



NEWS BRIEF

III 9





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The IMO Sub-Committee on Implementation of IMO Instruments (III) held its 9th session from July 31 to August 4, 2023. This Brief provides an overview of the more significant issues progressed at this session.

KEY DEVELOPMENTS

- 2023 HSSC Guidelines
- 2023 Procedures for Port State Control
- Guidance on Remote Surveys / ISM Audits
- Finalization of III Code Implementation Guidance
- Guidance on the 2012 Cape Town Agreement

ABS RESOURCES

- ABS Regulatory News ([link](#))
- ABS Regulatory Lessons ([link](#))
- ABS Safety in Minutes Video Series ([link](#))
- ABS Remote Survey Services ([link](#))
- ABS Port State Control Checklist ([link](#))
- ABS Smart Scheduler™ Survey Booking Tool ([link](#))
- ABS Rules and Guides ([link](#))

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DEVELOPMENT OF SURVEY GUIDANCE

Finalizing the 2023 HSSC Survey Guidelines

The Sub-Committee received the report of an intersessional correspondence group tasked to make progress on revisions to the *Survey Guidelines Under the Harmonized System of Survey and Certification (HSSC), 2021* (HSSC Survey Guidelines, A.1156(32)). The needed revisions will update the HSSC Survey Guidelines to include relevant survey requirements for mandatory instruments due to enter into force up to and including December 31, 2023 and amendments to SOLAS which enter into force on 1 January 2024. Requirements incorporated into this edition of the HSSC Survey Guidelines include:

- 1) MARPOL Annex VI:
 - a. Acknowledgement of UNSP Barge exemption certificates
 - b. Confirmation of updates to the SEEMP
 - c. Confirmation of attained EEXI
 - d. Verification of attained annual operational CII
- 2) SOLAS:
 - a. New requirements on openings in shell plating, regulation II-1/15
 - b. New requirements on water level detectors on multiple hold cargo ships, regulation II-1/25.1
 - c. New requirements on launching of lifeboats while making headway at up to five knots in calm water, regulation III/33
 - d. Updated references for numerous revised radiocommunication equipment standards associated with the modernization of the GMDSS

However, due to time constraints, the Sub-Committee was not able to develop amendments to the HSSC Survey Guidelines to address survey aspects of the new towing and mooring equipment requirements in SOLAS Chapter II-1 / Regulation 3-8 (adopted by resolution MSC.474(102), with a supporting interpretation established in circular MSC.1/Circ.1362/Rev.2).

Next Steps: The draft 2023 HSSC Survey Guidelines will be subject to adoption at the 33rd session of the IMO Assembly (Dec. 2023). A correspondence group will work intersessionally to begin the next updates to the HSSC Survey Guidelines (for adoption in 2025) to address amendments to mandatory instruments due to enter into force up to and including 31 December 2025.

Guidance on Remote Survey, Audit and Verification

The Sub-Committee finalized the first phase of its planned development of guidance on the assessment and applicability of remote surveys, ISM Code audits and ISPS Code verifications. Based on experience gained from the increased use of remote surveys and audits as a result of the COVID-19 pandemic, member States have generally recognized the benefits of remote surveys and are seeking to formalize guidelines for such surveys as their use expands.

At the previous session, the Sub-Committee agreed on the following roadmap to provide a timeline for sub-outputs within the scope of developing guidance for remote surveys, ISM Code audits and ISPS Code verifications:

No.	Sub-output	Target Completion Year
1	Amendments to the Survey Guidelines under the HSSC (part 1) and amendments to the Revised Guidelines on the implementation of the International Safety Management (ISM) Code (part 2)	2023 (To be adopted at A 33)
2	Guidance on assessments and applications of remote surveys, ISM Code audits and ISPS Code verifications (part 3)	2024
3	Further amendments to the Survey Guidelines under the HSSC (part 1) and amendments to the Revised Guidelines on the implementation of the International Safety Management (ISM) Code (part 2)	2025 (To be adopted at A 34)



At this session, the Sub-Committee finalized amendments to the *Survey Guidelines under the HSSC, 2021* (resolution A.1156(32)) to include a new section providing guidance on remote surveys, and finalized amendments to the *Revised Guidelines on the Implementation of the ISM Code by Administrations* (resolution A.1118(30)) to address use of remote methods for safety management audits. Both amended documents acknowledge the use of remote surveys / audits “under an extraordinary circumstance beyond the control of the parties” as well as “under normal circumstances”. They also establish the role of the Flag Administration in determining the suitability of remote survey / audit techniques in a given situation. These amended documents also refer to additional guidance on this subject that has yet to be developed but will be the *Guidance on Assessments and Applications of Remote Surveys, ISM Code Audits and ISPS Code Verifications* that will be developed in the next phase of this work.

