A conceptual framework for a model maritime administration : its application to maritime administration of Iran

Mandana Mansoorian

World Maritime University

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A CONCEPTUAL FRAMEWORK FOR A MODEL MARITIME ADMINISTRATION: ITS APPLICATION TO MARITIME ADMINISTRATION OF IRAN

By

MANDANA MANSOORIAN
Iran (Islamic Republic of)

A dissertation submitted to the World Maritime University in partial fulfillment of the requirements for the award of the degree of

MASTER OF SCIENCE

In

MARITIME AFFAIRS

MARITIME SAFETY AND ENVIRONMENTAL ADMINISTRATION

2010

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And He (Allah) it is who has subjected the sea to you, that you eat thereof fresh tender meat (fish), and that you bring forth out of it ornaments to wear. And you see the ships cleaving through it, that you may seek of His Bounty (by transporting the goods from place to place) and that you may be grateful.

The holy Quran
Declaration

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the University.

Signature: 

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Acknowledgements

At the outset of my acknowledgements I would like to thank the Almighty God for giving me an opportunity to write this dissertation and keeping me healthy throughout this period and facilitating me through people who are directly and indirectly involved and helped me to make this work successful. This is indeed His blessings without which this task would not have been possible.

I take this opportunity to extend my sincere thanks to Dr. Ali Taheri, the then Deputy Minister of Roads and Transportation and Managing-Director of Ports and Maritime Organization of Iran for nominating me and showing faith in me to pursue studies at WMU. I am also grateful to Mr. A. Sadr, the present Deputy Minister of Roads and Transportation for continuing this patronage.

My heartfelt appreciation goes to Secretary-General of IMO, Mr. E. Mitropoulos, without whose generous endowment of fellowship, this research would not have been feasible.

I am grateful also to Iran's Deputy Permanent Representative to IMO, Mr. A. Marzban, for his help in getting the scholarship.

I also owe to Mr. S.A. Estiri, Director-General of International Maritime Specialized Agencies of PMO for his continuous support and follow-up of my academic career in WMU.

I am indebted to many of my colleagues for providing me materials required for the dissertation. Their unconcealed attitude was a great support to me. Discussions with them helped me to study the subject in depth. Their contribution is indeed of great altitude.

I am thankful to my supervisor Dr. Jens Schröder-Hinrichs who was not only a good guide to give me different perspectives while working on the subject, but also a connoisseur to take the best from me. His persuasion inspired me to work hard. This dissertation would not have been possible without his minutest details and broad observations. His expertise in the subject helped me to make this dissertation a comprehensive one.

I am also thankful to Professor P.K. Mukherjee and Professor Neil Bellefontaine for their support, advice and suggestions. Their guidance helped me to present my ideas in right perspective.
My gratitude goes to Assistant Professor Inger Battista whose efforts for editing this dissertation helped me to present my ideas more clearly and distinctly.

My thanks to the librarians who made the materials available to me. My gratitude does not have words for Ms. Cecilia Denne, who was always kind to suggest the books and give a motherly touch by her soft and encouraging words.

I am also thankful to my family members for their unbridled support and encouragement.

Last but not the least, my sincere thanks to my friends in WMU, for their moral support, exchange of ideas and sharing the time when I required the break during long hours of writing and studying sessions.
Abstract


Degree: MSc

In many of the conventions and instruments developed by the International Maritime Organization (IMO), the accountability towards implementation and enforcement has been put on flag states’ shoulders and IMO was known to be “toothless tiger” as far as effective implementation/enforcement of maritime treaties are concerned. Despite all measures taken by IMO, firstly through the establishment of the ‘Sub-Committee on Flag State Implementation’ and subsequently encouraging member States to evaluate their own performance using self-assessment tool, the cooperation from the flag States was discouraging. As a supplementary measure, Voluntary Member States Audit Scheme (VIMSAS) was introduced in IMO through a proposal by nineteen member States and adopted by the 24th session of the IMO Assembly. Iran played a prominent role along with other States in the pilot audit which was carried out when preparation of the Code for implementation of mandatory IMO instruments (the Implementation Code) which was the background document for the audits under VIMSAS, was underway. Taking the outcome of the pilot audit and subsequent internal audit of the Iranian Maritime Administration (MARAD) as the base, this research identifies and proposes the organizational reforms in the Iranian MARAD from the structural, regulatory and cultural perspectives and also provides a platform for the strong audit environment in line with IMO’s requirements. This research is about a Model Maritime Administration mainly in the background of VIMSAS and hence the scope is limited to the areas covered under VIMSAS. With in-depth research, the current status of the Iranian MARAD is examined and the results are collated, evaluated and benchmarked with three well performing IMO member States. The notion of the New Public Management and possible application of it into the culture of the Iranian MARAD are assessed to provide the Iranian MARAD with a good performance profile among IMO members States.

Key words: Implementation and enforcement, Framework, MARAD, NPM, VIMSAS, Reform
List of Tables

Table 1: Ratification of IMO/ILO Conventions in SIRC Audit Rating Scheme ... 17
Table 2: Comparison of IMO and ICAO’s principles in Audit Scheme ............. 30
Table 3: Timeframe for transition from VIMSAS to MIMSAS .......................... 39
Table 4: List of IMO instruments ratified by Iran (updated November 2009) .... 48
Table 5: List of ILO conventions ratified by Iran updated July 2010 ............... 49
Table 6: Iran’s Port State Control figures ....................................................... 52
Table 7: Danish Port State Control figures ..................................................... 58
Table 8: MCA Number of Staff ..................................................................... 60
Table 9: British Port State Control figures ..................................................... 62
Table 10: Canadian Port State Control Figures ............................................. 66
Table 11: Status of Iran in the STCW while list ............................................. 69
Table 12: Strategic Aspirations ..................................................................... 89
List of Figures

Figure 1: Analysis of the number of findings as per Code’s four parts .......... 35
Figure 2: Analysis of audit outcomes under Common Areas section .......... 35
Figure 3: Analysis of audit findings by parts of the Implementation Code ...... 36
Figure 4: Root cause analysis ................................................................. 37
Figure 5: Organization Chart of PMO (Iranian MARAD)............................ 45
Figure 6: Organization Chart of Danish Maritime Authority ..................... 57
Figure 7: MCA’s organization Chart ......................................................... 61
Figure 8: Organization Chart of Transport Canada ................................... 67
Figure 9: Examples for Promotion of Environmental Culture.................... 91
## List of Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADF</td>
<td>Admiral Danish Fleet</td>
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<tr>
<td>BIMCO</td>
<td>The Baltic and International Maritime Council</td>
</tr>
<tr>
<td>CASR</td>
<td>Consolidated Audit Summary Report</td>
</tr>
<tr>
<td>CLC</td>
<td>International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC 1969)</td>
</tr>
<tr>
<td>COLREG</td>
<td>Convention on the International Regulations for Preventing Collisions at Sea (COLREG 72)</td>
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<tr>
<td>DEPA</td>
<td>Danish Environmental Protection Agency</td>
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<td>DIS</td>
<td>Danish International Ship Register</td>
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<tr>
<td>DMA</td>
<td>Danish Maritime Authority</td>
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<tr>
<td>DOE</td>
<td>Department of Environment</td>
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<tr>
<td>EEE</td>
<td>Extensions, Exemptions, Equivalence</td>
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<tr>
<td>EMSA</td>
<td>European Maritime Safety Agency</td>
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<td>ESCAP</td>
<td>Economic and Social Commission for Asia and the Pacific (United Nations)</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>FAL</td>
<td>Facilitation Committee</td>
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<td>FSC</td>
<td>Flag State Control</td>
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<td>FSI</td>
<td>Flag State Implementation</td>
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<tr>
<td>GIS</td>
<td>German International Ship Register</td>
</tr>
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<td>GISIS</td>
<td>Global Integrated Shipping Information System</td>
</tr>
<tr>
<td>IACS</td>
<td>International Association of Classification Societies</td>
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<tr>
<td>ICAO</td>
<td>International Civil Aviation Organization</td>
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<tr>
<td>ICS</td>
<td>International Chamber of Shipping</td>
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<td>IFI</td>
<td>International Financial Institutions</td>
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<td>IMLI</td>
<td>International Maritime Law Institute</td>
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<td>IMO</td>
<td>International Maritime Organization</td>
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<td>ILO</td>
<td>International Labor Organization</td>
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</tbody>
</table>
INTERCARGO : International Association of Dry Cargo Shipowners
INTERTANCO : International Association of Independent Tanker Owners
IOIG : Indian Ocean Implementation Group
IRIMO : Islamic Republic of Iran Meteorological Organization
ISF : International Shipping Federation
ISM : International Safety Management Code
ISO : International Organization for Standardization
ISPS : International Ship and Port Facility Security Code
IT : Information Technology
JRCC : Joint Rescue Coordination Centre
JWG : Joint Working Group
LEG : Legal Committee
LOSC : Law of the Sea Convention, 1982
MAIB : Marine Accident Investigation Branch
MAIG : Maritime Administrations’ Implementation Group
MARAD : Maritime Administration
MAS : Model Audit Scheme
MIMSAS : Mandatory IMO Member State Audit
MCA : Maritime and Coastguard Agency of the UK
MDG : Millennium Development Goals
MEPC : Marine Environment Protection Committee
MMO : Marine Management Organization
MOU : Memorandum of Understanding
MSC : Maritime Safety Committee
MSA : Maritime Safety Administration
MSEA : Maritime Safety and Environmental Administration
NCC : National Cartographic Centre
NPM : New Public Management
OECD : Organization for Economic Co-operation and Development
PARA. : Paragraph
PDC : Professional Development Course
PMO : Ports and Maritime Organization
PSC : Port State Control
PSO : Ports and Shipping Organization
R&D : Research and Development
RES. : Resolution
RIG : ROPME Implementation Group
RO : Recognized Organization
SAF : Self Assessment Form
SAR : Search and Rescue
SIRC : Seafarers International Research Center
SOLAS : International Convention on Safety of Life at Sea
SOAP : Safety Oversight Audit Programme
SWOT : Strengths, Weaknesses, Opportunities and Threats
TC : Technical Committee
TCC : Technical Cooperation Committee
TCMS : Transport Canada Marine Safety
TSS : Traffic Separation Scheme
UN : United Nations
UNCTAD : United Nations Conference on Trade and Development
UNDP : The United Nations Development Programme
USCG : United States Coast Guards
VCA : Vertical Contract Audit
VIMSAS : Voluntary IMO Member State Audit Scheme
WMU : World Maritime University
CHAPTER 1: Introduction

1.1 Foreword

In the world of today, the shipping industry plays a vital role in world trade. Given the importance of shipping, there is no doubt that effective, efficient maritime administration is required to facilitate this trade all around the world in a safe and environmental-friendly manner. To this end, the International Maritime Organization attempted to encourage its member States to implement and enforce the treaties to which they are a party. The responsibility of implementation and enforcement of maritime treaties lies with the maritime administration. Therefore, maritime administrations should be set up in such a way to ensure harmonized and uniform implementation of IMO standards.

The idea of harmonized and uniform implementation of IMO treaties has been realized in the introduction of the Voluntary Member State Audit Scheme (VIMSAS). Iran was among the six IMO member States which showed its interest toward the IMO council’s decision, volunteering for a pilot audit by its counterpart viz. Singapore and France on the grounds of the Code for implementation of IMO mandatory instruments which were in the process of being drafted in 2004.

In 2008, the author of this dissertation was nominated to the pool of IMO auditors by the Iranian Authorities (IMO 2009a, para.6). The outcome of the Iranian pilot audit and the audit reports of the States audited by IMO since the inception of VIMSAS in 2006, as well as the internal audit report of the Iranian MARAD, inspired the idea that there is a need to study the roles and responsibilities of maritime administration and to examine the solutions on the fulfillment of those obligations in a more effective and efficient way. Soon after that, the author joined the World Maritime University (WMU) for enhancement of her knowledge and experience in
the maritime field. The subjects of WMU Maritime Safety and Environmental Administration specialization (MSEA), namely the “Principles of Maritime Administration and Policy”, “Maritime Safety Administration”, “Maritime Safety Systems” and one week seminar on VIMSAS strengthened that idea and provoked the author to explore more on this matter because the knowledge and experience gained through the studies in WMU gave her better understanding and vision on it.

1.2 The objectives and limitations of the present dissertation

This research is about a Model Maritime Administration in the background of VIMSAS and hence the scope is limited to the areas covered under VIMSAS.

