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## **ANALYSIS OF CONSOLIDATED AUDIT SUMMARY REPORTS**

### **Analysis of four consolidated audit summary reports under the IMO Member State Audit Scheme (IMSAS)**

#### **Note by the Secretariat**

#### **SUMMARY**

<i>Executive summary:</i>	This document provides a summary of the analysis of the four consolidated audit summary reports (CASRs) from 68 audits conducted under the IMO Member State Audit Scheme (IMSAS) completed between 2016 and 2019, as presented in document III 7/INF.27, focusing on the difficulties encountered in the implementation of IMO instruments
<i>Strategic direction, if applicable:</i>	1
<i>Output:</i>	1.4
<i>Action to be taken:</i>	Paragraph 36
<i>Related documents:</i>	III 7/INF.27; III 5/7, III 5/INF 3, III 5/15; MSC 101/24; MSC 102/24; MEPC 74/18; MEPC 75/18; Circular Letters Nos.3772, 3879, 4028 and 4317

#### **Introduction**

1 Following the request by the Council at its 121st session, MSC 101 and MEPC 72 referred the second consolidated audit summary report (CASR), which contains lessons learned from 15 audits conducted in 2016 and 2017 under the IMO Member State Audit Scheme (IMSAS), annexed to Circular Letter No.3879, to III 7, for consideration and analysis, and to report the outcome of its considerations to the Committees in due course.

2 In addition, following the request by the Assembly at its thirty-first session, MSC 102 and MEPC 75, referred the third CASR, which contains lessons learned from 17 audits conducted in 2017 and 2018 under IMSAS, annexed to Circular Letter No.4028, to III 7, for consideration and analysis, and to report the outcome of its considerations to the Committees in due course.

3 In 2020, the fourth CASR, which contains lessons learned from 18 audits conducted in 2018 and 2019 under IMSAS, became available as the annex to Circular Letter No.4317 and has been included in this analysis to present as up-to-date information as possible, containing all four CASRs issues so far, for the deliberation of the Sub-Committee.

4 III 5, based on its review of the analysis of the first CASR, requested the Secretariat to continue applying the methodology used in the analysis of CASRs, as presented in document III 5/INF.3, for the analysis of the outcome of mandatory audits, while agreeing to include, separately and as appropriate, information on difficulties in the implementation of identified mandatory codes in future analyses (III 5/15, paragraph 7.28).

5 Based on the analysis of four CASRs, which contain 68 audits conducted between 2016 and 2019 under IMSAS, the Secretariat has analysed the outcome from those audits (III 7/INF.27), as requested by III 5. The analysis is intended to assist the work of the Sub-Committee in identifying difficulties Member States may have in the implementation and enforcement of the mandatory IMO instruments, as well as the underlying causes, with a view to informing the Committees for further actions, as may be necessary.

6 In this regard, the Sub-Committee may wish to recall that MSC 101 (MSC 101/24, paragraphs 10.10.1 to 10.10.7) and MEPC 75 (MEPC 75/18, paragraph 11.7), endorsed the recommendations from III 5, including those in relation to the methodology and process for assessing the effectiveness and appropriateness of IMO legislation, as well as the feedback and the process for providing feedback on the analysis of CASRs to the Committees, for reporting back to the Council, as requested by both the Assembly and the Council. The Sub-Committee is, therefore, invited to prepare relevant feedback for the Committees accordingly.

## **Study**

7 The present analysis of the four CASRs of 68 audits (six of which concerned landlocked States) conducted under IMSAS, contains 1,167 findings and 107 observations, with references to the requirements of the conventions and the III Code, as applicable, and 5,239 root causes, as reported by the audited Member States.

8 The methodology used for assessing the effectiveness of the implementation of the mandatory IMO instruments and the III Code was based on the categorization of findings and observations into areas by sections of the III Code and the relevant IMO instruments, and further by paragraphs and sub-paragraphs of the III Code, as well as references to the provisions of the mandatory IMO instruments. The analysis of recurring shortcomings was carried out both at the level of the associated references to the requirements of the mandatory IMO instruments, as well as the paragraphs and sub-paragraphs of the III Code, to indicate requirements where implementation may not be effective.

