presented in the following paragraphs have been identified in order to streamline the discussion of the JWG.

2 The items identified are not exhaustive, but provide a preliminary basis for the JWG to continue its review of the Framework and Procedures for the Scheme, with a view to finalizing it at this session.

#### REVIEW OF THE FRAMEWORK FOR THE SCHEME (agenda item 3)

##### Confidentiality and reporting format

3 The C 109 decided, taking into account the outcome of the consideration of the issue of confidentiality in a mandatory scheme by MEPC 64 and MSC 91, that the release of the executive summary report and the Member States' comments on the implementation of its corrective action plan to the public or to Member States should be subject to the authorization of the Member State concerned prior to the audit (see document JWGMSA 6/2, paragraph 17).

4 Based on the outcome of the JWG's deliberations on the matter, **paragraphs 6.3.3, 8.1.11 and 8.3.6** of the Framework will need to be considered accordingly.

#### **Scope of the audit under STCW 1978**

5 The JWG is invited to note, at this stage, the relevant outcome of STW 43 and MSC 91 (see document JWGMSA 6/2, paragraphs 1, 2 and 24), with regard to the scope of the audit related to STCW Convention. Of note for the JWG, appendix 1 of part I of the annex to resolution A.974(24) on *Framework and Procedures for the Voluntary IMO Member State Audit Scheme* has been proposed for inclusion as a new section A-I/16 in the draft amendments to part A of the STCW Code (annex 14 to document STW 43/14).

6 Based on the outcome of STW 43 and MSC 91, **paragraph 7.2.2** of the Framework need to be considered accordingly and **appendix 1** of the Framework needs to be deleted.

#### **REVIEW OF THE PROCEDURES FOR THE SCHEME (agenda item 4)**

##### **Confidentiality and reporting format**

7 Taking into account the outcome of C 109 with regard to the release of the executive summary report and the Member State's comments on the implementation of its corrective action plan (see document JWGMSA 6/2, paragraph 17), the JWG is invited to finalize the content of the executive summary report, as outlined in appendix 5 to part II of the annex to document JWGMSA 5/WP.1, in particular, whether it should include observations from the audit.

8 Based on the outcome of the JWG's deliberations on the matter, the following areas of the Procedures for the Scheme will need to be considered and finalized accordingly: **paragraph 7.1.2, section 7.4** (Executive summary report), **section 7.6** (Member State's comments on the progress of implementation of corrective action plan), **appendix 1** (Model Memorandum of Co-operation), **appendix 3** (Sequence of activities), and **appendix 5** (Model executive summary report).

##### **Audit schedule**

9 Taking into account that C 108 approved the set of principles to be followed by the Secretary-General when considering the audit schedule, section 4.1 of the Procedures for the Scheme will need to be considered and finalized.

10 Further to the decisions made by MEPC 64 and MSC 91, relating to the scenario for the coordinated adoption of amendments to the mandatory IMO instruments for their entry into force by 1 January 2016, as well as the principle that the Secretary-General will notify each Member State of the projected date of its audit as soon as possible, but not less than 18 months in advance, the audit schedule should now be developed not later than by C 112, in mid-2014.

##### **Preparing for the audit**

11 The JWG is invited to consider and finalize **paragraph 5.1**.

##### **Audit follow-up**

12 Taking into account the deliberations of the JWG at its last session (see paragraphs 4.6 and 4.7 of document JWGMSA 5/WP.1), **section 9** of the Procedures needs to be considered and finalized. In considering this issue, the JWG is invited to take into

account proposed measures to improve cost-effectiveness of audits under the mandatory Scheme, as per document JWGMSA 5/6 (Japan), in particular with regard to the order, frequency and resources for the audit, and any further consideration of the proposed document-based audits and subsequent audits in a future second phase.