Next Steps: The amended guidelines noted above will be subject to adoption at the 33rd session of the IMO Assembly (Dec. 2023). A correspondence group will work intersessionally to begin development of new *Guidance on Assessments and Applications of Remote Surveys, ISM Code Audits and ISPS Code Verifications*, which will be progressed further at III 10 (July 2024).

HARMONIZATION OF PSC ACTIVITIES WORLDWIDE

Finalizing the 2023 Procedures for Port State Control

The Sub-Committee finalized amendments to the *Procedures for Port State Control, 2021* (PSC Procedures, A.1155(32)). The proposed amendments include expanded guidance on detainable deficiencies under MARPOL Annex VI, including:

- 1) Absence of valid IEE Certificate, EEDI Technical file or SEEMP
- 2) Non-compliant Fuel oil sulfur content
- 3) Absence of proper EGCS documentation (if applicable)

The Sub-Committee also agreed to include the *2022 Guidelines for Inspection of Anti-Fouling Systems on Ships* (resolution MEPC.357(78)) as a new appendix to the 2023 Procedures for PSC.

An intersessional correspondence group will review the *Interim Guidance on Control and Compliance Measures to Enhance Maritime Security* (MSC.159(78)) similar inclusion as an appendix in a future edition of the Procedures for PSC. The Sub-Committee considered the *Guidelines for Port State Control Under the BWM Convention* (MEPC.252(67)) for inclusion as an appendix in the Procedures for PSC, but it was decided that this should be delayed until after the MEPC concluded work on revisions to the BWM Convention.

Next Steps: The draft 2023 Procedures for Port State Control will be subject to adoption at the 33rd session of the IMO Assembly (Dec. 2023). A correspondence group will work intersessionally to begin the next updates to the Procedures for PSC (for adoption in 2025) to address inclusion of the above noted guidance documents and other identified updates.

Updates to Training for PSC Personnel

The Sub-Committee discussed work on revision of IMO Model Course 3.09 on PSC, to reflect the latest developments of relevant IMO instruments and reflect current practices and emerging technologies within the course. The IMO Secretariat served to facilitate this by providing terms of reference and instructions to the course developers and an intersessional correspondence group will continue this work.



The Sub-Committee was previously tasked to develop an entrant training manual for PSC personnel. This manual would be periodically updated and available for voluntary use, as a means of further promoting consistency among PSC personnel. The Sub-Committee agreed at the previous session that the training manual for new entrant PSC personnel should be developed after the finalization of the IMO Model Course 3.09 on PSC.

Next Steps: Work on the revision of IMO Model Course 3.09 will continue in an intersessional correspondence group, with the objective of validating the draft course at III 10 (July 2024).

ANALYSIS OF MARINE SAFETY INVESTIGATION REPORTS

Analysis of Marine Casualty Reports and Lessons Learned

The Sub-Committee received the report of an intersessional correspondence group in which 28 marine safety investigation reports were collected for analysis of both content and quality of reporting. Significant observations identified for follow-up actions are discussed further in the below sections.

Next Steps: The IMO Secretariat will be asked to publish a summary of 13 Lessons Learned from the analysis of reported marine casualties at this session of the Sub-Committee, for release on the IMO website.

Additionally, the Sub-Committee will request the IMO Secretariat to publish a III.3 circular (to complement the previously published III.3/Circ.9) to highlight for Administrations the areas in which reporting of marine casualties has in the past been incomplete or inappropriately addressed, with the objective of improving future marine safety investigation reports.

Safety Issues Associated with Falls from Height

The Sub-Committee considered a proposal from the correspondence group for a new output on guidelines addressing the identified safety issues of seafarers exposed to risk of falls from height (including, but not limited to, access to and egress from the location where the work will be conducted, working from height and work over the side). In the review of marine casualty reports, it was noted that no IMO guidelines currently exist to address risks of falls from height and that there is no single source that could be used as a basis when developing safe work procedures for working from height or over the side.

Next Steps: The proposal already prepared by the correspondence group for a new output for the development of guidelines addressing risks of falls from height will be presented to MSC 108 (May 2024) for approval, with the HTW sub-committee nominated to pursue this matter further.

Safety Issues Associated with Preventing Collisions with Fishing Vessels

At the previous session, the Sub-Committee considered analysis of safety issues related to collisions involving fishing vessels. Analysis of the data suggested several trends in such incidents, such as many collisions taking place during night hours, in open waters, in a loaded condition and while lacking a proper lookout. It was also noted that many fishing vessels are operated under domestic regulations and training requirements.

