

Shipping Consultative Committee

Voluntary IMO Member State Audit Scheme

Purpose

The purpose of this paper is to seek Members' views on Hong Kong's consideration to participate in the Voluntary IMO Member State Audit Scheme (Audit Scheme).

Background

2. The IMO Assembly at its 23rd session in November 2003 approved, by adopting resolution A.946(23), the establishment of the Audit Scheme to help promote maritime safety and environmental protection. The Audit Scheme will be implemented on a voluntary basis. To facilitate its implementation, IMO has developed the draft framework and procedures and other modalities for the scheme, with a view to their formal adoption by the IMO Assembly to be held from 21 November to 2 December 2005.

Objective and scope of the audit

3. The objective of the audit is to determine to what extent Member States are implementing and enforcing the following IMO instruments (hereinafter called "instruments"):

- (a) SOLAS 74, as amended and as modified by its 1978 Protocol and its 1988 Protocol;
- (b) MARPOL 73, as amended by its 1978 Protocol;
- (c) STCW 78, as amended;
- (d) LL 66, as modified by its 1988 Protocol;
- (e) Tonnage 69; and
- (f) COLREG 72, as amended.

4. The audit would cover the Member State's

- (a) implementation and enforcement of the instruments in its legislation;
- (b) promulgation of IMO rules and regulations;
- (c) control and monitoring mechanism on survey and certification;
- (d) enforcement action for the contravention of its laws and regulations;
- (e) other obligations and responsibilities under the instruments.

5. To put the scheme on trial, two mutual pilot audits had been conducted from September 2004, one among Cyprus, the Marshall Islands and the United Kingdom, and the other among France, the Islamic Republic of Iran and Singapore. These two mutual pilot audits were completed in December 2004 with no difficulties found during the process of the audits.

6. Regarding the budget, it is estimated that it will take 13 days to complete the audit by a team of three auditors and the member States to be audited should pay for the cost involved for the audit, about GBP13,500 (i.e. say about HK\$200,000)

Current status of Hong Kong in compliance with the IMO instruments

7. The instruments are implemented in Hong Kong mainly by the following legislation :

- (a) Merchant Shipping (Safety) Ordinance, Cap. 369;
- (b) Merchant Shipping (Prevention and Control of Pollution) Ordinance, Cap. 413; and
- (c) Merchant Shipping (Seafarers) Ordinance, Cap. 478

and their sub-legislation. The legislation are required to be updated to give effect to subsequent amendments adopted by IMO from time to time. Since legislation process is both complicated and time consuming, the relevant legislation may not constantly be updated in good time. As an interim measure, Merchant Shipping Notices (MSN) and Merchant Shipping Information Notes (MSIN) are issued to provide instructions and/or updated IMO information to shipowners, operators, recognized organizations and other parties concerned to facilitate timely compliance with the new international maritime requirements.

8. As a flag State, Hong Kong authorizes classification societies (“recognized organizations”) to act on its behalf in conducting statutory surveys and certification for Hong Kong registered ships since 1991. Meanwhile a system is in place to evaluate and monitor the performance of the recognized organizations. A system of Flag State Quality Control Inspections was first introduced in 1999 to maintain the standards of Hong Kong fleet while Pre-registration Quality Control Inspections have also been implemented since 2004 to verify the quality of ships before acceptance for registration. Furthermore, taking into account the relevant IMO resolutions, a control and monitoring system to allow appropriate and prompt actions to be taken for maritime casualty and pollution incidents has also long been established.

9. Enforcement and penalty clauses were stipulated in maritime legislation to empower the Director of Marine to take appropriate actions against those who contravene the relevant regulations.

10. Hong Kong also discharges its other obligations and responsibilities under the instruments, including:

- (a) carrying out port State control inspections for 15% of the foreign ships visiting in Hong Kong;
- (b) timely submission of reports to IMO, such as flag State performance, exemption/equivalence/dispensation, casualties;
- (c) establishment and maintaining of navigational aids within its waters; and
- (d) establishment and management of vessel traffic services etc.

Evaluation on participation into the Audit Scheme

11. In view of the aforementioned hardware and software, Hong Kong does not envisage any major problems to volunteer for participation in the Audit Scheme. The only problem appears lying in the difficulties of timely updating of the relevant local legislation. Nevertheless, the issuance of MSNs and MSINs, as an interim measure, to provide instructions and updated IMO information to the concerned parties has been proved effective in maintaining compliance and the quality of Hong Kong fleet.

12. Hong Kong fleet is already regarded as one of the reputable fleets in the world. This is substantiated by the low average PSC detention rates as tabulated below :

	Average HK ships detention rate 2002 - 2004	Total regional detention rate 2002 - 2004
Tokyo MOU	1.53%	7.21%
Paris MOU	2.9%	6.95%
US PSC Programme	0.73%	2.3%

13. Although the Audit Scheme is not mandatory, Hong Kong will gain the following advantages in joining the scheme :

- (a) Hong Kong's regime for implementation of the IMO instruments could be tested by an independent body. Through the audit, the quality of the fleet would be recognized, which will help enhance Hong Kong's attractiveness further as a major register for shipping in the world.
- (b) Through the audit, any areas for improvement in relation to the implementation of the IMO instruments could be identified.
- (c) Through the audit, Hong Kong's ability to operate and maintain a safe and effective port for shipping could be further demonstrated.

14. On the other hand, if Hong Kong does not join the audit scheme, it may sustain the following disadvantages:

- (a) Hong Kong's reputation as a quality fleet in the world may call into question if other Administrations which have taken part into the scheme produce good results. As a consequence Hong Kong flag may lose its edge in competitiveness as a major shipping register in the world.
- (b) Owing to the lack of an objective assessment as provided by the external audit, the opportunity for further improvement may be lost.

15. If the decision is to join the Voluntary Audit Scheme, MD will need to seek policy approval, secure the necessary fund and take up other relevant preparatory work. In view of the current workload and limited resources available, the additional work will stretch the workforce to the extent that some of its current services may be adversely affected. It is estimated that joining the Audit Scheme will produce an additional workload equivalent to two officers working full time for at least six months.

Advice Sought

16. Members are invited to comment on whether Hong Kong should join the Voluntary IMO Member State Audit Scheme.

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