The Maritime Administration of Iran has volunteered itself to be audited by the IMO auditors. The goal of this dissertation is to examine the link between VIMSAS and the role and responsibilities of maritime administration as reflected in VIMSAS. The dissertation also attempts to find the effects of New Public Management (NPM) principles in MARAD. The weight of this dissertation is on the MARAD and its role mainly from VIMSAS point of view. Therefore, partial structural, cultural, and procedural reforms are proposed to enable the Iranian MARAD to be possessive of a well performance profile in terms of implementation and enforcement of IMO standards among IMO members States.

A case study of Iran has been undertaken. The Iranian MARAD has been selected because of the familiarity of the author with the structure, legal issues and maritime administration of the country in general, as an experienced Iranian MARAD staff and the internal auditor of VIMSAS and the aspiration to remove the bottlenecks which already existed on the way of a successful audit. With this hope, in order to have a better view, benchmarking with three countries (Denmark, the United Kingdom and Canada) which proved successful compliance with the VIMSAS requirements and are known prominent flag states in terms of international maritime practices, has also been made.

The limitation of this study was that, accessibility to the information of the States was required for benchmarking, and therefore States, who has been audited and their related information is available in English (either at website or other publications), have been chosen.
In addition, some aspects requiring detailed analysis may have remained unfocused due to confidentiality reasons of the Iranian MARAD. Nevertheless, these limitations have not affected the research work in its entirety in any way.

1.3 Methodology and the compelling need for this dissertation

The methodology employed in this dissertation as discussed above is benchmarking. Through the benchmarking the status quo of the Iranian MARAD with three IMO member States was compared and contemporary issues were raised and analyzed. Partial solution and recommendations were also identified and proposed accordingly.

This research and study was necessary because the issues raised in this dissertation are not only the challenges for the Iranian MARAD but also for many States which are still in dilemma whether they should apply a voluntary audit or leave it till the force of compulsion shows its face (when the VIMSAS become mandatory in 2015). It is hoped that the solutions and recommendations given in this dissertation could be of help for other member States.

1.4 Structure of the dissertation

This dissertation embraces eight Chapters. The first Chapter includes introductory context on the objectives of this research and the methodology used and how the dissertation is structured. The second Chapter introduces very briefly the salient features of the NPM and its relation with VIMSAS. The third Chapter examines different aspects of maritime administration, the appropriate fit of MARAD within government structure, academic and industry-based measures toward flag state performance and introduction of different types of culture within the MARAD. The fourth Chapter gives an overview of the VIMSAS, the history, principles and status of VIMSAS. The case study of the Iranian MARAD and comparison with three other countries are taking place in Chapter 5. Chapter 6 deals with contemporary issues within the Iranian MARAD and gap analysis. The necessary steps to be taken for moving from the current situation to a reasonable status in order to pass the trial of VIMSAS successfully and to figure a good performance profile among IMO members States are introduced in Chapter 7. Finally, Chapter 8 contains conclusions and recommendations.
CHAPTER 2: Background

Trade development, globalization, and transport of goods across borders have led to the welfare and benefit of many people all around the world. Much of this transportation is carried out through the shipping industry. Shipping is recognized to be the most economical and environmental-friendly mode of transport. Around 90 percent of international trade in volume terms is moved by sea. The importance of this feature of shipping is well reiterated by the Secretary-General of IMO who states that: “without international shipping, half of the world would freeze and the other half would starve” (Mitropoulos, 2005).

2.1 The stakeholders in shipping

Since the maritime administration (MARAD) of a country plays a vital role in maritime activities and provides a better platform for smooth flow of international trade, it must be well structured to be able to perform its functions in an effective and efficient manner.

It has been recognized that different “actors” play in the shipping industry, namely:

1- The International Maritime Organization (IMO), a UN regulatory body, which is responsible for making available global technical instruments in terms of safety, security and pollution prevention for the shipping industry as a whole;

2- Contracting governments who are responsible for implementing and enforcing the above-mentioned treaties;

3- Recognized organizations, which act on behalf of maritime administrations to perform duties delegated to them, for example statutory surveys;
4- Shipping companies which apply the adopted instruments of the contracting
governments on an individual ship; and

5- Seafarers, who are working onboard ships, and are responsible for operating
ships according to the requirements of the safety, security, and pollution
prevention measures adopted by the country of the flag (Barchue, 2005).

These actors give hand to hand in order to make movements of ships at
sea a safe, reliable, secure and environmental friendly manner. However, if the
globally adopted treaties are not implemented and enforced equally among IMO
contracting governments, the industry will witness casualties, marine pollution and
security problems which are the other side of the coin.

2.2 The emergence of international oversight control

The global concern about the failure to implement and enforce global
treaties in an effective manner among different States, led to the introduction of a
new notion of ‘State audit’ which came into the picture in 2002 through a joint
proposal by nineteen Member States of IMO (Barchue, 2005, pp.1-3). This proposal
can be entitled an “exception” in its form, because in the history of IMO, this was the
first time that IMO took steps to enter into the sovereign matters of the States, which
has not happened in the past.

IMO, since its inception in 1948, has adopted more than fifty international
Conventions and more than eight hundred codes, resolutions and recommendations.
However, this reputation and these efforts have been blemished by the
reoccurrences of maritime accidents and disasters. IMO was accused of being
capable of establishing international treaties, but playing a minor role in their
implementation and enforcement. Due to this, IMO took steps to find a remedy for
the lack of control over its member States. IMO introduced three corrective
measures: as the first step; it established the approach toward requiring contracting
governments to some conventions to inform IMO about the steps and the method
they implement and the extent of their compliance. The introduction of ‘White List’ of
the STCW 95, mentioning the States which are assessed to be effective and
properly implementing the convention is a fine example. The second step was the
introduction of the ‘Sub-Committee on Flag State Implementation’ and the latest, the
new initiative toward the actual control of effective implementation of international instruments through Voluntary IMO Member State Audit Scheme (VIMSAS). Transparency, policy promotion, continuous improvement, result-oriented attitude, accountability, feedback and flexibility are known to be elements of VIMSAS.

The introduction of the VIMSAS is a new concept for IMO member States; therefore due to its unique characteristics, it may entail some restructuring or reform in MARAD processes and procedures.

Restructuring of the maritime administration as a part of public administration of the country, might be extremely all-embracing and can contain procedural reforms, organizational restructure, regulatory changes, and a revolution in the attitude of the administration.

The significance of a successful public administration is highlighted in Resolution 52/277 of the General Assembly of the UN on Public Administration and Development mentioning that "an efficient, accountable, effective and transparent public administration, at both the national and international levels, has a key role to play in the implementation of internationally agreed goals, including the MDGs". (UNDP, n.d)

According to United Nations Development Programme (UNDP), the growing inclination toward public administration reshaping in developing countries is originated mainly through three main cords:

- **New Public Management (NPM).** Early 1980s witnessed a new reform in some developed countries such as New Zealand, the UK, Australia, the United States and Canada whose principle was welcomed by some developing countries as well. The notion of New Public Management introduces flourishing ideas, such as the theory of customer-focus, accountability and use of the private sector.

- **Organizational transformation.** A reform strategy started in the mid 1980s, and was endorsed by International Financial Institutions (IFIs), concentrating on the reduction of the costs of the government by and large through government–owned privatization of the activities in the public sector.
• **Evolution to market cost-cutting measures.** After the fall, such reforms have mainly been experienced by the Soviet Union countries, who tried to abide to market economy. This reform is usually called “reorientation of the system of public administration”. (UNDP, n.d)

2.3 **New Public Management, a handy tool for MARADs**

Kickert (1997) (as cited by Ocampo, 2000, p.249) refers to NPM, as “a new paradigm for public management” in OECD countries, which carries eight features:

1. strengthening steering functions at the center;
2. devolving authority, providing flexibility;
3. ensuring performance, control, accountability;
4. improving the management of human resources;
5. optimizing information technology;
6. developing competition and choice;
7. improving the quality of regulation; and
8. providing responsive service.

Bearing these features in mind, Hughes (1998,p.77) opined that the great transparency in the new public management method will permit people to see what the government is practicing, and this will ensure more accountability. The result-oriented approach instead of focusing on structures and process, emphasizes on the manager’s responsibility and commitment, looking forward to a flexible organization being able to cope with different situations, highlighting the importance of strategic planning. Singh (2001, p.14) argues on the merits of new public management saying that this new initiative will augment the performance of public organizations. He further mentions that,

Initiatives include improving the management of human resources including staff development, recruitment of qualified talent and pay for performance, involving staff more in decision making and management, relaxing administrative controls while imposing strict performance targets, using information technology, improving
feedback from clients, stressing service quality and bringing supply and demand decisions together.

Crone (1987, pp.35-36) believed that one of the important issues within maritime administration, is the cost recovery for the services provided. He pointed out that, many administrations chose to outsource their services and opted for reducing the size of the organization, an attempt which is known in Canada as “downsizing”. He further argued that “…operational autonomy was considered to be a significant element if greater efficiency, economy and accountability was to be developed.”

2.4 **How do NPM and VIMSAS relate and support each other?**

New Public Management (NPM) and VIMSAS have some similarities. Both focus on strategy formulation. Hughes (1998) argues that, “Without strategy any organization is without direction. Day-to-day activities do not add up to any coherent goal” (p.150). The same principle applies to VIMSAS. IMO Assembly Res. A. 996(25), part 1, para. 3 encompasses four items to be included in the strategy of the MARAD. Another similarity is found when Hughes (1998, p.149) explains that, “The essence of new public management is to achieve the results”. The issue of developing *final audit reports* and *consolidated summary audit report* meant to be a kind of result upon which a State can assess how it implements and enforces IMO treaties to which it is a Party. Accountability and effectiveness are other factors which are common in NPM and VIMSAS. NPM emphasises on the responsibility of managers, while VIMSAS in the same manner focuses on accountability of the MARAD and its managers to implement and enforce relevant international mandatory instruments effectively. Three E’s of NPM, namely economy, efficiency and effectiveness, are also being well reflected in VIMSAS. Economy and flexibility in VIMSAS can be seen in delegation of authorities to recognized organizations through which flag administration is not the “the direct provider” of services (Hughes, 1998, p.2). The other two Es, effectiveness and efficiency, are also well established in VIMSAS, while the flag State should take into account the effectiveness of
discharging its responsibilities and obligations through setting up of the policies and safe manning of ships under its flag (Para 15 and 17 of the Implementation Code\(^1\)).

However, it does not imply that there is no difference between NPM and VIMSAS. While NPM works toward deletion of “bureaucracy and red tape”, it seems that documentation and record keeping are vital elements of VIMSAS (Para. 10 of the Implementation Code).

Maritime administrations, as an example of public administration, are required to be effective and efficient. It may not be possible to apply all elements of NPM in MARAD; nevertheless, some of the elements of it are feasible and will assist the MARAD’s role in administrating the shipping activities of a nation to make it an efficient and effective one.

2.5 **Summary**

The vital role of shipping in the welfare and prosperity of the human being all over the world was highlighted. In this connection, the role of the stakeholders of this industry was brought into attention. Among all the stakeholders of the shipping industry, the role of the MARAD, as the "bare bone" of the image of shipping can not be overstated. In this regard, two new dominant issues of NPM and VIMSAS were discussed.

Meanwhile, the relation between the ideals of NPM and principles of the VIMSAS as a mechanism to establish “an assessment platform”, and the performance criteria for the State to measure the level of delivery of its obligations at national and international levels and in pursuit of enhancement of safety and environmental protection were deliberated.

\(^1\) The Code for Implementation of mandatory IMO instrument (The Implementation Code) as referred in IMO document FSI18/wp.5, p.3
CHAPTER 3: Maritime Safety Administration Infrastructure

This Chapter will cover the objectives, criteria, the legal aspects and responsibilities of maritime safety administrations. To this end, the implementation and enforcement issues as well as the criteria for the evaluation of flag State performance will be introduced. Discussing the reasons why flags behave differently in implementation of international maritime standards, this Chapter proceeds to highlight the mindset of safety in MARAD’s culture.

3.1 Maritime Safety Administration (MSA)

Vanchiswar (1996, p.61), proposed the following definition for MSA:

Maritime safety administration is the specialized executive arm of a maritime government, irrespective of whether it is developed country or developing country, to implement or enforce the regulatory (and allied) functions embodies in the national maritime legislation, especially those pertaining to registration of ships, maritime safety, marine personnel, maritime casualty investigations and protection of the marine environment.

He further suggested that government authorities would require having “an efficient administrative machinery” to advise them on the adoption, implementation and enforcement of the national as well as international treaties. The above-mentioned machinery can be provided efficiently through a “well-organized Maritime Administration.”

