



ASSEMBLY
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Agenda item 5

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adopted on 25 November 1999

SELF-ASSESSMENT OF FLAG STATE PERFORMANCE

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 amongst the objectives of the Organization is the assessment of the current level of implementation and the identification of those areas where flag States have difficulties in fully implementing IMO instruments to which they are Party, paying special attention to difficulties encountered by Governments,

FURTHER RECALLING 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 fulfill the obligations and the responsibilities which are set forth in international regulations, procedures and practices contained in IMO instruments and other mandatory instruments which they adopt, and to take any steps which may be necessary to secure their observance,

RECOGNIZING ALSO that Parties to international conventions such as the United Nations Convention on the Law of the Sea, 1982 (UNCLOS); the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 1974); 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 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 fully to meet their responsibilities and to discharge their obligations as prescribed by the conventions and other instruments to which they are Party,

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REAFFIRMING its desire that ships comply at all times with maritime safety and pollution prevention standards laid down in relevant international instruments,

REAFFIRMING ALSO that flag 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,

HAVING ADOPTED resolution A.847(20) on Guidelines to assist flag States in the implementation of IMO instruments; resolution A.739(18) on Guidelines for the authorization of organizations acting on behalf of the Administration; and resolution A.789(19) on Specifications on the survey and certification functions of recognized organizations acting on behalf of the Administration,

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 desired benefits can only be fully achieved when all Parties carry out their obligations as required by the instruments concerned,

NOTING FURTHER 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;
- (c) enforcing them rigorously; and
- (d) 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,

WELCOMING the decision of the Maritime Safety Committee, at its seventieth session, to draw up clear criteria against which the success of the performance of the flag States might be assessed,

UNDERSTANDING that the development, acceptance and adoption of such internal and external criteria to be used for the self-assessment of the ability, capacity and performance of States to carry out and fulfill the obligations and responsibilities they undertake to perform by becoming Parties to various instruments is still in progress,

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

HAVING CONSIDERED the recommendations made by the Maritime Safety Committee at its seventy-first session and by the Marine Environment Protection Committee at its forty-third session,

1. ADOPTS the Guidance to assist flag States in the self-assessment of their performance, as set out in the Annex to the present resolution;
2. URGES Governments, in their efforts to improve safety of life at sea and to protect the marine environment, to carry out, at regular intervals at their discretion, a self-assessment of their capabilities and performance in giving full and complete effect to the various instruments to which they are Party;
3. URGES ALSO Governments to use the Guidance, in conjunction with resolution A.847(20), and to bear in mind the relevant provisions of the various IMO instruments to which they are Party, when assessing their performance as a flag State in the context of these instruments;
4. ENCOURAGES Governments, when seeking technical assistance from or through the Organization, to provide the Secretary-General with the results of their most recent self-assessment, so as to enable and assist the Secretary-General to identify, qualify and quantify, in consultation with the State concerned, the needs and the priorities of the State in question. For this purpose, any submission of the results is not a prerequisite for seeking or obtaining technical assistance. In this respect, the contents of any such submission are to be treated with the utmost and strictest confidence and the name of the submitting Government will only be released with the expressed consent of the Government concerned;
5. INVITES Governments to submit, on a voluntary basis, to the Organization a copy of their self-assessment report in order to enable the establishment of a database which would assist the Organization in its efforts to achieve consistent and effective implementation of IMO instruments;
6. REQUESTS the Maritime Safety Committee and the Marine Environment Protection Committee to consider other measures necessary to ensure the effective and consistent global implementation of IMO instruments and, in so doing, to pay particular attention to any special difficulties faced by Governments;
7. REQUESTS ALSO the Maritime Safety Committee and the Marine Environment Protection Committee to keep the Guidance under continuous review and to update it in the light of their work on the matter.

ANNEX

**GUIDANCE TO ASSIST FLAG STATES IN THE SELF-ASSESSMENT
OF THEIR PERFORMANCE****General obligations of flag States**

1 It is the responsibility of flag States to ensure that they establish and maintain measures for the effective application and enforcement of the IMO instruments to which they are a Party. From the point of view of flag State implementation the most significant IMO instruments are:

- .1 the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74), as amended;
- .2 the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), as amended;
- .3 the International Convention on Load Lines, 1966 (LL 66);
- .4 the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 78), as amended;
- .5 the Convention on the International Regulations for Preventing Collisions at Sea, 1972, (COLREG 72), as amended; and
- .6 the International Convention on Tonnage Measurement of Ships, 1969 (Tonnage 69).