9 Root causes, as identified by the audited Member States, were categorized and grouped under four main areas, namely – legislation, policy and procedures, management, and implementation. They were analysed in relation to the most recurrent areas of findings and observations (major areas identified in audits), as well as in relation to the references to the mandatory IMO instruments. This method provides a logical way to establish the main reasons for the shortfall in the effective implementation and enforcement of the mandatory IMO instruments and the III Code.

10 The results of the analysis are shown in the annex to document III 7/INF.27, which contains a presentation of the analysis of findings and observations, including root causes, through the use of figures and commentary for various levels of findings and observations (overall, by areas, by individual requirements, etc.). The analysis of root causes may provide an indication of where any difficulties to comply with the provisions of the mandatory IMO instruments and the III Code may lie. The references to figures in this document are from document III 7/INF.27.

11 In addition, it should be noted that the terms "finding" and "observation" have been used in this document in accordance with their respective definitions in the *Procedures for the IMO Member State Audit* (resolution A.1067(28), annex, part II), whereby "finding" means a situation where objective evidence indicates the non-compliance with a mandatory requirement contained in an IMO instrument or in the audit standard; while "observation" means a statement of fact substantiated by objective evidence, relating to a non-mandatory provision of the audit standard.

### **Findings and observations**

12 The results of the analysis reveal that audit findings and observations were predominantly related to flag State issues. Figure 3 shows the composition of findings and observations according to their number under the parts of the III Code. Most of the findings and observations were found in the area of implementation in the part on flag States, followed by enforcement, flag State surveyors and flag State investigations. In the Common Areas, most of the findings and observations relate to initial actions (legislation), followed by communication of information and strategy. A further detailed analysis of those areas revealed which requirements were lacking effective implementation, as shown in figures 4 to 8.

13 The analysis of the distribution of findings for each mandatory IMO instrument (figure 14) shows that the majority of findings has been issued under SOLAS 1974 (43%) and MARPOL (25%). The analysis has been carried out at the level of articles and chapters/annexes of a particular instrument, with more detailed analysis at the level of particular articles and regulations in order to inform any conclusions to be reached in relation to the effectiveness of the implementation of specific requirements.

14 The highest number of findings under SOLAS 1974 (figure 16) are related to chapter V (Safety of navigation), the articles (I and III) of the Convention, as well as regulations XI-1/1 (authorization of recognized organizations (ROs)) and XI-1/6 (additional requirements for the investigation); followed by regulation IV/5 (provisions of radio-communications services). The most recurrent findings by articles and regulations in chapters were general obligations in accordance with article I, which requires Contracting Governments to give full and complete effect to the Convention by implementing national provisions; communication of information in accordance with article III (laws and regulations) and authorization of ROs under regulation XI-1/1, followed by additional requirements for the investigation in accordance with regulation XI-1/6. Chapter V contains the highest number of recurrent references.

15 Under MARPOL (figure 18), the most recurrent findings are related to article I, which requires the Parties to give full and complete effect to the Convention and the annexes thereto by implementing national provisions; article 11 (communication of information); Annex I, regulation 14 (provisions for oil filtering equipment); lack of provision of reception facilities under Annexes I, II, IV, V and VI; and casualties to ships under article 12 (obligation of investigating casualties affecting the marine environment).

16 Under STCW 1978 (figure 20), the highest number of findings has been recorded under general obligations in accordance with article I and communication of information in

accordance with article IV and regulation I/7; followed by findings in relation to chapter I, quality standards in accordance with regulation I/8; as well as provisions related to fitness for duty under regulation VIII/1 of the Convention.

17 The number of findings in relation to LL 1966, LL PROT 1988, TONNAGE 1969, and COLREG 1972 were related to the general obligations under article 1 of those mandatory IMO instruments, in relation to giving full and complete effect to the provisions of the Conventions. Provisions related to communication of information under article 26 of LL 1966 and article 15 of TONNAGE 1969 also had significant number of recurrent references (figure 22).