### **Appendix 6 – Audit process**

13 In accordance with paragraph 4.14 of document JWGMSA 5/WP.1, the JWG will be invited to consider flow-chart depicting procedures for the Audit Scheme (to be provided as document JWGMSA 6/5/Add.1), which is proposed to be included in the Procedures as a new **appendix 7**. The proposals contained in paragraphs 16 to 18 of document C 106/8/3 (Republic of Korea) could be considered in that context.

### **Inclusion of the Auditor's Manual in the Procedures for the Scheme**

14 Taking into account the draft revised Auditor's Manual, as annexed to document JWGMSA 6/4, the JWG is invited to consider possible inclusion of the revised Auditor's Manual as a new **appendix 8** to the Procedures for the Scheme. In doing so, the Auditor's Manual would receive formal approval and would be better placed within the documents for the mandatory Scheme.

### **OTHER ISSUES**

#### **Authorization from Member States in relation to release of the executive summary report and Member States' comments**

15 Taking into account the decision of C 109 that the release of the executive summary report and the Member State's comments on the implementation of its corrective action plan to the public or Member States, should be subject to the authorization of the Member State concerned prior to the audit, there will be a need to circulate the audit schedule, as developed at C 112, in mid-2014, to all Member States, along with the invitation for them to provide their consent, by a set deadline. The JWG may wish to give some consideration to the best way in which to proceed on this matter.

#### **Availability of resources**

16 The JWG is invited to note that all actions for which the Secretariat has been requested by C 108, based on the recommendation by the JWG (paragraph 4.3 of document JWGMSA 5/WP.1), are ongoing or have been completed (Circular letter No.3301 has been issued in accordance with paragraph 4.3.7).

17 C 109 requested the JWG to consider the financial implications associated with the implementation of the mandatory Scheme, in particular, in respect of the conduct of audits. The JWG, at its fifth session, identified three options for the conduct of audits under a mandatory Scheme (see paragraphs 4.4 and 4.5 of document JWGMSA 5/WP.1); however, this document was lacking necessary information to fully consider the pros and cons of the options identified.

18 To facilitate the JWG's consideration of the issue at this session, related information from document C 102/6/1, which is still applicable as an estimate of the necessary resources for the mandatory Scheme, has been set out in the annex to this document. In addition, the JWG is invited to note that, in the context of the development of the Secretary-General's long-term plan for the future financial sustainability of the Organization (documents C 109/4(e) and C 109/INF.2), the resource requirements of the Mandatory Audit Scheme

have been assessed, based on document C 102/6/1. In this regard, a core Secretariat human resource requirement, additional to the existing staff in the Department for Member State Audit and Implementation Support, established within the Maritime Safety Division, will be assured through redeployment of existing staff and/or secondment from Member States, with all related travel/logistic costs for audit and follow-up visits being covered by the Organization's regular budget (travel costs are estimated at approximately £0.4 million per year as of 2016, rising with inflation).

19 In its consideration of the matter, the JWG is invited to consider also paragraphs 19 and 20 of document C 106/8/3 (Republic of Korea), paragraphs 10 and 11 of document JWGMSA 5/6 (Japan) and document JWGMSA 5/7, which contain related information and suggestions.

### **Preparatory work for the commencement of an institutionalized audit scheme**

20 The JWG is invited to note the scope of preparatory work, which will need to be carried out leading up to the institutionalization of the audit Scheme, with two main areas of preparations being:

- .1 enhancement of the capacity of the Organization to provide effective training to sufficient number of auditors/lead auditors, as well as workshops for maritime administrations, in support of their preparation for the audit; and
- .2 development of an electronic tool for effective support of the implementation of audits under the mandatory Scheme.