Regard should also be given to the United Nations Convention on the Law of the Sea (UNCLOS).

2 Having accepted an instrument, a Government is bound by the provisions of the instrument to promulgate laws in relation to the implementation of its provisions through appropriate national legislation (e.g. SOLAS 74 article 1(b)). The undertaking to give effect to the provisions of the relevant instrument (e.g. SOLAS 74 article 1 (a)) means that the Government must have a functioning legislative body to enact laws for ships flying its flag and to provide for their subsequent implementation and enforcement.

Internal criteria for the assessment of flag State performance

3 "**Internal**" criteria are those which are directly relevant to the operation of the flag State as an Administration and are designed to give a clear indication of the effectiveness of a flag State Administration in fulfilling its obligations under the instruments. Guidance on flag State responsibilities is contained in Assembly resolution A.847(20) on Guidelines to assist flag States in the implementation of IMO instruments. Article 94 of UNCLOS also sets out the duties of the State Parties (Article 1.2(1)). Article 217 of UNCLOS is also relevant in detailing the enforcement responsibilities of flag States. Based on international instruments, a flag State has responsibilities relating, in particular, to setting legal requirements to give national effect to the instruments to which it is a Party; enforcement of those requirements; authorization of organizations acting on its behalf and casualty investigation. These are considered in more detail below.

Legal framework

4 A flag State should:

- .1 take measures to ensure safety at sea and pollution prevention for ships entitled to fly its flag with regard to:
 - .1 the construction, equipment and management of ships;
 - .2 the principles and rules with respect to the limits to which ships may be loaded;
 - .3 the prevention, reduction and control of pollution of the marine environment and the minimization of the impact of accidental discharges of pollutants;
 - .4 the manning of ships and the training of crews; and
 - .5 the safety of navigation (including taking part in mandatory reporting and routing systems), maintenance of communications and prevention of collisions;
- .2 promulgate laws which permit effective jurisdiction and control in administrative, technical and social matters over ships flying its flag and, in particular, relating to the inspection of ships, safety and pollution prevention laws applying to such ships and the making of associated regulations; and
- .3 promulgate laws providing the legal basis for the establishment of a registry and maintain a register of ships flying its flag.

Enforcement

5 A flag State should:

- .1 provide for the enforcement of its national laws, including the associated investigative and penalty processes;
- .2 take appropriate action against ships flying its flag that fail to comply with applicable requirements;
- .3 ensure the availability of sufficient personnel with maritime and technical expertise to carry out its flag State responsibilities, including:
 - .1 the development and enforcement of necessary national laws;
 - .2 the establishment and maintenance of minimum safe manning levels on board ships flying its flag and the provision of effective certification of seafarers;
 - .3 the inspection of ships flying its flag to ensure compliance with the requirements of international instruments to which the flag State is a Party;
 - .4 the reporting of casualties and incidents as required by the respective instruments; and

- .5 the investigation of circumstances following any detention of ships flying its flag.

Responsibility of recognized organizations acting on behalf of the Administration

6 In the case where a flag State authorizes third party organizations to act on its behalf, i.e. recognized organizations, any delegation of authority to these recognized organizations must be clearly recorded and should follow as a minimum the Guidelines for the authorization of organizations acting on behalf of the Administration (resolution A.739(18)) and the Specifications on the survey and certification functions of recognized organizations acting on behalf of the Administration (resolution A.789(19)). The requirements in SOLAS 74, chapter I, regulation 6(c), and the analogous requirements of MARPOL 73/78 should be included in any delegation of authority. The flag State must also take full responsibility for all safety and pollution prevention certificates issued under the relevant instruments by it or on its behalf.

Casualty and incident investigation

7 A flag State should undertake prompt and thorough casualty and incident investigations and submit relevant reports to IMO, as appropriate.