Hodgson (2001) believed that “Maritime Administration is the “role of the government concerning the maritime affairs of a country.”(as cited in Punzalan, 2002,p.5). These aspects encompass issues of economic, safety matters and marine environmental protection aspects, which are usually addressed through
policy formulation, preparation of rules and national legislations and provision of services.

3.1.1 Policy formulation

Policy issues consist of, but are not limited to, the measures to attain safety, security and environmental goals. Consideration should be given to risk analysis followed by a cost /benefit study, while keeping in mind the opportunity for cost retrieval. Representation in international forums such as IMO and ILO, management of resources and provision of safety equipment, decision making with respect to investment priorities in terms of staff, training of ships’ crew and other personnel, marine casualty investigations, pollution prevention equipment and services and seaworthiness of ships should be taken into account as well.

With respect to environmental issues, adoption of relevant conventions such as MARPOL 73/78, development of contingency plans to address the danger of pollution and appropriate response regime can be considered within MARAD policies to ensure clean oceans.

3.1.2 Development of national rules and regulations

MARAD, within its government role to develop safety, security and environmental standards, is responsible to frame rules and regulations on matters related to the international treaties which are bound by them, including:

i. Survey, inspection and certification of ships under its flag
ii. Training and certification of vessels’ crew
iii. Design and construction of ships
iv. Carriage of dangerous goods
v. Wreck, salvage, recycling
vi. Manning of ships
vii. Prevention, control and combat of marine pollution
viii. Investigation into marine casualties
ix. Registration of ships
x. Flag/port state controls  
xi. Competency of master’s and crew; and  
xii. Security of ships flying their flag and port facilities

3.1.3 Provision of Services

With regard to provision of maritime safety services, MARAD must ensure provision of adequate aids to navigation, pilotage, hydrographic services and communication services. Among all, the importance of SAR services, required equipment and trained staff for accomplishing the task of search and rescue is of great value (Punzalan, 2002, pp.5-9).

3.2 MARAD: an appropriate fit in the Government structure

Hubbard and Hoppe (2001, pp.10-11) introduce various options for the best fit of MARAD within the Government. They believed that MARAD as a service organization can be structured in one of the following methods:

1. “Project unit within a Ministry
2. Division within a Ministry
3. Department of a Ministry
4. Statutory Administration
5. Executive Agency.”

Hubbard and Hoppe (2001) define the merits and drawbacks of each option as follows:

**Options 1 and 2:** Being a part of the ministry, this type of administration has to follow public service regulations with respect to personnel and budget. The administration does not have unlimited ‘autonomy’, but enjoys support of the ministry. It is believed that decision making could be lengthy and difficult.

**Option 3:** Being an agency within the administration, it has a degree of autonomy in administering its budget. Still having the support of the ministry but similar to options 1 & 2, decision making could be lengthy and complex.

**Option 4:** As a statutory administration, more autonomy exists, while in effect MARAD is a part of the ministry. MARAD is administered and managed by a board of directors that decide about the policies of MARAD. “It is not limited by the
Public Service conditions of employment. It loses immediate support of the ministry, but decision-making is facilitated." Nevertheless, MARAD must report to the ministry.

**Option 5:** This type of MARAD is a self-standing organization which receives no support from the ministry. Although it is a part of the government, yet it is an executive agency which operates under *corporations act.*

### 3.3 Implementation and enforcement from a legal point of view

It is recognized that the “implementation” of international treaties is the duty of the State that has ratified them. According to article 26 of the Vienna Convention, international instruments such as conventions and protocols are determined by the common law rule of *pacta sunt servanda,* meaning that “every treaty in force is binding upon the parties to it and must be performed by them in good faith”.

Each convention describes the core and the obligations it holds. The obligation of the Contracting Government is not only the incorporation of the provisions of conventions into their national legal structure, but also the observance of the safety, security, environmental standards laid down in those treaties. The problem is that, flag States by and large do not conform appropriately to these standards. With respect to enforcement, the differences in the enforcement of international technical treaties can create challenges for shipowners and shipyards as well. “Control remains in the hands of States, which react spontaneously as soon as their interests are hurt by violation of an international convention” (Boisson, 1999, pp. 144 -147).

Nevertheless, thanks to some regional agreements or collective agreements such as European agreements on control of violation of MARPOL Convention shows that enforcement of MARPOL is functioning fruitfully in the Western European waters through:

- An agreement between European countries to carry out regular inspections on ships i.e. "not just detecting illegal behavior after the event but preventative inspections too."

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• Harmonized inspection procedures
• Drafting a manual with technical and legal information aiming at detection and legal prosecution of violations.
• Intensive inspection of the ships suspicious of violating, on arrival, and wide publicity of the detention and enforcement measures in the shipping press (Boekel, 1998, p. 642).

3.4 Flag State responsibilities: An overview

A State may assume a number of roles in a maritime context dependent upon its location, function, sovereignty, boundaries, and relationship with vessels of another State. Some of these maritime associations are reflected in the LOSC\(^3\) such as coastal, flag, port and landlocked States (Mansell, 2009, p. 18).

In the international law, the obligatory component of a flag State maintains that State must grant ships its nationality via registration means (Article 91 of LOSC).

Meanwhile, a State must "effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag" (Article 94 of LOSC).

According to Boisson (1999, p. 156), the Law of the Sea Convention places an obligation for States with respect to two spheres namely: safety of navigation and protection of the marine environment.

(i) Safety of Navigation

According to Article 94.3 of the LOSC,

State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, *inter alia*, to:

(a) the construction, equipment and seaworthiness of ships;
(b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments;
(c) the use of signals, the maintenance of communications and the prevention of collisions.

---

Article 94.4 of LOSC indicates another responsibility on the shoulder of State, i.e. to make sure that,

(a) each ship, before registration and thereafter at appropriate intervals, is surveyed by a qualified surveyor of ships, and has on board such charts, nautical publications and navigational equipment and instruments as are appropriate for the safe navigation of the ship;
(b) that each ship is in the charge of a master and officers who possess appropriate qualifications, in particular in seamanship, navigation, communications and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size, machinery and equipment of the ship;
(c) that the master, officers and, to the extent appropriate, the crew are fully conversant with and required to observe the applicable international regulations concerning the safety of life at sea, the prevention of collisions, the prevention, reduction and control of marine pollution, and the maintenance of communications by radio.

(ii) Marine Environment protection

The responsibility of the flag State with regard to the protection of marine environment is properly reflected in Article 192 of LOSC indicating that “States have the obligation to protect and preserve the marine environment”. Similarly, Article 211, para.2 of LOSC states that, “States shall take other measures as may be necessary to prevent, reduce and control such pollution”.

3.5 Flag State Performance: academic and industry-based actions

In an effort to identify the compliance and performance record of States, measures have been taken by the industry and at academic level. The outcome of these records might result in for some flag States to be more targeted during inspection (Mansell, 2009).
3.5.1 The Seafarers International Research Center’s Flag State Audit (SIRC)

Winchester and Alderton (2003), studied the performance of 37 flag States, including open and second registers. In their three-year study, six criteria were taken into consideration, namely: the features and quality of maritime administration, the status of the fleet development during the last ten years ending in 2003, seafarers’ complaints and welfare, the existence of labour union and labour laws, the issue of being open register and focus on non-resident companies, and finally the economic and political situation of the flags. They attached the following attributes, among other things, in the report card for a “Model Quality” flag:

- Ratifying major and broad range IMO and ILO conventions;
- Retaining the evidences of beneficial ownership and identity of operators;
- Being capable to do inspections and surveys and perform casualty investigations;
- Retaining the efficient system of certification and provide welfare to seafarers;
- Maintaining an effective legal system for protection of seafarers onboard the ships under its flag;
- Being adequately funded by the State to discharge its obligations taking into account the ships under its register;
- Having enforcement capacities and monitoring abilities on entities acting on their behalf; and
- Prioritizing the performance over income generation.

In their rating system, the A,B,C,D and E indexing system was used, in which A stands for the ‘best practice’. For example the results concerning the ratification of IMO and ILO conventions in their ranking scheme as indicated in Table 1.
Table 1: Ratification of IMO/ILO Conventions in SIRC Audit Rating Scheme

<table>
<thead>
<tr>
<th>Category</th>
<th>Interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Very high rates of ratification</td>
</tr>
<tr>
<td>B</td>
<td>High rates of ratification</td>
</tr>
<tr>
<td>C</td>
<td>Moderate rates of ratification</td>
</tr>
<tr>
<td>D</td>
<td>Low rates of ratification</td>
</tr>
<tr>
<td>E</td>
<td>Very low rates of ratification</td>
</tr>
</tbody>
</table>

Results

<table>
<thead>
<tr>
<th>Category</th>
<th>Flag</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Canary Islands, Kerguelen Islands, Netherlands, Netherlands Antilles, NIS ( Newly Independent States), Norway</td>
</tr>
<tr>
<td>B</td>
<td>Bermuda, Cayman Island, DIS, GIS, Hong Kong, Isle of Man, Madeira, Russia, United Kingdom</td>
</tr>
<tr>
<td>C</td>
<td>Bahamas, Barbados, Belize, Cyprus, Estonia, Latvia, Lebanon, Liberia, Malta, Marshall Islands, Panama, Philippines, Ukraine, Vanuatu</td>
</tr>
<tr>
<td>D</td>
<td>Antigua and Barbados, Bolivia, Cambodia, Equatorial Guinea, Honduras, St Vincent &amp; the Grenadines, Singapore, Turkey</td>
</tr>
<tr>
<td>E</td>
<td>Source: Winchester, N. &amp; Alderton, T. in Flag State Audit 2003 (p.20)</td>
</tr>
</tbody>
</table>

The results show that Cambodia and Equatorial Guinea, which were new open registers, had very poor ratification grades. It is also spells out that the Eastern European countries failed to keep up with their counterparts i.e. Western European States.

3.5.2 The round table of the shipping industry organizations

Almost every year, the shipping industry organizations, i.e. BIMCO, INTERTANKO, ICS, ISF and INTERCARGO get together to identify the flag States which are in full compliance with international maritime standards. They produce guidelines for shipping companies titled “Shipping Industry Guidelines on Flag State Performance” along with a
table showing the performance level of each State (ISF 2009 as shown in Appendix A). However these guidelines are mainly meant to be used by shipping companies to identify the level of performance of each flag, based on which they can choose flag for their vessels. These guidelines as such, can be of interest to policy-makers involved in maritime affairs and flag administrations too. The criteria to evaluate the performance of the flag State, used in the shipping organizations’ guidelines are:

- Port State Control records of ships flying flag of states;
- Ratification of major IMO Conventions;
- Delegation of authority to recognized organization in accordance with resolution A.739(18);
- Age of fleet;
- Being in the latest STCW white list
- Mandatory and voluntary reporting under IMO and International Labor Organization (ILO) Conventions; and
- Representation at IMO meetings (MSC, MEPC, LEG and Assembly).

According to the shipping industry organizations mentioned-above, a straightforward means of evaluating the effectiveness of the enforcement of international treaties is to look into the PSC records of ships under a flag. Therefore, the results of the flag performance in the three key PSC regimes; namely Paris, Tokyo and USCG MOU are taken into consideration. It is worth mentioning that for the purpose of these guidelines only white and black list flags are considered and grey list is not included. Another means of assessing the flag performance is the ratification of major international maritime conventions (SOLAS 74 and Protocol 88, MARPOL 73/78, LL 66 and 88 protocol, STCW 78, ILO 147, CLC/Fund 92). Nomination of ROs to work on behalf of MARAD in accordance with resolution A.739(18) is also considered a decisive factor. Due to several reasons including lack of adequate number of qualified personnel, flags may delegate the survey obligations of the ships under their flag to the Recognized Organizations which are the IACS members.
Despite the fact that delegation of such responsibilities to non-IACS members is not deficient, the industry organizations believe that there may be uncertainty whether non-IACS members comply fully with IMO requirements in conducting surveys on behalf of MARAD. Submission of reports under the STCW convention as a documentary evidence (IMO 2003c) to show the full and effective compliance with the requirements of the convention is vital in determining flag performance. Under different ILO conventions, flags are required to report to the ILO. As an example, according to IMO MSC/Circ.1014 (IMO 2001) and the joint publication of IMO/ILO on the Guidelines for the Development of Tables of Seafarers’ Shipboard Working Arrangements and Formats of Records of Seafarers’ Hours of Work or Hours of Rest, 1999, flags are required to submit the compliance and practice reports. Non-representation in major committees of the IMO is another criterion that may imply that the flag is not serious and committed to implementing and enforcing IMO treaties. However, the industry organizations’ efforts in assessing the performance of flags, can also convey the probability that most of the developing countries due to the expenses such as flight and accommodation, are not able to attend IMO meetings.