21 In the context of training needs for the mandatory audit Scheme, besides the development of the training course for lead auditors, which has been proposed for inclusion in the ITCP budget for biennium 2014-2015, there will be a need to update the course materials for a training course for auditors under VIMSAS, which work should commence expeditiously, should the transitional arrangements (see document JWGMSA 6/3) be accepted as a way forward, leading up to the mandatory Scheme. In addition, taking into account the number of auditors, which will be necessary for carrying out approximately 24 audits per year, as well as the importance of cost-effectiveness of the training process, there may be a need to consider developing a web-based training course for auditors, using the experience of ICAO in that context. In order to continue providing assistance to Member States for their preparation for IMO Member State audits, the workshop on the implementation of IMO audit Scheme will need to be updated as well.

22 Finally, relating to an electronic tool, which would present a common platform for the implementation of audits under the mandatory Scheme, as recommended by the JWG (paragraph 4.3.3 of document JWGMSA 5/WP.1), there is a need to develop a web-based tool, which would enable all those involved in the implementation of audits (Member States, audit teams and the Secretariat), to use a web-based platform as a support for planning and reporting phases of the audit, contributing both to the effectiveness of the implementation of audits and to rationalize the use of available resources.

### **Action requested of the Joint Working Group**

23 The Joint Working Group is invited to note the information contained in this document and take action as appropriate.

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## ANNEX

### EXTRACT FROM DOCUMENT C 102/6/1

#### "RESOURCE IMPLICATIONS

13 There are mainly two areas on which questions have been raised in relation to the establishment of a compliance monitoring regime, namely, the resources required for the smooth operation of an audit scheme in a mandatory form and resources that should be available for any action necessitated under the scheme (corrective action).

#### **Estimated resources needed for the operation of a mandatory audit scheme**

##### ***Financial resources***

14 Under the voluntary Scheme, audit team costs are borne by the Member State being audited, averaging at approximately £11,000<sup>1</sup>. Under a mandatory Scheme, resources for audit teams will have to be budgeted for and funds made available to ensure that audits are conducted in accordance with an overall audit timetable. With an IMO membership of 168 States and three Associate Members, an audit cycle of seven years could be considered for the completion of a full round of audits. This would equate to about 24 audits per year. At the cost of £11,000 per audit, the total annual funding requirement for audit teams would be about £264,000. In addition, after the second year of audits, the budgetary requirement would need to increase by about £6,000 for every follow-up audit undertaken, thus requiring an additional appropriation of £144,000 per year.

##### ***Human resources***

15 The availability of trained auditors to undertake the required number of audits per year is also of significance. Under the existing Scheme and with the modest number of audits currently being carried out, difficulties can arise in forming audit teams in the future, either because of non-availability of suitable auditors or because of other limitations, such as language and experience. The limited capabilities of the existing IMO Scheme should be compared with the system ICAO runs, whereby a number of auditors are seconded to ICAO Headquarters in addition to full time ICAO staff involved in the audit programme – not to mention staff in ICAO's regional Bureaux, who also provide additional core audit capacity.

16 In the case of IMO, the delivery of 24 audits a year, with an average audit team of three (72 auditors a year) for about 11 days per audit (including travel time) would equate to 792 man-days. A critical component of this resource would be the audit team leaders. To execute the 24 audits suggested above, per year, a core of 30 audit team leaders would have to be identified and advance commitment received from their nominating States of their availability to undertake the tasks assigned to them. With regard to the other two members of each team, there is some latitude in their selection and commitment to undertake these audit duties, as is currently the case. Notwithstanding the foregoing, the issue of availability of auditors will have to be considered and Member States would have to commit to providing this critical resource for the Scheme to function smoothly.

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<sup>1</sup> Fifty per cent of cost is affected by currency exchange movement.