At this session, the Sub-Committee received data from GISIS regarding collisions with fishing vessels has already been collected and analyzed but no recommendations made. It was noted that fishing vessels are subject to different legislation than other vessel types as well as a different performance profile and may also present cultural differences compared to crew in other service. One intuitive approach would be to compare requirements of



technical equipment used for preventing accidents, such as Automatic Identification Systems (AIS) and Very High Frequency (VHF) and find out to what extent this equipment is used on fishing vessels.

Next Steps: The Sub-Committee will request the IMO Secretariat to distribute a specially designed questionnaire to member States seeking more information on collisions between merchant and fishing vessels and the equipment local fishing vessels are required to carry on board that may help avoid collisions. Further analysis of this issue will be done once more information is received.

Safety Issues Associated with Man Overboard from Fishing Vessels

At the previous session, the Sub-Committee considered analysis of safety issues onboard fishing vessels related to man overboard incidents. The assessment of death rates in such incidents made clear that use of personal flotation devices (PFDs) is essential for survival and the attitude among fishing industry workers must shift to increase the use of this equipment.

At this session, the Sub-Committee noted the previous invitation to the Sub-Committee on Navigation, Communications, Search and Rescue (NCSR) and the Sub-Committee on Ship Systems and Equipment (SSE) to take up this matter. The SSE sub-committee was not able to address this matter at its most recent session, but the NCSR sub-committee at its most recent session discussed the possible application of existing technology such as Search and Rescue Transponders (SART) to locate a person falling overboard from fishing vessels and the upcoming consideration by the ICAO/ILO Joint Working Group on Harmonization of Aeronautical and Maritime Search and Rescue (JWG 30).

Next Steps: Regarding man overboard incidents on fishing vessels, the Sub-Committee will invite the NCSR Sub-Committee to recommend the JWG 30 to determine the most effective and appropriate means for locating a person falling into the water from fishing vessels and take further action to address the safety issue.

Safety Issues Associated with Unsatisfactory Implementation of Safety Management Systems

The Sub-Committee discussed recommendations made by the correspondence group based on the analysis of ISM Code-related findings on unsatisfactory implementation of safety management systems (SMS). The analysis was mainly aimed at finding common safety issues and whether the SMS has not been fully implemented.

Observations from the analysis of these reports included:

- 1) a common safety issue was lack of risk assessment;
- 2) a majority of the cases indicated the SMS had not been fully implemented;
- 3) in many cases the ISM-related deficiency could have been detected during an inspection/audit; and
- 4) the problem was how the ISM Code is implemented; not with the ISM Code itself.

Next Steps: The Sub-Committee will recommend to MSC 108 (May 2024) to bring this information to the attention of the ILO / IMO Joint Tripartite Working Group (JTWG), also noting that the results of a study on the ISM Code are pending from the IMO Secretariat. Further work on this subject will be informed by that study.

III CODE IMPLEMENTATION AND THE IMO MEMBER STATE AUDIT SCHEME (IMSAS)

Finalization of III Code Implementation Guidance

The IMO Instruments Implementation Code (III Code) provides the criteria by which member States are audited to determine their fulfilment of obligations as flag, coastal and port states. At this session, the Sub-Committee



finalized the *III Code Implementation Guidance*, to assist member States in the implementation of the Code and preparation for audits. The structure of this draft guidance is in two parts:

- Part A contains non-mandatory guidance on understanding and practices to assist member States in the implementation of the III Code, aiming to enhance the overall performance in maritime safety and environment protection.
- Part B provides member States with a manual to prepare for future audits under the IMO member State Audit Scheme (IMSAS) and to assist in the planning, conducting and reporting in their duties.

The III Code Implementation Guidance will provide member States with information on reoccurring findings and observations and providing guidance and best practices to be considered beneficial to member States for both implementation of the III Code and audit preparation.

Considering the phrase “to the satisfaction of the Administration” under the III Code Implementation Guidance

For the purpose of clarifying the obligations of member States, the Sub-Committee discussed the phrase “to the satisfaction of the Administration” which appears in numerous places across multiple IMO instruments. Section 2.4 of the *III Code Implementation Guidance* advises that member State should be aware of all the areas in the mandatory IMO instruments where this terminology is used and take actions to address this which may include development, documentation and provision of guidance to relevant personnel in the governing body, shipping companies, seafarers, nominated surveyors and recognized organizations (ROs). A practical “peel-off” approach is recommended, in which each member State:

- 1) Develops and maintains interpretations and instructions specific to their flag administration;
- 2) In the absence of this, instructs ROs to use relevant Unified Interpretations adopted by the IMO or other available unified interpretations accepted by the Administration; and
- 3) For interpretation of regulations which remain unaddressed, establish a method for case-by-case interpretations.

Next Steps: The text of the III Code Implementation Guidance has been finalized, and a draft MSC-MEPC.2 circular has been developed as the vehicle for adoption of this new guidance. This is pending adoption at the upcoming committee sessions of MEPC 81 (Mar. 2024) and MSC 108 (May 2024).