The significance of the study by the round table of shipping industry is that, putting forward an offer to be audited under VIMSAS is regarded as a decisive factor to figure a State among the States who are committed to the implementation and enforcement of IMO treaties. The shipping industry organizations believe that, Flag states should participate in the IMO Member State Audit Scheme in order to identify areas for possible improvement with regard to the implementation of IMO instruments, and which may benefit from IMO technical assistance programmes. In the interests of transparency and continuous improvement, the industry organizations believe that flag states should publish the results of the IMO audits for the benefit of the industry as a whole (ISF 2006, p.11).
3.6 How do flag states differ in implementation/enforcement?

Many people, who are involved in shipping industry in one way or another, perceive that “the gulf between the intent of regulations and their practical implementation is getting wider. In certain cases this is creating an environment ripe for errors and uncertainty and therefore for even more regulations” (Ives, 2006, p.6).

With 167 Governments as Members, IMO has plenty of teeth but some of them don't bite. The problem is that some countries lack the expertise, experience and resources necessary to do this properly. Others perhaps put enforcement fairly low down their list of priorities. (www.imo.org) Flag State Implementation.

Due to this problem, and to give the IMO the title of the “tiger having teeth to bite”, IMO started a new initiative which is called Voluntary IMO Member State Audit Scheme. It is expected that VIMSAS will facilitate uniform and consistent implementation among IMO members. Experiences gained through the implementation and enforcement of the ISM Code and the ISPS Code suggest that many issues which are “management system oriented” are blurred due to their nature and thus they are open for various and different interpretations (Ives, 2006, p.6). On top of this, different interpretations can also arise from translation of the authentic text of the convention, which is usually issued in English, Chinese, Spanish, French and Russian, with some official translation in Arabic or German. Absence of equivalent words in some languages (jurisdiction, liability, control, security etc.), and lack of accuracy in translation may also result in divergent interpretation of the same technical convention among different IMO member States, thus different implementation at the end point (Boission, 1999, p.146).

3.7 Mindset of maritime administrations

The United Nations Convention on the Law of the Sea expounds, inter alia, that “flag state shall have a competent and adequate national maritime administration …and shall implement applicable rules and standards concerning, in particular, the safety of ships and persons on board and the prevention of pollution of the marine environment.”(Hubbard & Hoppe, 2001, p.8). However, an important

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4 After ratification of IMO Convention by Uganda in 2009, IMO has 169 Member States.
challenge for the shipping industry today is that whether the stakeholders of the industry, especially IMO member States, embrace the proactive safety, environmental attitude in the administering of their responsibilities toward international standards. It is of great interest to see that there are three categorizations of such attitude: Evasion culture, compliance culture and safety culture. Evasive is referred to a type of attitude which tries to ignore or underestimate international standards and usually efforts are made dodging the internationally accepted standards whenever practicable. Compliance culture reflects what is expected by the international standards from the maritime community and how much conformity to minimum standards are achieved by the actors in shipping (Ornitz, 2009). However, what VIMSAS looks for and tries to achieve is manifested in safety culture. Safety culture promotes continuous improvement, efficiency and effectiveness. According to O’Neil (2000), former Secretary-General of the IMO,

Safety culture is one of those terms that tend to slip through the fingers when you try to pin a formal definition on it. It is perhaps far easier to agree on a definition of what a safety culture is not. It is not a culture of unthinking compliance. It is not a culture in which the principal objective of a shipping company’s safety manager is simply to ensure that his ships meet all the prescribed standards and all the necessary certificates are up-to-date and in place. It is much, much more than that. Compliance is, of course, a pre-requisite – a starting point, if you will. But, beyond mere compliance is a mindset in which safety managers plan and set their own performance standards and goals – actively managing safety as a routine part of their everyday work rather than just responding to external events. This is the beginning of a safety culture.

Therefore, MARADs are required to keep vigilance and awareness of the implementation of international treaties to which they are party in a manner that safety and environmental concerns/attitudes rank their first priorities.
3.8 Summary

Raison d’être of the maritime administration and the legal aspects of flag States were discussed. The importance of Flag State Performance and the image of flag administration and the criteria utilized by the shipping industry organizations in determination of quality Flag State were highlighted. There is a consensus that uniform, coherent and effective implementation of international instruments is a key in “quality shipping” (Winbow, 2002, p.4) and a response to IMO's ambition of “safe, secure and efficient shipping on clean oceans”.

Divergent interpretation and uneven implementation of the international instruments have led to the introduction of oversight control (VIMSAS) by the IMO to assess how effectively flag administrations discharge their responsibilities. This issue will be dealt with in detail in the Chapter 4.
CHAPTER 4: Voluntary IMO Member State Audit Scheme: an overview

This Chapter deals with the introduction of the Sub-Committee on Flag State Implementation (FSI) as the first step to ensure that IMO Members States discharge their responsibilities, effectively and in a consistent manner under applicable IMO instruments. This Chapter also covers the history of VIMSAS and the status of the audit scheme. Principles, merits and future of VIMSAS will also be discussed. The latest findings of the IMO about the progress of the VIMSAS will be presented as well.

4.1 Establishment of FSI Sub-Committee: a step forward for IMO

During the discussions in the sixtieth session of the Maritime Safety Committee (MSC), a number of countries including Canada, Norway, the United Kingdom, United States and Sweden represented in the working group established during the session, concurred that the lack of effective implementation of IMO standards are due to several reasons including:

1. Non-availability of adequate number of qualified and technical personnel within MARAD;

2. Absence of satisfactory infrastructure to interpret, implement and enforce international conventions;

3. Imprecise delegation of authority to the organizations recognized by MARAD when survey and certification entrusted or insufficient employment of qualified and experienced surveyors;

4. Lack of effective monitoring or “oversight programme to ensure that consistent and competent maritime safety actions are taken” (IMO, 1992, p.3).
Therefore, through establishment of the FSI Sub-Committee in 1994, IMO took one step forward toward improving the performance of Governments by providing guidance and recommendations to States on how to implement and enforce IMO instruments effectively and subsequently allocating the resources of the Technical Committee (TC) and delivery of TC programs to those States which need assistance.

4.2 Background of VIMSAS

As discussed in the previous Chapter, IMO was criticized for producing of vast number of regulations without having implementation and enforcement mechanisms in place. The purpose of the establishment of IMO as reflected in Article 1(a) of the Convention on the International Maritime Organization is:

To provide machinery for co-operation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade; to encourage and facilitate the general adoption of the highest practicable standards in matters concerning the maritime safety, efficiency of navigation and prevention and control of marine pollution from ships; and to deal with administrative and legal matters related to the purposes set out in this Article. (IMO, 1948)

This shows that IMO has not been given the authority to ensure directly that the treaties adopted are implemented and enforced in their entirety by the contracting Governments. “The Organization itself has no powers to enforce conventions”, “The enforcement of IMO conventions depends upon the governments of Member Parties” that “….enforce the provisions of IMO conventions as far as their own ships are concerned and also set the penalties for infringements, where these are applicable”5 (www.imo.org).

Owing to the above-mentioned fact, it is over-emphasized in different IMO documents that the eventual effectiveness of any convention relies on all States via:

becoming party to the international instruments;
implementing them universally and effectively;
enforcing them thoroughly; and
reporting to the IMO, as appropriate.

Therefore, IMO adopted Resolution A.740(18) on “Interim Guidelines to assist flag states” which were later on amended by Resolution A.847(20), the “Guidelines to assist Flag States in Implementation of IMO instruments”. There is no doubt the first pillars of VIMSAS were put by these two resolutions. In fact the latter, is the essence of what today is known as the ‘Code for the Implementations of Mandatory IMO Instruments’ in Resolution A.996(25). Resolution A.847(20) asserts that flag States aiming at discharging their responsibilities in an effective manner, inter alia, should implement policies, establish support infrastructure and enforce them by taking all necessary steps to guarantee observance of international rules and regulations. This resolution was such a comprehensive manual in a manner that it proposed "possible framework for maritime legislation concerning the main IMO Conventions (SOLAS, MARPOL, LL and STCW)". In other words, it defined how regulations are expected to be enacted under each of the main IMO Conventions (IMO,1997).

Later on, the twenty–first session of the IMO Assembly adopted Resolution A.881(21) on “Self-assessment of flag State performance”, which was revised in the next Assembly meeting by Resolution A.912(22). The importance of Resolution A.881(21) was highlighted by the wider scope of application in terms of IMO conventions (TONNAGE 69 and COLREG 72 conventions were added to the list of conventions which had already been introduced in Resolution A.847(20)) as well as the introduction of “External” and “Internal” Criteria for the assessment of flag state performance.

"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” such as “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”, while "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" (IMO, 2002a).

It was recognized that in order to have a fleet with satisfactory safety record, the following elements can be used as self-evaluation measures:

1. Legal framework and means of promulgating maritime legislation which should satisfy the international maritime obligations of the State.

2. Ability to demonstrate that full and complete effect is being given to instruments in force to which the flag State is a Party.


4. Responsibility for any recognized organization (RO) acting on behalf of the Administration, including authorization and monitoring of, and any corrective action against the RO.

5. Ability to investigate the causes of personal injuries, non-compliance, casualties, and pollution incidents, and ability to take appropriate remedial action.

6. Ability to ensure that a ship having joined its register does not operate unless it complies with applicable requirements.

7. Ability to demonstrate that a policy is in place to promote a safety; and

8. Environmentally-minded working culture at all times (IMO, 2002a).

Performance indicators are required to examine how far the above-mentioned criteria are achieved. A series of performance indicator were introduced, *inter alia*:

1. Accidents, casualties and incidents reportable to the Organization in terms of the requirements of the applicable conventions;
2. 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. Lives lost on ships flying its flag resulting from the operation of those ships;
4. Ships lost;
5. Pollution incidents as defined by the reporting standards of MARPOL 73/78 and other applicable instruments, as appropriate, including a measure of the seriousness of the incidents;
6. Information provided by other States under port State control procedures in accordance with the applicable conventions;
7. Information provided by statutory surveys, audits and inspections carried out by, on behalf of and at the request of the flag State;
8. Compliance with the requirements of mandatory instruments, concerning communication of information, including the serious and very serious incidents reportable to the Organization;
9. Action taken against ships flying the flag of the State which have been identified as not being in compliance with the requirements of mandatory instruments, and the effects of such action (IMO, 2002a, pp.13-14).

It is worth mentioning that the establishment of the Global Integrated Shipping Information System (GISIS database), which gathers and collects information on reporting requirements under various conventions, is in harmony with the objective of IMO Resolution A.912(22), and that the database to be launched by the Organization would, inter alia, support the Organization “in its efforts to achieve consistent and effective implementation of IMO instruments” (IMO, 2002a, p.3). The
goal of GISIS as stipulated in the Disclaimer section\(^6\) is “…to allow on-line access to information supplied to the IMO Secretariat by Maritime Administrations, in compliance with IMO’s instruments” (GISIS).

Despite the fact that IMO assured that the results of submitted self-assessment forms introduced in (IMO, 2002a) will be “treated with the utmost and strictest confidence”, few countries showed interest in submission of it. The tenth and eleventh sessions of the Sub-Committee on Flag State Implementation published the results of the self-assessment forms received through documents FSI 10/4 and FSI 11/10 respectively (IMO, 2002c and 2003a as shown in Appendix B). One of the problems of the result of SAF was that it was vague and difficult to perceive the areas of weaknesses or strengths and unlike VIMSAS audit reports, no proper feedback was provided to the State. It was merely a table without further explanation. Due to recommendatory characteristics of Resolutions and Guidelines, it was felt that IMO was still not able to convince its Member States to adhere to the requirements of treaties to which they are party through voluntary evaluation of their own performance by SAF.

In November 2001, IMO Assembly adopted Resolution A.914(22), “measures to further strengthen flag State Implementation”, requesting MSC and MEPC Committee to “focus their attention on developing a safety culture and environmental conscience in all activities undertaken by the Organization” and “to consider measures to further strengthen flag State implementation as part of the development of a safety culture and environmental conscience” (IMO, 2002b).

In January 2002, the ‘Ministerial Conference on Transport-A New Challenge for Environmentally Friendly Transport’ was held in Japan. Participants were from Australia, Austria, Belgium, Canada, Denmark, France, Germany, Greece, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Republic of Korea, Singapore, Spain, Sweden, the United Kingdom, the United States, IMO, and the European Commission. The participants, in response to the request of Resolution A.914 (22), on strengthening of flag state implementation, agreed that “an important measure to implement this resolution is the development and initiation of an audit programme on flag State implementation” (IMO, 2002d).