17 At the moment, the Secretariat resources in support of the Audit Scheme are very limited, as the Council is aware. Thus far, the Secretariat has responded to its duties and responsibilities concerning the delivery of the Scheme by limiting the extent to which its input is provided. For example, a considerable amount of time is spent on editing draft audit interim reports and audit final reports to ensure accuracy and some degree of consistency. References to the Code for the implementation of mandatory IMO instruments, as well as to requirements in other relevant mandatory instruments, have to be checked for correctness and findings of non-conformity or observations validated to ensure they are appropriate and justified. Furthermore, the Secretariat prepares draft audit summary reports – an exercise, which entails a precise summary of the audit final report, which is then used by team leaders to obtain final agreement with the Member State audited. All of these activities and the associated administrative support are core activities that will remain a function of the Secretariat. To provide the necessary support for the smooth and effective operation of the Scheme, adequate Secretariat resources are needed and will have to be provided in due course.

18 To expand on the possible Secretariat resource requirement, it would be safe to assume, at this stage, that one audit professional staff member would be capable of handling five audits a year from the start of the preparatory work through to the finalization of the various audit reports, including any follow-up audits. The participation in the audit team of an audit professional staff member as an auditor or observer is assessed as being crucial and a key component to ensuring consistency and thoroughness of the audit – which is also the practice with ICAO USOAP. Additionally, general administrative support staff would be required – but fewer in number than the professional staff.

19 Based on the above assumption, a core Secretariat human resource requirement, additional to the existing staff in the respective section of the Secretary-General's Office, would be four professional and two general service staff members, at an annual cost of about £430,000. However, secondment of audit professionals by Member States, as part of that core resource requirement or to complement same, remains an option, which should be properly explored during the initial stages of the Scheme in its developed form.

#### **Estimated resources for corrective action**

20 The provision of technical assistance to Member States in need of such in order to prepare for audits and/or implement corrective measures in response to audit findings has been highlighted throughout the development and implementation of the current voluntary Audit Scheme. Recourse to such a facility would apply even more in the case of a mandatory system. IMO's Integrated Technical Co-operation Programme (ITCP) contains, at present, programmes to provide such assistance, which, however, have not been fully utilized by Member States in need of assistance to participate in the Scheme. In addition to the delivery of training courses, these programmes provide funding for experts to assist Member States on matters related to the audit; funding of part of the cost of the audit; and the general availability of technical assistance to address findings from audits.

21 In previous Council discussions on the provision of technical assistance to Member States to implement corrective action, reference was made to ICAO's International Financial Facility for Aviation Safety (IFFAS), with a request that the IFFAS establishment and operation be studied. To this effect, a joint submission (TC 52/2/3) by Cyprus, the Philippines and Vanuatu to the fifty-second session of the Technical Co-operation Committee was appreciated as highlighting the issue.

22 TC 52, discussed extensively this joint submission and the outcome was reported in document TC 52/14. Subsequently, the Secretariat submitted to TC 54 document TC 54/INF.2 containing information on the establishment of IFFAS. IFFAS is not a novel idea that is substantially different in terms of fund raising for regular technical assistance programmes. IFFAS resources come from voluntary contributions from ICAO Contracting States and interested parties. What is different is that IFFAS provides a soft loan facility to Contracting States to remedy deficiencies in aviation safety. Loans are provided based on the requesting State or group of States providing a rigorous business plan for the repayment of the loan to IFFAS.

23 This ICAO funding mechanism has its legal basis in Articles 69 and 70 of the Chicago Convention, which empowers the ICAO Council to make arrangements with Contracting States relating to the financing of air navigation facilities. As the Council knows, no such mandate is provided for in the IMO Convention. However, the absence of an explicit provision in the IMO Convention for financial arrangements to be made to address maritime safety and pollution prevention needs of Member States has not precluded the Organization from soliciting and providing assistance through its ITCP or through the establishment of Trust Funds for specific purposes, such as the International Maritime Security Trust Fund and the International Search and Rescue (SAR) Fund.

24 Contingent on the foregoing, any demand for additional sources of funding beyond those provided, at present, through the ITCP, will only be known when the results of audits have demonstrated shortcomings in crucial maritime structures, which, if not attended to, would pose a significant risk to the safety and security of international maritime transport services and the attendant need to protect the marine environment."

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