### **Major areas identified in audits**

18 For the purpose of the identification of major areas of findings and observations, the figures on the most frequent references to specific provisions of the III Code have been summarized in table 1, under the related sections of the III Code (areas of findings and observations), as well as presented in a graphical format in figure 23. Detailed analysis of references indicates that the five major areas identified in audits are related to implementation (flag, coastal and port State), enforcement (flag, coastal and port State), improvement, delegation of authority and initial actions (legislation).

19 In relation to implementation, findings and observations in all three areas of implementation (flag, coastal and port State) have been included under this area in order to capture all implementation issues, which have been associated, later on, with the related root causes. The shortcomings identified under the area of implementation mostly comprise the following: lack of implementation of policies through the issuance of national legislation and guidance; assignment of responsibilities; absence of administrative instructions/interpretative national regulations; absence of guidance for the requirements that are left to the satisfaction of the Administration; lack of an audit and inspection programme; as well as administrative arrangements related to the implementation of STCW 1978.

20 In relation to enforcement, findings in all three areas of enforcement (flag, coastal and port State) have been included under this area in order to capture all enforcement issues, which later on have been associated with the related root causes. The shortcomings identified under the area of enforcement mostly comprise the following: absence of enforcement measures to secure observance of international rules and standards; lack of, or ineffective control and monitoring programmes; qualified personnel and training and establishing processes for port State control (PSC).

21 In relation to improvement, the reported shortcomings indicate that in many cases States lacked a methodology to improve the adequacy of the measures taken to give effect to those mandatory IMO instruments to which they are Parties; absence of actions to identify and eliminate the cause of any non-conformities to prevent recurrence; and absence of mechanisms to provide opportunities for improvement of performance in maritime safety and environmental protection through training programmes.

22 The majority of the audit findings regarding delegation of authority revealed that the most common issue faced by the States was the lack of an oversight programme in accordance with the provisions of the III Code; issues regarding the formal agreement between the Administration and ROs; the absence of evaluation of ROs as a basis for delegating authority; as well as the lack of instructions issued to ROs and not providing ROs with national laws and interpretations thereof.

23 In relation to initial actions/legislation, there are three recurring areas relating to the lack of ability to promulgate laws, lack of a legal basis for the enforcement of national laws and the lack

of sufficient personnel to assist in the promulgation of the necessary national laws and to discharge all the responsibilities of the State, including reporting, as required by the respective conventions. From the findings and related corrective actions, it would imply that Member States, which have encountered difficulty in this area, may not have established a system for analysing and integrating mandatory IMO instruments to which they became Parties, as well as newly adopted amendments, into their national regulations, nor tackled the discrepancies that may exist between their domestic legislation and relevant IMO provisions.

24 Whilst the non-effectiveness in the communication of information to IMO was, for the most part, identified in all audited areas, in this particular part of the analysis the number of findings in relation to any specific clause of the III Code was not high enough to justify inserting this area in this part of the analysis. On the one hand, the III Code does not contain any explicit reference that could be used for the lack of reporting. On the other hand, most of the audit findings referring to the communication of information were identified with respect to related articles and other provisions of the mandatory IMO instruments and have been shown and discussed in the analysis in that context. Related communication includes communication to IMO of text of laws, decrees, orders and regulations; communication under MARPOL using MEPC.1/Circ.318; communication under STCW 1978, including independent evaluation; casualties; dispensations; exemptions and equivalents; ROs and details of port reception facilities, to mention only the most frequent.

### **Root causes**

25 For the purpose of this analysis, the root causes associated with the respective findings and observations from the 68 audits have been categorized, grouped and analysed under four main areas, which are legislation, policies and procedures, management and implementation, as shown in figure 24.

26 The analysis revealed that the most frequent categories of root causes, contributing to the lack of effective implementation in the major areas identified in audits, were related to the lack of national provisions; lack of policies; lack of awareness, understanding or interpretation of the requirements; insufficient human and financial resources; lack of technical capability (trained personnel, hardware/equipment); lack of management system; and insufficient capacity to promulgate national legislation and to keep it updated.

27 In relation to root causes in the area of legislation, the predominant difficulty for the audited Member States was the lack of national provisions and capacity to promulgate and to keep updated national legislation and internal directives, as well as a lack of assigned responsibility to State entities. These three categories of root causes contributed the most to the non-effectiveness in "implementation" and "enforcement" of flag, coastal and port State requirements.