\(^6\) http://gisis.imo.org/Public/Shared/Public/Disclaimer.aspx
Thus they decided to submit the proposal for a voluntary “Model Audit Scheme” on flag State implementation to IMO. In May 2002, nineteen IMO member States (Australia, Canada, Cyprus, Denmark, Finland, Germany, Hong Kong China, Indonesia, Italy, Japan, the Netherlands, Norway, the Republic of Korea, Marshall Islands, Singapore, Spain, Sweden, the United Kingdom and the United States) put forward the proposal to establish the IMO Model Audit Scheme, inspired by the measures taken by the International Civil Aviation Organization (ICAO) in 1995 by establishing the ICAO Safety Oversight Programme (IMO, 2002e). As a result, the IMO Assembly in its twenty-fourth session in November 2005 adopted the Resolutions A.973(24) “The Code for the implementation of Mandatory IMO Instruments” (*the Implementation Code*) and Resolution A.974(24) “Framework and procedures for The Voluntary IMO member State Audit Scheme” (IMO 2005a and 2005b).

### 4.3 Principles of the VIMSAS

In order to have a typical example for the setting up of the new proposal of “Model Audit Scheme” (MAS), Japan made a study on the development of ICAO’s safety auditing programmes in 2003 (IMO, 2003b). The study established the principles of the Member State Audit. The principles of the MAS were determined as follows:

- Sovereignty and universality;
- Consistency, fairness, objectivity, and timeliness;
- Transparency and disclosure;
- Co-operation; and
- Continual improvement (IMO, 2005b, pp.5-6).

ICAO’s Safety Oversight Audit Programme (SOAP) principles encompass:

- Sovereignty;
- Universality;
- Transparency and disclosure;
- Timeliness;
- All-inclusiveness;
- Systematic, consistent and objective;
• Fairness; and
• Quality.

The principles of both Organizations are illustrated in (Table 2):

<table>
<thead>
<tr>
<th>ICAO’s Principles</th>
<th>IMO’s principles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sovereignty</td>
<td>Sovereignty</td>
</tr>
<tr>
<td>Universality</td>
<td>Universality</td>
</tr>
<tr>
<td>Consistency</td>
<td>Consistency</td>
</tr>
<tr>
<td>Transparency and disclosure</td>
<td>Transparency and disclosure</td>
</tr>
<tr>
<td>Timeliness</td>
<td>Timeliness</td>
</tr>
<tr>
<td>All-inclusiveness (all safety related conventions will be included over time)</td>
<td>------</td>
</tr>
<tr>
<td>Systematic</td>
<td>------</td>
</tr>
<tr>
<td>Fairness</td>
<td>Fairness</td>
</tr>
<tr>
<td>Objective</td>
<td>Objectivity</td>
</tr>
<tr>
<td>Quality</td>
<td>Continual Improvement</td>
</tr>
</tbody>
</table>

A comparison between IMO and ICAO’s Audit scheme principles shows that despite all the similarities, in IMO’s case, there is no principle corresponding to “all-inclusiveness” and “systematic” which are already provided in ICAO’s Model. However, these two principles can be extracted and interpreted from the established procedures and structured conduct of the audit process and the scope of the audit in IMO’s Model. Another variation is that Quality in ICAO’s audit refers to the quality and standard of the Safety Oversight Audit section of ICAO, which received an ISO 2001:2000 certification aiming at appropriate conduct of audits, while in IMO’s case, it refers to the continuous improvement of the Member State’s status with respect to the audit findings.

4.4 The Ten Commandments

In the preamble of the Resolution A.973(24), it was stated that the *Implementation Code* has a dual utility: “in addition to providing guidance for the
implementation and enforcement of IMO instruments, forms the basis of the Audit Scheme, in particular concerning the identification of the auditable areas” (IMO, 2005a). The Implementation Code (IMO, 2005a) also declares, the Ten Commandments, ten maritime safety and pollution prevention international instruments as follows:

1. the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 1974);
2. the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS PROT 1978);
3. the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS PROT 1988);
4. 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);
5. the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended (MARPOL PROT 1997);
6. the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW 1978);
7. the International Convention on Load Lines, 1966 (LL 66);
9. the International Convention on Tonnage Measurement of Ships, 1969 (TONNAGE 1969); and
4.5 **Responsibilities of IMO Member States**

The Implementation Code is divided in four parts, enumerating the responsibilities of Member States in different areas based on their role as Contracting Government to the IMO instrument, as well as other capacities as flag, port and coastal States. By virtue of geographic location and circumstances, a State can be only flag State (e.g. landlocked states) or all the capacities of flag, port and coastal States may be applicable to a State. Consequently, different capacities may result in different responsibilities.

4.5.1 **Responsibilities of Contracting Government**

The first part of the Implementation Code deals with the matter of “common area”. The issues which are common in all capacities (flag, port, coastal) are dealt with in this part of the Implementation Code. Significant issues such as strategy, well-organized maritime administration embedded with qualified human resources (technical staff with maritime specialization), incorporation of international instruments into national legislation and having legal authority to enforce them, communication of strategy and national legislation to the concerned entities, keeping the records of conformity with relevant applicable instruments, stimulation of safety and environmental protection culture and continuous improvement are enumerated in the common area section of the Implementation Code.

4.5.2 **Responsibilities of Flag State**

This part of the Implementation Code appears in six headings viz. implementation, delegation of authority, enforcement, flag state surveyors, flag state investigations and evaluation and review. This section, if it is not the most important part of the Implementation Code, it is the core of it. It stresses the importance of having policies in place through national legislation on how flag States must manage and implement the requirements of safety and pollution prevention standards applicable to the State. It also highlights the line of responsibilities within different authorities in a State responsible for administering maritime activities. Emphasizing on the role of Recognized Organizations working on behalf of MARAD, the
flag States must follow the procedure and the requirements of Resolution A.739(18) “guidelines for the authorization of organizations acting on behalf of the Administration” (IMO, 1993a) and to have a written agreement which can be based on the MSC/Circ.710-MEPC/Circ.307, “Model Agreement for Authorization of the Recognized Organizations acting on behalf of the Administration” (IMO, 1995a). In addition, flag States must have enforcement abilities to ensure the observance of the international standards by the ships under their flag. Qualification, number, and the training programme anticipated for the surveyors to keep them up-to-date with regard to their job as flag State surveyor (familiarization with the convention requirements and amendments which is applicable to ships), investigation of marine casualties or pollution incidents conducted by qualified investigators and lastly, the evaluation and review of performance on a periodic basis are categorized as the responsibilities of the flag State.

4.5.3 Responsibilities of Port State

The responsibilities under various conventions generally come to two main categories: rights and obligations. Rights are those responsibilities which a State has opportunity to opt for or leave them. Obligations are referred to those types of responsibilities which are binding. “A right is an action that a stakeholder is conditionally permitted to perform…. an obligation is an action that a stakeholder is conditionally required to perform.”(Kiyavitskaya, Breaux, Anton, Cordy, Mich and Mylopoulos, 2007, p.2). It is believed that Port State Control is a right. However, if a State has opted for such a role by the virtue of national law, or bilateral or multilateral law, then it becomes an obligation. “When exercising their rights under the instruments, port States incur additional obligations” (IMO, 2008, p.14). For instance, when a ship is detained, the port State must inform the Flag State which ship is entitled to fly its flag.

4.5.4 Responsibilities of Coastal States

“Coastal States, in the exercise of their sovereignty over the territorial sea, may adopt national laws and regulations for the prevention
and control of marine pollution from foreign flagged vessels in innocent passage through that zone" (Breide & Saunders, 2008, p.3). Part 3 of the Implementation Code encompasses the implementation and enforcement of the coastal State.

Jinyu (2008, p.7) summarizes the responsibilities of coastal States, *inter alia*, as follows:

1. To provide search and rescue assistance for ships in distress;
2. To set adequate aids to navigation including VTS for ship’s safe navigation;
3. To send the concerned information of safe navigation;
4. To provide place of refuge for ships and seafarers;
5. To endow foreign ships with the right of innocent passage.

As per Resolution A.996(25), coastal State should also:

1. Provide for the allocation of statistical data so that trend analyses can be conducted to identify problem areas;
2. Provide for timely response to pollution incidents in its waters; and
3. Co-operate with flag States and/or port States, as appropriate, in investigations of maritime casualties. (IMO, 2008)

Above all, periodical evaluation and review of their performance is an integral part in meeting their obligations under various mandatory IMO instruments.

### 4.6 Status of Auditing

Since the issuance of Circular letter No.2687 of December 2005 (inviting Member States to volunteer for audits), the Secretary-General has received official communications from 55 Member States, which include four dependent territories, as well as one Associate Member, informing him of their readiness to be audited. The number of Member States that have so far volunteered for audits
now represents 33% of the total membership of the Organization. (IMO, 2010b).

As of 18 March 2010, 36 Member States, one Associate Member and a dependent territory have been audited. Eight more audits are planned in 2010.

The preliminary study on the three Consolidated Audit Summary Reports (CASR) of 26 audits done by the IMO Secretariat as reflected in document FSI 18/Inf.7, shows 187 findings (61 non-conformities and 126 observations) and 25 root causes. The Code for the Implementation of Mandatory IMO Instruments embraces four parts as Common Areas (Responsibilities of the Contracting Government), Flag States, Costal States and Port States. Figure 1 shows the synopsis of the findings categorized under each part of the Implementation Code.

![Figure 1](image1.png)

**Figure 1**: Analysis of the number of findings as per Code’s four parts
Source: FSI 18/Inf.7, Annex p.3 (IMO, 2010c)

Findings under Common Areas of the Implementation Code are illustrated in detail in Figure 2:

![Figure 2](image2.png)

**Figure 2**: Analysis of audit outcomes under Common Areas section
Source: FSI 18/Inf.7, Annex. p.5 (IMO, 2010c)
Figure 2 depicts that most of the findings relate to the legislation, mostly due to the problems in incorporation of the IMO instruments into national legislation. These difficulties were mainly caused by lack of sufficient qualified personnel, and lengthy procedures to promulgate and publishing them in official gazettes. Problems in 'strategy' either in the form of absence of necessary documentation or lack of clear lines of responsibilities among ministries involved, ranked second, followed by communication of information (communication of laws and decrees etc as well as reporting requirements under different IMO instruments) in the common areas section of the *Implementation Code*.

Figure 3 shows the break up of deficiencies as per *the Implementation Code* in all four capacities as (contracting government, flag state, port and coastal state).

![Figure 3: Analysis of audit findings by parts of the Implementation Code](image)

*Figure 3: Analysis of audit findings by parts of the Implementation Code*

*Source: FSI 18/Inf.7, Annex. p.8 (IMO, 2010c)*

Figure 4 demonstrates that "absence of documented procedures", "insufficient resources" and "lack of coordination among various entities" are the most common underlying grounds declared by member States audited.
4.7 **Merits and future of VIMSAS**

Barchue (2005) opined that VIMSAS does not discriminate between member States of IMO due to its principle of *universality*, and this merit will provide the States which voluntarily participate in the scheme with an equal opportunity to benefit from the audit results in improving their performance and compliance with international instruments. He outlined the advantages of VIMSAS as follows:

1. improved and full reporting to IMO on the implementation treaty obligations;
2. better investigations of casualties and port state control detention;
3. more rigorous delegation of authority to recognized organizations;
4. better trained and properly certificated seafarers;
5. better communication between flag and port States;
6. acceptance of the need to improve performance;
7. closer monitoring and accountability by companies (shipowners); and
8. greater awareness of the need to establish measures to protect coastal and marine resources (Barchue, 2005, p.7).
In relation to recognized organizations, VIMSAS will assist in:

1. better accountability to governments;
2. more contribution and participation in the technical rule making process;
3. more research and innovation in design concepts; and
4. more decisive actions in dealing with deficiencies identified during port State control and statutory surveys (Barchue, 2005, p.7).

In addition, the results of audits will show the weaknesses and strengths of the MARAD, and identifies the way forward on how to address them. It is believed that what can be observed from a third party point of view may not be equally perceived by the very State; therefore, VIMSAS functions as a mirror that reflects all capabilities, positive areas as well as negative points. VIMSAS can assist in proper allocation of the TC budget to the needs of developing countries.