External criteria for the assessment of flag State performance

8 "**External**" criteria refer to information, in particular port State control data and casualty accident data, which may also be taken to be indicators of the way in which a flag State is performing. The following are indicators of the way in which the flag State is performing but do not relate directly to the organization of the flag State's Administration. When used as indicators, the criteria listed in 8.1 to 8.5 must be considered in proportion to the overall number of ships flying its flag, subject to international instruments to which the State is a Party.

- .1 Number of accidents, casualties and incidents reportable to IMO in terms of the requirements of the international casualty database
- .2 Number of accidents involving personal injuries leading to absence from duty of 3 days or more on board ships flying the flag of the State concerned
- .3 Number of lives lost on its ships resulting from the operation of ships flying its flag
- .4 Number of ships lost
- .5 Number of incidents of loss of pollutants into the sea according to MARPOL 73/78 reporting standards, including a measure of the seriousness of the incidents
- .6 Number of ships detained by other States under port State control procedures
- .7 Communication to IMO of information required in mandatory instruments.

Self-assessment form

9 Based on the internal and external criteria outlined above, a self-assessment form is attached. The primary objective of the form is to assist flag States in assessing their performance against these criteria. Questions relating to the STCW Convention have not been included because that instrument has its own assessment procedures.

Appendix

FLAG STATE PERFORMANCE SELF-ASSESSMENT FORM

All questions relate to merchant ships flying the flag of the State concerned

GENERAL	
<p>1. Name of State/Associate Member</p> <p><i>List the Administrations which you represent at IMO (a separate assessment form should be completed for each. Include all flag States, including those which are not Member States of IMO but are Parties to IMO instruments).</i></p>	
<p>2. Name of contact person responsible for the completion of this form</p> <p>Name of Administration</p> <p>Address</p> <p>Telephone number</p> <p>Fax number</p> <p>E-mail address</p>	

3. Indicate to which of the following international instruments your State is a Party and which (optional) MARPOL 73/78 Annexes have been ratified.	
<p style="text-align: center;"> <i>SOLAS 74</i> <i>SOLAS Protocol 78</i> <i>SOLAS Protocol 88</i> <i>MARPOL 73/78</i> <i>Annex III</i> <i>Annex IV</i> <i>Annex V</i> <i>Annex VI</i> <i>LL 66</i> <i>LL Protocol 88</i> <i>TONNAGE 69</i> <i>COLREG 72</i> <i>UNCLOS</i> </p>	<p style="text-align: center;"> Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No Yes/No </p>
<p>4.1 How many merchant ships of 100 gross tonnage and upwards, subject to the relevant instruments you indicated in question 3, are currently flying the flag of your State?</p> <p>4.2 What is the total gross tonnage of merchant ships flying the flag of your State?</p>	MS:
INTERNAL CRITERIA	
Legal framework	
<p>5. Does your Administration have the necessary laws in force to implement international maritime safety and pollution prevention instruments with regard to:</p> <p>.1 the construction, equipment and management of ships;</p> <p>.2 the prevention, reduction and control of pollution of the marine environment;</p> <p>.3 the safe loading of ships;</p> <p>.4 the manning of ships;</p> <p>.5 the safety of navigation (including taking part in mandatory reporting and routing systems), maintenance of communications and prevention of collisions?</p>	<p style="text-align: center;"> Yes/No Yes/No Yes/No Yes/No Yes/No </p>

<p>6. Does your Administration have the necessary laws in force to ensure the provision of penalties of adequate severity to discourage violation of international instruments to which your State is a Party?</p>	<p>Yes/No</p>
<p>7. Does your Administration have the necessary laws in force to provide for ship inspections to ensure compliance with international maritime safety and pollution prevention standards, to which your State is a Party?</p>	<p>Yes/No</p>
<p>8. Does your Administration have the necessary laws in force to take legal action against ships which have been identified as not being in compliance with the international instruments to which your State is a Party?</p>	<p>Yes/No</p>
<p>9. Does your Administration have the necessary laws in force to carry out the required casualty investigations?</p>	<p>Yes/No</p>
<p>Enforcement</p>	
<p>10. Does your Administration have an infrastructure, including personnel with appropriate technical expertise and experience, to:</p> <p>.1 identify ships flying the flag of your State which are not in compliance with international maritime safety and pollution prevention requirements?</p> <p>.2 take action against ships flying the flag of your State which have been identified as not being in compliance with international maritime safety and pollution prevention requirements?</p> <p>- If yes, against how many such ships was action taken for each of the previous 5 years*?</p>	<p>Yes/No</p> <p>Yes/No</p> <p>....</p>
<p>11. Did your Administration investigate detentions by port States of ships flying the flag of your State for each of the previous 5 years*? (see also question 28)</p> <p>- If yes, indicate how many such detentions were investigated.</p>	<p>Yes/No</p> <p>....</p>