28 Under the area of policy and procedures, the most frequent categories of reported root causes were lack of policies, lack of established written procedures and lack of processes through which the State could effectively implement various requirements. The lack of policies, procedures and processes contributed to non-effective implementation and enforcement of flag, coastal and port State requirements.

29 Under the area of management, the most frequent categories of root causes were related to lack of awareness, understanding and interpretation of the requirements; lack of management systems; lack of resources – both human and financial; and lack of coordination among various State entities. Lack of awareness, lack of understanding, lack of interpretation and management system-related difficulties were major factors that hindered the effective implementation and enforcement of the relevant IMO instruments (flag, coastal and port State); as well as requirements related to delegation of authority. In addition, human and financial

resources, if taken together, present the single most frequent root cause for non-effective implementation of requirements in the area of management and the adverse effect of non-availability of sufficient resources is significant in almost all major areas of findings and observations.

30 Under the area of implementation, the most frequent categories of root causes were lack of technical capability and poor technical instructions/guidelines, as well as lack of training programmes, which significantly contributed to non-effectiveness in the areas of implementation, enforcement and delegation of authority.

31 Figures 25 to 28 show the most frequent areas of root causes that have contributed to non-effective implementation of provisions of the mandatory IMO instruments. Whilst the root causes in the area of legislation contributed substantially to non-effectiveness in complying with various requirements, for most references to the mandatory IMO instruments, the two areas of underlying root causes, where most of the difficulties were reported, as identified in this analysis, were related to management, and policies and procedures.

## **Conclusion**

32 The results of the analysis, which are summarized in this document and presented in more detail in document III 7/INF.27, could form the basis for further consideration by the Sub-Committee in order to identify those issues that it may wish the Committees to consider. In this context, the Sub-Committee may take into account the request from the Assembly and the Council for the Committees to inform the Council on the outcome of their consideration of CASRs, and to prepare its feedback to the Committees, taking into account the structure of the feedback and the process for providing the feedback, as well as the methodology and process for assessing the effectiveness and appropriateness of IMO legislation, as endorsed by the Committees (paragraph 6).

33 The Sub-Committee is invited to take into consideration the information on the recurrent areas of findings and observations identified, thus far, from the 68 audits under IMSAS; the related underlying root causes, as reported by Member States; as well as any need to further assist Member States in the execution of their obligations and responsibilities under the mandatory IMO instruments. In doing so, the Sub-Committee may wish to identify areas where technical assistance activities could be useful, as well as the possible development of guidance in relation to any major area of recurring findings and observations, if necessary.

34 Apart from the review process of CASRs, which is ongoing within the Organization, individual Member States could be invited to use the study as a means to assess areas within their own maritime administrations, either when preparing for the audit, or as a general review of their internal arrangements.

35 The Sub-Committee is invited to confirm, or otherwise, the usefulness and completeness of the current methodology for the analysis of CASRs, which will be carried forward to analyse the outcome of future CASRs.

### **Action requested of the Sub-Committee**

36 The Sub-Committee is invited to note the information provided in this document, together with document III 7/INF.27, and to take action as appropriate, in particular to:

- .1 consider the information presented with a view to reporting to the Committees on its consideration of CASRs, taking into account the structure of the feedback and the process for providing the feedback, as well as the methodology and process for assessing the effectiveness and appropriateness of IMO legislation, as endorsed by the Committees (paragraph 32);
  - .2 develop appropriate recommendations for the relevant IMO bodies on the outcome of its consideration, including but not limited to, information on the recurrent areas of findings and observations; related underlying causes, as well as any need to further assist Member States in the execution of their obligations and responsibilities under the mandatory IMO instruments (paragraph 33);
  - .3 invite individual Member States to use the study as a means to assess areas within their own maritime administrations, either when preparing for the audit, or as a general review of their internal arrangements (paragraph 34); and
  - .4 confirm, or otherwise, the usefulness and completeness of the current methodology for analysis of CASRs, which will be carried forward to analyse the outcome of future CASRs (paragraph 35).
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