The Voluntary IMO Member State Audit Scheme will be a key tool in the battle against sub-standard ships... It will satisfy our friends and silence those who label IMO as a ‘toothless tiger’ with no real control over the implementation of the rules and regulations it develops. My vision is of a scheme which, rather than causing embarrassment to those to be audited by exposing their weaknesses, will instead bring us closer together - the one helping the other in pursuit of our common goals of enhanced safety and environmental protection (Mitropoulos, 2004).

The Assembly in its twenty-sixth session adopted resolution A.1018 (26) on the “Further development of the Voluntary IMO Member State Audit Scheme” and requested,

The Maritime Safety Committee, the Marine Environment Protection Committee, the Technical Co-operation Committee and the Facilitation
Committee, as necessary, under the coordination of the Council, to take appropriate action to develop and establish the IMO Member State Audit Scheme in its institutionalized form within the established time frame (IMO, 2010a).

The time frame which is on the agenda of the IMO for transition from voluntary phase to mandatory audit scheme is illustrated in Table 3.

**Table 3: Timeframe for transition from VIMSAS to MIMSAS**

<table>
<thead>
<tr>
<th>IMO Body</th>
<th>Timing</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>MSC and MEPC</td>
<td>First half of 2010</td>
<td>Consider how to make the Code for the implementation of mandatory IMO instruments mandatory, including provisions for auditing</td>
</tr>
<tr>
<td>MSC and MEPC</td>
<td>Second half of 2010</td>
<td>Identify mandatory IMO instruments through which the Code and auditing should be made mandatory</td>
</tr>
<tr>
<td>Council</td>
<td>End 2010</td>
<td>Establish Joint Working Group (JWG) of MSC, MEPC, FAL and TCC to review the Framework and Procedures for the Scheme</td>
</tr>
<tr>
<td>MSC and MEPC</td>
<td>2011 and 2012</td>
<td>Develop provisions to make the Code mandatory through the identified mandatory IMO instruments</td>
</tr>
<tr>
<td>Council</td>
<td>Second half of 2011</td>
<td>Approve a progress report for submission to A 27</td>
</tr>
<tr>
<td>Assembly 27</td>
<td>November 2011</td>
<td>Receive a progress report and decide as appropriate</td>
</tr>
<tr>
<td>JWG</td>
<td>2011 and 2012</td>
<td>Review the Framework and Procedures for the Scheme</td>
</tr>
<tr>
<td>JWG</td>
<td>2013</td>
<td>Finalize the Framework and Procedures, taking into account the finished product of the Code and the related amendments to mandatory IMO instruments</td>
</tr>
<tr>
<td>Council</td>
<td>First half of 2013</td>
<td>Approve the Framework and Procedures for the Scheme, for submission to A 28 for adoption</td>
</tr>
<tr>
<td>Committees</td>
<td>2013</td>
<td>Adopt amendments to the mandatory IMO instruments concerned for entry into force on 1 January 2015</td>
</tr>
<tr>
<td>Assembly 28</td>
<td>November 2013</td>
<td>Adopt resolution on the Framework and Procedures for the Scheme and amendments to those mandatory instruments under the purview of the Assembly</td>
</tr>
<tr>
<td>Council, Committees and Secretariat</td>
<td>2014</td>
<td>Preparatory work for the commencement of an institutionalized audit scheme</td>
</tr>
</tbody>
</table>

Source: IMO, 2010a, p.4
In addition, the Council may establish “a joint working group comprising MSC, MEPC, TCC and FAL Committee members to review the existing Framework and Procedures for the Scheme (Resolution A.974(24)) in the context of making it mandatory” (IMO, 2010b, p.2).

Mansell (2009, p.229) believes that the current system of IMO member States auditing each other, might be the best model for IMO to ensure the effective implementation of its member States, because States may have reservation about the interference of the IMO Secretariat via direct involvement in their affairs because it seems that, “it may be neither possible nor necessary for the IMO Convention to be amended to allow the Organization enforcement powers”. He also argues that it might be a suitable idea to change the voluntary status of the scheme to a mandatory one through the SOLAS convention similar to the Resolutions A.739(18) and A.789(19) on delegation of flag State statutory inspections tasks to ROs.

Regarding the future of VIMSAS of IMO, it is expected that, similar to ICAO whose objective of oversight programme is only to enhance “overall safety”, there will be no black list or criticism on States when it becomes mandatory. However, there is no guarantee that due to “peer pressures,… non-compliance States face consequences” (Sasamura, 2003, p.6).

4.8 Summary

The background and the elements of VIMSAS were discussed. It is recognized that VIMSAS will improve States’ compliance and will help IMO to proudly stand beside its counterpart ICAO, in achieving a safety culture and environmental conscience. This argument is also valid in that States by nominating themselves and participating in the voluntary scheme will assist in achieving better perspective of the future of the scheme when it changes to ‘Mandatory IMO Member State Audit Scheme’ (MIMSAS). Wadsworth (2004, p.8) maintains that “…an effective audit scheme is critical to the future standing of the IMO.. We have an effective global regulator; we need the tools to ensure global compliance.”

In Chapter 5, the status quo of MARAD of Iran (Islamic Republic of) will be discussed to identify the steps to be taken to be ready for the VIMSAS Audit and to figure among the well-practicing IMO members States in terms of implementation and enforcement of international maritime instruments, structure etc.
CHAPTER 5: MARAD of Iran

In this Chapter the status and structure of the Maritime Administration of Iran (PMO) are examined. Some samples of different developed countries will also be touched to illustrate how they are organized and structured to observe the requirements of international maritime treaties to which they are party.

5.1 Overview of the Iranian MARAD

5.1.1 History

The Maritime Administration of Iran is called ‘Ports and Maritime Organization’ (PMO). The history of PMO dates back to 1914 when as a department of South Customs Branch was established at the port of Bushehr in the south of Iran. However, the PMO was established in effect in 1960 by the act of law which defined its functions and responsibilities. In 1969, the organization gained the status of a legal entity and its functions, rights, and organizational chart were formally adopted. The organization was separated from the Ministry of Finance and was transferred to the Ministry of Roads and Transportation in 1974 (PMO website at www.pmo.ir).

5.1.2 Functions

Sharifi (1996, pp.16-18) summarized the main functions and responsibilities of PMO as reflected in its terms of references as follows:

1. to administer commercial affairs of ports;
2. to construct, complete, develop and utilize port buildings, facilities, etc.;
3. to formulate and enforce port and maritime regulations according to related laws;
4. to prepare and enforce vessel pilotage regulations;
5. to control loading, discharging, transportation and storage of cargo in port areas;
6. to operate maritime communication networks;
7. to supervise coastal and commercial shipping and its development to ensure safety of navigation by adopting any measures necessary to develop coastal and commercial shipping activities;
8. to provide and maintain aids-to-navigation and lighthouses for enhancing the safety of navigation;
9. to register ships and to enforce related rules and regulations;
10. to conduct examinations and to issue certificates of competency for seafarers;
11. to collect port, harbor and river dues, charges and other related revenues;
12. to enforce Iran’s Maritime Code and perform duties under the law of establishment of PSO⁷;
13. to determine the rate of utilization of port facilities, items of equipment etc.;
14. to conduct research and studies regarding port and marine affairs as well as commercial shipping;
15. to prepare short-, medium- and long-term plans for maritime development;

⁷ PSO( Ports and Shipping organization) has recently changed to PMO (Ports and Maritime Organizations)
16. to consider international conventions and agreements relating to maritime affairs, ports and commercial shipping for submission to authorities concerned for adoption;

17. to join international organizations related to ports and shipping activities;

18. to participate in international conferences and other meetings on ports and shipping matters;

19. to determine free trade zones to be established in port areas, if any;

20. to control and administer the railway lines within port area. To possesses railway wagons and accessories and other necessary railway equipment for loading and unloading cargo for transportation to open storage area and warehouses within port limits;

21. to establish training centers for pilots and commercial shipping personnel and send students abroad for higher education in accordance with the needs of the organization;

22. to authorize the construction of piers and other facilities, and to supervise their execution and utilization;

23. to authorize qualified applicants for establishing offices, seaman clubs, restaurants, stores and other necessary facilities, and lease out land for the above purposes;

24. to transfer to qualified private institutions the services that private sector is able to provide on a commercially viable basis; and

25. to make efforts in lowering freight rates of cargo destined to Iranian ports through better utilization of port facilities as well as faster
loading and unloading operations and eliminating ship's waiting time in order to help the country’s economy.

5.1.3  *PMO and its relation with other agencies*

PMO is the responsible entity for implementing, enforcing and monitoring the IMO mandatory instruments relating to flag, port and coastal State activities. However, its responsibilities are divided among different organizations. Matters related to pollution, other than oil pollution, fall within the responsibility of the ‘Department of the Environment’ (DOE). The National Cartographic Center (NCC) is in charge of marine hydrography and chart production. It has established quality management system ISO 9001-2000 accredited by third party (Moody International Certification). The Islamic Republic of Iran Meteorological Organization (IRIMO) is responsible for providing marine forecast 24 hours a day.

5.1.4  *Method of implementation of international conventions*

When a state becomes a party to a convention, by the process of ratification, accession, adoption or acceptance, the legal effect of it is that the state then becomes bound by the convention and is therefore obliged to implement it by incorporation into its body of national law (Mukherjee, 2002, pp.126-127).

There are two systems of implementation of international conventions known as ‘monistic’ and ‘dualistic’. In the monistic method, an international convention becomes part of the law of a State as soon as the State ratifies or accedes to it. In France, USA, Belgium and the Netherlands a convention which has entered into force on an international level, automatically becomes part of the law of the State. However, having a monistic system does not mean that the convention is “self-executing”, so “*legislation is required but limited*” (ESCAP, 1991, p.3). Contrarily, in jurisdictions where the dualistic system is prevailing, legislation is needed for the implementation of an international instrument. In the UK, Germany, Italy and the Scandinavian countries, the dualistic system is applied.
Bearing these systems in mind, it is worth noting that Iran follows the monistic system. Article 9 of the Civil Code of the Islamic Republic of Iran instructs that, "Treaty stipulations which have been, in accordance with the Constitutional Law, concluded between the Iranian Government and other government, shall have the force of law" (Iran, 1928). Article 77 of the Iranian Constitution maintains that “International treaties, protocols, contracts, and agreements must be approved by the Islamic Consultative Assembly” (Parliament) to become the law of the land (Iran, 1979).

5.1.5 Organization structure

The organizational chart of PMO is shown in Figure 5.

![Organization Chart of PMO (Iranian MARAD)](www.pmo.ir)

**Figure 5:** Organization Chart of PMO (Iranian MARAD)
Source: www.pmo.ir

5.1.6 The status of the Iranian MARAD within the government

In Chapter 3 para.3.2 different genre of MARAD within the government structure were introduced. The Iranian MARAD follows the
“statutory administration” method. PMO is administered and managed by a board of directors and headed by a managing director who is in fact Deputy Minister of Roads and Transportation. PMO must report to the Ministry. Most of the decisions with regard to representation in IMO meetings and ratification of IMO instruments must be approved by the Ministry before any further action. However, lack of sufficient autonomy in certain areas results in lengthy procedures. For example, lack of sufficient power to decide on the delegation to IMO meetings, occasionally causes procedural delays and consequently results in delayed visa application by delegates, even missing the meeting.

5.1.7 Delegation of authority to recognized organizations

According to GISIS information, the Iranian MARAD has delegated statutory survey and certification to four IACS bodies as well as two non-IACS members. The IACS members are: Bureau Veritas (BV), Det Norske Veritas (DNV), Lloyd’s register (LR) and Germanischer Lloyd (GL). The non-IACS bodies are the Asia Classification Society (Asia) and the Iranian Classification Society (IRCS). There is a written agreement in accordance with Res.A.739(18) between PMO and the ROs working on its behalf, and PMO monitors their performance. The guidelines for monitoring of recognized organizations have been developed for this purpose by PMO. PMO audits the head office and regional offices of its ROs and quite often flag surveyors accompany the surveyors of the RO while carrying out surveys on behalf of PMO (www.pmo.ir).

5.1.8 Casualty Investigation

The General-Directorate of Maritime Affairs is responsible for investigating accidents involve Iranian vessels and on foreign flagged ships within Iranian territorial waters, however, there is no dedicated and independent division for that purpose. “Investigators” have other routine jobs beside accident investigation; some of them are flag/port State surveyors. In ports, they have similar procedure and structure for casualty investigations. They report subsequently to headquarters as soon as they
complete investigations. The reports of investigation are submitted to the Deputy Managing Director in Maritime Affairs who is the head of the Board of investigators. The results are archived within the division of Maritime Affairs. The General-Directorate of Maritime Affairs has its own quality management system like other directorates under the Maritime Affairs Division.