Recognized organizations acting on behalf of the Administration	
12. Which organizations has your Administration recognized for the purpose of delegation of authority under the relevant instruments you indicate under question 3?	
13. When your Administration delegates authority to recognized organizations, does it follow resolutions A.739(18) and A.789(19) as minimum requirements, the requirements in SOLAS 74, regulation XI/1, and the analogous requirements in MARPOL 73/78 in any delegation of authority?	Yes/No
14. Has your Administration provided IMO with a copy of the formal agreement or equivalent legal arrangements with the recognized organizations listed in question 12?	Yes/No
15. Indicate which survey and/or certification functions your Administration has delegated to the recognized organizations referred to in question 12.	
16. Indicate, for the instruments you listed under question 3, which survey and/or certification functions are carried out by your Administration.	
17. Does your Administration carry out the verification and monitoring functions specified in resolution A.739(18)?	Yes/No
18. How does your Administration carry out the verification and monitoring functions specified in resolution A.739(18)?	
19. How often does your Administration verify and monitor the work of recognized organizations acting on its behalf?	Every.... months
20. How does your Administration take specific responsibility for international certificates issued on its behalf by dependent territories/second registers?	

Casualty and incident investigation	
21. Does your Administration have the means (financial and administrative) to ensure that thorough and prompt casualty and incident investigations into all cases of serious and very serious casualties, as defined in paragraphs 4.2 and 4.3 of the Annex to resolution A.849(20), are carried out?	Yes/No
22. For each of the previous 5 years*, for ships flying the flag of your State: .1 How many serious and very serious casualties and incidents were investigated? .2 How many such casualties and incidents were reported to IMO?	
23. Can your Administration provide to IMO, on request, evidence which shows that casualties and incidents on ships flying the flag of your State have been investigated?	Yes/No
24. For each of the previous 5 years*, has your Administration provided IMO with the mandatory annual reporting required by article 11.1(f) of MARPOL 73/78?	Yes/No
25. How many allegations of violations, according to article 4 of MARPOL 73/78, have been made against ships flying the flag of your State in each of the previous 5 years*? .1 How many investigations or legal proceedings has your Administration carried out in the previous 5 years* in accordance with articles 4 and 6 of MARPOL? .2 In how many cases did your Administration report back to the reporting State or to IMO in each of the previous 5 years*?	

EXTERNAL CRITERIA		
26.	For each of the previous 5 years*, how many ships flying the flag of your State:	
.1	have been involved in serious or very serious casualties?	
.2	have become total losses or constructive total losses?	
.3	have caused severe pollution**?	
.4	What casualty rate per 1000 ships does this represent?	
.5	What is the total tonnage involved as a percentage of the total fleet?	
27.	In each of the previous 5 years*, how many lives have been lost:	
.1	in casualties involving ships flying the flag of your State?	
.2	due to occupational accidents (i.e. other than from casualties to ships) on ships flying the flag of your State?	
	<i>NB - Includes: falls; boarding or disembarking; accidents on deck and in machinery spaces; deaths in enclosed spaces; but does not include: accidents ashore; homicide; suicide; or deaths from disease or natural causes.</i>	
28.	.1 For each of the previous 5 years*, how many ships flying the flag of your State were detained, within the scope of SOLAS 74, MARPOL 73/78, LL 66 or COLREG 72, by port States?	
	.2 What detention rate per 1000 ship inspections does this represent? (see also question 11).	

* or from the date your Government became a Party to the relevant instrument, if that is later.

** "Severe pollution" is a case of pollution which, as evaluated by the coastal State(s) affected or the flag State, as appropriate, produces a major deleterious effect upon the environment, or which would have produced such an effect without preventive action.