OTHER DEVELOPMENTS

Follow-Up Work on the Action Plan to Address Marine Plastic Litter from Ships

After the adoption by MEPC 73 of the *Action Plan to Address Marine Plastic Litter from Ships* (Resolution MEPC 310(73)), the Sub-Committee was tasked by MEPC 74 to consider certain work in support of the action plan.

Leading up to this session and intersessional correspondence group was tasked with the following:

- 1) Prepare of a draft MEPC circular reminding member States to enforce MARPOL Annex V on fishing vessels through PSC measures; and encouraging PSC regimes to develop PSC procedures that include fishing vessels
- 2) Consider proposals for enhancing the enforcement of MARPOL Annex V, including, where possible, through a risk-based approach, and if appropriate prepare draft amendments to the Procedures for PSC



However, due to time constraints, this correspondence group was not able to progress these items. The Sub-Committee invited interested member States and international organizations to submit documents to III 10 on the work on marine plastic litter assigned to it by the MEPC.

Next Steps: Pending further proposals being submitted for consideration, discussions on this subject will continue at III 10 (July 2024).

Reporting of Alleged Inadequacy of Port Reception Facilities

The Sub-Committee received the annual report consolidated by the IMO Secretariat to summarize reporting by member States of inadequate port reception facilities (PRFs) encountered by their registered vessels. Each state that is party to the MARPOL Convention is obligated to support compliance by providing adequate PRFs to serve in the proper disposal of ships' wastes, and the IMO Global Integrated Shipping Information System (GISIS) provides a module through which member States may report alleged inadequacies of PRFs.

This annual summary of reported PRF deficiencies noted that compliance with MARPOL discharge requirements was dependent largely on the availability of PRFs, especially within MARPOL Special Areas. An assessment of the data available within the dedicated GISIS module for reporting inadequate PRFs (collected from 2018 to 2022) noted that:

- 1) 93 percent of the reported PRF inadequacies related to MARPOL Annex V wastes
- 2) Among the reported reasons for difficulties encountered in accessing adequate PRFs at a given port, 58 percent of reports attributed this to there simply being no facility available. Another 14 percent attributed the difficulty to unreasonable charges for use of facilities.

The Sub-Committee encouraged member States to regularly update information in the GISIS module related to inadequate PRFs, and for Port States notified of being reported for cases of inadequate PRFs to make timely responses to such reports.

Next Steps: Member States are invited to propose further ways of assessing progress in port States' response to alleged inadequacies reports, as well as ways of more prominently displaying non-responding port States in GISIS. All parties are encouraged to increase participation in this reporting and responding to keep this module of GISIS up to date.

Issue of Ship's Certificates in Required Languages of Relevant Conventions and Codes

The Sub-Committee received a submission raising a concern that some recognized organizations may be using special characters such as 'ö' in some ship names, company names, or company addresses in statutory certificates or approved documents, and such special characters do not translate well into the languages recognized by the IMO (English, French and in some cases Spanish) for such formal documents. While some member States supported this concern regarding inconsistency in documentation practices, others expressed that it is only the form of the certificate itself that is subject to these specific language requirements, and that proper names of vessels, companies or addresses need not be translated from their original languages. It was ultimately decided to seek further direction on this matter from the Maritime Safety Committee (MSC).

Next Steps: This matter will be presented to MSC 108 (May 2024) with a request for further instruction.



Guidance to Assist Competent Authorities in Implementation of the 2012 Cape Town Agreement

The 2012 Cape Town Agreement (2012 CTA) provides standards on the design, construction and equipment of fishing vessels and includes regulations designed to protect the safety of crews, providing a level playing field for a sector of the marine industry recognized as one of the most high-risk for seafarers.

The treaty will enter into force 12 months after at least 22 States with an aggregate of 3,600 fishing vessels of 24 m in length and over operating on the high seas have expressed their consent to be bound by it. As of today, 21 member States have ratified the Agreement.

In anticipation of entry into force, at this session the Sub-Committee progressed work on guidance to assist competent authorities in the implementation of the 2012 CTA. The structure of this implementation guidance addresses the following:

- 1) Overview of the 2012 Cape Town Agreement
- 2) Application, surveys and certificates
- 3) Technical requirements for new and existing vessels
- 4) Technical requirements for new vessels only
- 5) Port State Control guidance
- 6) Casualties on fishing vessels

The extent to which the 2012 CTA will apply to existing vessels remains to be clarified. The Sub-Committee has requested legal advice from the IMO Secretariat in this regard, which will be considered by the next session.

Next Steps: An intersessional correspondence group has been established to continue work and finalize this guidance. Discussions on this subject will continue in the intersessional correspondence group and at III 10 (July 2024).



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