5.1.9 Flag/Port state implementation

The General-Directorate of Safety and Marine Pollution in PMO is the department responsible for survey and inspection of Iranian ships (FSC) and PSC on foreign ships. Within the directorate there is a filing system of all surveyors along with their qualifications, the training and refresher courses they have participated in. According to the requirements of “the Guidelines for Flag and Port State Control” developed by PMO, one hundred percent of the flagged ships are surveyed. Being a member of the Indian Ocean MOU on PSC, ten percent of the foreign ships are subject to port state control when they call at the Iranian ports (www.pmo.ir).

5.1.10 Quality Management System

The Maritime Affairs division of the PMO has received the Quality Management Certificate in accordance with the requirements of ISO 9001-2000 in 2007 accredited by DNV.

5.1.11 Status of Iran concerning ratification of IMO/ILO instruments

Iran has acceded to all ten mandatory instruments mentioned in the Implementation Code. Iran has not ratified ILO Convention 147 on Minimum Standards in Merchant Ships. Ratification of the consolidated Maritime Labour Convention, 2006 is under consideration. The focal point to implement this convention is Ministry of Labour and Social Affairs. Table 4 shows the IMO instruments ratified by the government of the Islamic Republic of Iran. Table 5 represents the ILO conventions ratified by Iran. The table depicts that the only ILO maritime convention which has been

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8 Adopted in Geneva, 29 October 1976
ratified by Iran is Convention 108 on Seafarers' Identity Documents Convention, 1958.

Table 4: List of IMO instruments ratified by Iran (updated November 2009)

<table>
<thead>
<tr>
<th>No.</th>
<th>Instrument</th>
<th>Date of Accession</th>
<th>Date of entry into force</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Load Lines Convention, 1966</td>
<td>05/10/1973</td>
<td>05/01/1974</td>
</tr>
<tr>
<td>3</td>
<td>INMARSAT 1976 and its Operating Agreement</td>
<td>12/10/1984</td>
<td>12/10/1984</td>
</tr>
<tr>
<td>4</td>
<td>Regulations for Preventing Collisions at Sea (COLREG,1972)</td>
<td>17/01/1989</td>
<td>17/01/1989</td>
</tr>
<tr>
<td>5</td>
<td>SALVAGE, 1989</td>
<td>01/08/1994</td>
<td>14/07/1996</td>
</tr>
<tr>
<td>6</td>
<td>FAL, 1965</td>
<td>27/03/1995</td>
<td>26/05/1995</td>
</tr>
<tr>
<td>7</td>
<td>Search and Rescue (SAR), 1979</td>
<td>26/09/1995</td>
<td>26/10/1995</td>
</tr>
<tr>
<td>8</td>
<td>SOLAS, 1974</td>
<td>17/10/1994</td>
<td>17/01/1995</td>
</tr>
<tr>
<td>9</td>
<td>STCW, 1978</td>
<td>01/08/1996</td>
<td>01/11/1996</td>
</tr>
<tr>
<td>10</td>
<td>London Convention (LC), 1972</td>
<td>13/01/1997</td>
<td>12/02/1997</td>
</tr>
<tr>
<td>20</td>
<td>Fund Protocol,1992</td>
<td>05/11/2008</td>
<td>05/11/2009</td>
</tr>
<tr>
<td>21</td>
<td>MARPOL Annexes III, IV &amp; VI</td>
<td>25/05/2009</td>
<td>29/08/2009</td>
</tr>
<tr>
<td>22</td>
<td>SUA Convention,1988</td>
<td>30/10/2009</td>
<td>28/01/2010</td>
</tr>
<tr>
<td>23</td>
<td>SUA Protocol,1988</td>
<td>30/10/2009</td>
<td>28/01/2010</td>
</tr>
</tbody>
</table>

Table 5: List of ILO conventions ratified by Iran updated July 2010

<table>
<thead>
<tr>
<th>Convention</th>
<th>Ratification date</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>C14 Weekly Rest (Industry) Convention, 1921</td>
<td>10/06/1972</td>
<td>ratified</td>
</tr>
<tr>
<td>C19 Equality of Treatment (Accident Compensation) Convention, 1925</td>
<td>10/06/1972</td>
<td>ratified</td>
</tr>
<tr>
<td>C29 Forced Labour Convention, 1930</td>
<td>10/06/1957</td>
<td>ratified</td>
</tr>
<tr>
<td>C95 Protection of Wages Convention, 1949</td>
<td>10/06/1972</td>
<td>ratified</td>
</tr>
<tr>
<td>C100 Equal Remuneration Convention, 1951</td>
<td>10/06/1972</td>
<td>ratified</td>
</tr>
<tr>
<td>C104 Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955</td>
<td>13/04/1959</td>
<td>ratified</td>
</tr>
<tr>
<td>C105 Abolition of Forced Labour Convention, 1957</td>
<td>13/04/1959</td>
<td>ratified</td>
</tr>
<tr>
<td>C106 Weekly Rest (Commerce and Offices) Convention, 1957</td>
<td>22/01/1968</td>
<td>ratified</td>
</tr>
<tr>
<td>C108 Seafarers' Identity Documents Convention, 1958</td>
<td>13/03/1967</td>
<td>ratified</td>
</tr>
<tr>
<td>C111 Discrimination (Employment and Occupation) Convention, 1958</td>
<td>30/06/1964</td>
<td>ratified</td>
</tr>
<tr>
<td>C122 Employment Policy Convention, 1964</td>
<td>10/06/1972</td>
<td>ratified</td>
</tr>
<tr>
<td>C142 Human Resources Development Convention, 1975</td>
<td>19/03/2007</td>
<td>ratified</td>
</tr>
<tr>
<td>C182 Worst Forms of Child Labour Convention, 1999</td>
<td>08/05/2002</td>
<td>ratified</td>
</tr>
</tbody>
</table>

Source: ILOLEX at http://www.ilo.org/ilolex/english/newratframeE.htm

5.1.12 The Process of ratification of international instruments

Accession to or ratification of international maritime treaties is the responsibility of the Directorate–General, International Maritime Specialized Agencies. It is worth noting here the procedure applied to ratification of international instruments in Iran which is as follows:

1) Translation into Persian (national language);

2) Consideration of the text of instrument in specific meeting held by the Directorate–General, International Maritime Specialized Agencies;

3) Organizing expert meetings (more detailed consideration);

4) Organizing meetings in collaboration with other maritime agencies within the country;
5) Sending of the enactment of the relevant instrument to the Board of Directors of PMO;

6) Approval by the Ministry of Roads and Transport and submission to the Parliament;

7) Consideration and adoption of the text of the Convention and the act by the Parliament;

8) Consideration and approval by the Council of Guardians;

9) Sending the relevant documents to the office of Iran’s President;

10) Submission to the Ministry of Foreign Affairs;

11) Notification to IMO by Ministry of Foreign Affairs; and

12) Publication in national gazette (PMO website at www.pmo.ir).

5.1.13 Establishment of Integrated Marine System (IMAS)

PMO has started a project called the IMAS system, which is considered to be the gate to realization of e-governance when it becomes operational. The system connects the organizations, ministries, agencies and shipping companies to a database with different modules including knowledge and documentation, safety control and survey of vessels, vessel traffic management and management of environment protection. It is expected that the IMAS, through the feedback system to the user, facilitates the information flow within relevant maritime agencies. The system will provide a platform in which the decision making will be easier. For example, in order to ratify IMO instruments, it will not be necessary to hold a meeting in PMO, as all relevant agencies will have access to the text of a convention both in English and translation in national language (Persian) and entities outside PMO can comment via the software to the person in charge of the relevant module in the system. Likewise, the system will make the job easier and much quicker and more precise than before, as well as making it possible to generate reports, thus making it possible to have a better system of evaluation
and review’ as stipulated in the *Implementation Code*. This system is not operational yet.

5.1.14 **Strategic planning**

There is a long-term plan for the whole government administration which is called the “twenty-year outlook document”. In this document the way ahead and the results which are expected to be achieved on a long-term basis for all the ministries, including the Ministry of Roads and Transportation is defined. Further to this, there is an annual planning in PMO, which discusses the short-term goals and objectives of the organization for the year ahead. These annual plans are drawn by each division in PMO and are approved by the deputy managing directors and subsequently by the Head of PMO every year. The annual plan of ports all over the country is in line with the objectives of the headquarters (PMO Headquarters) while at the same time encompassing the priorities of the port based on their geographic location and the needs of the port itself.

5.1.15 **Number of surveyors**

The total number of surveyors (flag and port) in the Iranian MARAD is 97. Out of this figure, 25 surveyors are working in headquarters. (PMO pre-audit questionnaire, 2010)

5.1.16 **The Iranian fleet performance figures in the major PSC Regimes**

Table 6 shows the performance of Iranian-flagged ships in two major PSC memoranda of understandings; namely the Paris and Tokyo MOUs.
Table 6: Iran’s Port State Control figures

<table>
<thead>
<tr>
<th>Year</th>
<th>Inspection</th>
<th>Detention</th>
<th>Excess factor</th>
<th>performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>70</td>
<td>4</td>
<td>0.83</td>
<td>Grey list</td>
</tr>
<tr>
<td>2003</td>
<td>64</td>
<td>7</td>
<td>1.18</td>
<td>Black list</td>
</tr>
<tr>
<td>2004</td>
<td>92</td>
<td>3</td>
<td>0.37</td>
<td>Grey list</td>
</tr>
<tr>
<td>2005</td>
<td>93</td>
<td>2</td>
<td>0.12</td>
<td>Grey list</td>
</tr>
<tr>
<td>2006</td>
<td>77</td>
<td>2</td>
<td>-0.64</td>
<td>White list</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Inspection</th>
<th>Detention</th>
<th>Excess factor</th>
<th>performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>62</td>
<td>6</td>
<td>0.50</td>
<td>Grey list</td>
</tr>
<tr>
<td>2003</td>
<td>60</td>
<td>7</td>
<td>0.84</td>
<td>Grey list</td>
</tr>
<tr>
<td>2004</td>
<td>75</td>
<td>5</td>
<td>0.83</td>
<td>Grey list</td>
</tr>
<tr>
<td>2005</td>
<td>80</td>
<td>3</td>
<td>0.50</td>
<td>Grey list</td>
</tr>
<tr>
<td>2006</td>
<td>58</td>
<td>1</td>
<td>0.50</td>
<td>Grey list</td>
</tr>
</tbody>
</table>

Source: Annual report of Paris and Tokyo MOUs

Whereas the Iranian fleet will not call at the USA’s ports, the data on USCG is not applicable.

5.2 How MARADs are structured and operated in other countries

In resolution A.973(24) and its subsequent amendment, the phrase “evaluation and review” has been repeated three times under the heading of flag, port and coastal state obligations. This shows the importance of self-evaluation and self-assessment. “When organizations want to improve their performance, they benchmark. That is, they compare and measure their policies, practices, philosophies, and performance measures against those of high-performing organizations anywhere in the world”\(^9\). “Benchmarking is a powerful management

\(^9\) http://govinfo.library.unt.edu/npr/initiati/benchmk/index.htm
tool because it overcomes ‘paradigm blindness’. Paradigm Blindness can be summed up as the mode of thinking, the way we do it is the best because this is the way we’ve always done it.”\textsuperscript{10}

Whereas the objective of this thesis is to improve the performance and effectiveness of the Iranian MARAD, it seems necessary to see how other MARADs are structured and performed and to have a comparison with the best practices in the world. The rational for selecting these sample countries as explained earlier, is the accessibility of their audit reports and their relevant data in English and their satisfactory compliance with the requirements of the Implementation Code and the treaties they are bound by.

5.2.1 Denmark

5.2.1.1 General overview
The Maritime Administration of Denmark is divided between four Government Ministries. To resolve issues of common interest between the entities a large number of bilateral and multilateral groups have been developed. Performance objectives are set through contractual agreements between Ministries and their respective Agencies. These objectives are measurable and provide a means on which future continual improvement can be based (Denmark Audit Report, 2007).

In addition, some contracts have been developed for that purpose. The Danish Maritime Authority (DMA) is mainly the responsible agency for implementing, enforcing and monitoring the mandatory instruments related to flag State efforts. Environmental aspects of discharges and air emissions of the flagged ships come under the jurisdiction of the Danish Environmental Protection Agency (DEPA). The DMA is also responsible for investigating maritime accidents. The Investigation Department is a separate and independent division, which reports to director-general of DMA only. This division has established a quality management system. The deadline for

\textsuperscript{10} \url{http://www.spiritus-temporis.com/benchmarking/advantages-of-benchmarking.html}
investigation of serious casualties is 8 months and for other casualties 4 months.

Denmark is a member of the MAIG (Maritime Administrations’ Implementation Group), which develops common performance indicators to permit administrations (Germany, Denmark, Norway, Netherlands, Sweden and UK) to mutually benchmark performance as a way of seeking continual improvement.

5.2.1.2 Strategy or action plan for growth

“The Danish Maritime Cluster–an Agenda for Growth” (2006), besides setting objectives for Danish maritime cluster, includes initiatives that can be set to exploit future opportunities. Three vital objectives for Danish maritime cluster’s growth are as follows:

1. Denmark should develop to become the most attractive place in Europe to operate international quality shipping.
2. Conditions for growth, dynamics and competitiveness across the entire Danish Maritime Cluster should be enhanced.
3. Health, safety and environment measures on ships should be maintained and improved, so that Denmark develops as a leading maritime nation with an international focus and quality shipping.11

An action plan was prepared for realization of the above-objectives focusing on seven areas as follows:

2. Research, development and innovation in the Danish Maritime Cluster.
3. Taxation and development financing.

11The Danish Maritime Cluster– an Agenda for Growth, 2006, P.4
4. Reduced administrative burden and fewer Danish national requirements.

5. Promotion of Danish influence and market access.

6. Greater focus on quality shipping.

7. An efficient, service-oriented and modern administration.\textsuperscript{12}

\textit{5.2.1.3 Legal framework}

In general, amendments to the mandatory instruments are enacted through the enabling provisions of two sections of primary legislation, this permits rapid enforcement of these provisions together with a degree of flexibility as to their interpretation. Primary legislation which involves Parliamentary approval for is only necessary for new instruments (Denmark Audit Report, 2007, pp.4-6).

Denmark is following the dualistic method in implementation of international treaties. As soon as the legislation is prepared, it is linked to a “Rule finder” web-basis system, which allows those who have access to see what rules are applicable to vessels of different type, age and tonnage. The rule finder is available through DMA’s website.

\textit{5.2.1.4 Delegation of Authority}

Denmark has delegated authority to seven ROs as follows: American Bureau of Shipping (ABS), Bureau Veritas(BV), Det Norske Veritas(DNV), Germanischer Lloyd (GL), Lloyds’ Register, Nippon Kaiji Kyokai (NKK or class NK) and Registro Italiano Navale (RINA). All the ROs are those who have been approved by the European Commission. For monitoring purposes, DMA has an annual plan which shows the projected audits of the offices of the ROs. DMA has electronic access to the database maintained by its ROs. “It relies upon these organisations informing the DMA where conditions of class or other

\textsuperscript{12} The Danish Maritime Cluster– an Agenda for Growth, 2006, pp.24-25
non-conformities resulting in the seaworthiness of the vessel not being properly maintained”. Denmark is a member of the Paris MOU on PSC. (Denmark Audit Report, 2007, p.10)

5.2.1.5 Safety and pollution prevention issues
The Centre for Ships is informed on a daily basis about the vessels currently in Danish ports and for vessels bound for the Danish ports. A file is then created and inserted to the SIRENAC system and relative target factor is linked to each ship. All relevant information is then passed to the regional offices in order to select ships for PSC (Denmark Audit Report, 2007, p.13).

The Admiral Danish Fleet (ADF) is responsible for safety of navigation, security and search and rescue, oil counter pollution and ice breaking. Satellite pictures are used to trace oil pollution in Danish waters. Airplane surveillance is employed to confirm satellite pictures. "Resources for rescue that are available to the JRCC include joint services airborne assets, naval home guard, maritime surveillance units, which also include shore based radar, coastal lookout, aerial surveillance” (Denmark Audit Report, 2007, p.17).

A voluntary scheme of oil pollution reporting is encouraged by ADF, thus public and “maritime interests” are supported to inform “sightings”. “Admiral Danish Fleet has launched a campaign to increase the monitoring of the sea-environment and enhance the awareness among industry and the population.

It is a policy by the Admiral Danish Fleet to ensure transparency. This goal is achieved through a published website where everyone can seek information about the activities of the ADF, for example, all cases of reported oil-pollution, and all SAR-cases (Denmark Audit Report, 2007, p.20).

The website is updated regularly, enabling a person who has reported an oil-spill to follow the measures which have been taken following reporting. It is of great value to mention that the Admiral Danish Fleet enjoys its own quality management system.
5.2.1.6 Organization Chart

The organization chart of the Danish Maritime Authority is shown in Figure 6.

![Organization Chart of Danish Maritime Authority](image)

**Figure 6**: Organization Chart of Danish Maritime Authority  
Source: EMSA report 2007

5.2.1.7 Number of surveyors

“There are around 50 field surveyors at the DMA. Danish flag State surveyors work part time as Port State Control Officers and could in principle carry out PSC inspections in any Danish port” (EMSA report, 2007).

5.2.1.8 Danish fleet performance figures in the mirror of major PSC MOUs

Table 7 shows the performance of PSC figures related to Danish fleet. Table 7 shows that the Danish fleet is on the white list of Paris and Tokyo MOUs.
### 5.2.2 The United Kingdom

#### 5.2.2.1 General overview

The Maritime and Coast Guard Agency of the UK (MCA) is an executive agency within the Department for Transport. MCA is responsible for the implementation of the country's maritime safety policy. MCA is accredited according to ISO 9001:2000 standards by an external auditing group. The role of maritime administration of the UK is shared between different ministries. The UK is a party to all mandatory IMO instrument covered by the Implementation Code.

#### Table 7: Danish Port State Control figures

<table>
<thead>
<tr>
<th>Year</th>
<th>Inspections</th>
<th>Detentions</th>
<th>Excess Factor</th>
<th>Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>441</td>
<td>20</td>
<td>-0.75</td>
<td>White List</td>
</tr>
<tr>
<td>2003</td>
<td>460</td>
<td>16</td>
<td>-0.75</td>
<td>White List</td>
</tr>
<tr>
<td>2004</td>
<td>407</td>
<td>6</td>
<td>-0.95</td>
<td>White List</td>
</tr>
<tr>
<td>2005</td>
<td>416</td>
<td>8</td>
<td>-1.31</td>
<td>White List</td>
</tr>
<tr>
<td>2006</td>
<td>422</td>
<td>12</td>
<td>-1.44</td>
<td>White List</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Inspections</th>
<th>Detentions</th>
<th>Excess Factor</th>
<th>Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>90</td>
<td>0</td>
<td>-0.69</td>
<td>White List</td>
</tr>
<tr>
<td>2003</td>
<td>98</td>
<td>0</td>
<td>-1.02</td>
<td>White List</td>
</tr>
<tr>
<td>2004</td>
<td>120</td>
<td>3</td>
<td>-1.49</td>
<td>White List</td>
</tr>
<tr>
<td>2005</td>
<td>95</td>
<td>1</td>
<td>-1.35</td>
<td>White List</td>
</tr>
<tr>
<td>2006</td>
<td>119</td>
<td>0</td>
<td>-1.42</td>
<td>White List</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Inspections</th>
<th>Detentions</th>
<th>3-years detention rate</th>
<th>Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>120</td>
<td>1</td>
<td>0.74</td>
<td>NA</td>
</tr>
<tr>
<td>2003</td>
<td>170</td>
<td>0</td>
<td>0.54</td>
<td>NA</td>
</tr>
<tr>
<td>2004</td>
<td>131</td>
<td>3</td>
<td>1.20</td>
<td>NA</td>
</tr>
<tr>
<td>2005</td>
<td>107</td>
<td>1</td>
<td>1.29</td>
<td>NA</td>
</tr>
<tr>
<td>2006</td>
<td>96</td>
<td>2</td>
<td>2.10</td>
<td>Targeted Flag (Table II)</td>
</tr>
</tbody>
</table>

Source: EMSA Report, 2007
Similar to Denmark, the UK is a member of the MAIG group and continuously assesses its performance using benchmarking with other MARADs of the group, for the purpose of continuous improvement (The UK Audit Report, 2006).

It is also worth remembering that as it was explained in Chapter 2, the UK was one of the pioneers in application of NPM principles.

5.2.2.2 The UK’s strategy

The UK’s strategy under the title of “British Shipping – charting a new course” and MCA’s Framework Document (DEFRA, 2007), which embraces ministerial objectives and organization plans for the diverse entities, is a symbol of their efforts toward meeting their international obligations. “British Shipping-charting a new course”, developed in 1998, contains “33 inter-related action points” which are designed to improve the UK’s maritime status and skill (Equiom, 2007).

5.2.2.3 Accident investigation

The Marine Accident Investigation Branch (MAIB) is investigating all marine casualties of the UK flagged ships all over the world as well as foreign ships’ casualty in the UK’s territorial waters. MAIB have qualified personnel with expertise on nautical, naval architecture, fishing, engineering and industry regulations and disciplines. MAIB reports directly to the Secretary of State for Transport. There are four teams of investigators; each headed by a chief investigator along with four investigators. MAIB is a separate branch within the Department for Transport and does not belong to the Maritime and Coastguard Agency (MCA).

5.2.2.4 Delegation of authority to ROs

The United Kingdom has authorized to seven EU-recognized organizations to carry out statutory tasks on his behalf. They are ABS, BV, DNV, GL, LR, NKK and RINA (GISIS database).
The MCA monitors the performance of Classification Societies using the following methods:

1. British Committee meetings are held on a 6 monthly basis and are attended by the MCA and an individual Class Society.

2. British Certification Committee meetings are held on a 6 monthly basis and are attended by all the Class Societies and the MCA.

3. Vertical Contract Audits are completed in participation with IACS on high risk vessels (the minimum amount of VCA’s annually is one for each Society every other year) (EMSA Report, 2007, p.210).

5.2.2.5 MCA’s staffing
The distribution of staff in MCA is indicated in Table 8.

Table 8: MCA Number of Staff

<table>
<thead>
<tr>
<th>Category</th>
<th>Number of employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrators</td>
<td>414</td>
</tr>
<tr>
<td>Coastguards</td>
<td>594</td>
</tr>
<tr>
<td>Surveyors</td>
<td>197</td>
</tr>
<tr>
<td>Other professional qualified staff</td>
<td>21</td>
</tr>
</tbody>
</table>

Source: EMSA Report, 2007

As it is depicted in Table 8, the UK has a quite number of surveyors. These surveyors are categorized in three levels: Naval architect surveyors, nautical surveyors and engineer surveyors. Defining the requirement of training and job related experience, the UK showed its observance to the requirement of paragraph 28 of the Implementation Code concerning the flag State surveyors.

5.2.2.6 Organization chart
The internal organization structure of MCA is shown in Figure 7.
5.2.2.7 British fleet performance figures in the mirror of PSC MOUs

The United Kingdom is a member of Paris MOU on PSC and Table 9 shows the performance of the UK in three major PSC MOUs. The UK maintains the ranking of white list in all three MOUs.
Table 9: British Port State Control figures

<table>
<thead>
<tr>
<th>Year</th>
<th>Inspections</th>
<th>Detentions</th>
<th>Excess Factor</th>
<th>Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>348</td>
<td>8</td>
<td>-1.74</td>
<td>White List</td>
</tr>
<tr>
<td>2003</td>
<td>483</td>
<td>11</td>
<td>-1.48</td>
<td>White List</td>
</tr>
<tr>
<td>2004</td>
<td>494</td>
<td>5</td>
<td>-1.49</td>
<td>White List</td>
</tr>
<tr>
<td>2005</td>
<td>551</td>
<td>8</td>
<td>-1.61</td>
<td>White List</td>
</tr>
<tr>
<td>2006</td>
<td>528</td>
<td>6</td>
<td>-1.75</td>
<td>White List</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Inspections</th>
<th>Detentions</th>
<th>Excess Factor</th>
<th>Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>119</td>
<td>2</td>
<td>-1.32</td>
<td>White List</td>
</tr>
<tr>
<td>2003</td>
<td>105</td>
<td>2</td>
<td>-1.15</td>
<td>White List</td>
</tr>
<tr>
<td>2004</td>
<td>175</td>
<td>3</td>
<td>-1.23</td>
<td>White List</td>
</tr>
<tr>
<td>2005</td>
<td>172</td>
<td>2</td>
<td>-1.37</td>
<td>White List</td>
</tr>
<tr>
<td>2006</td>
<td>185</td>
<td>1</td>
<td>-1.60</td>
<td>White List</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Inspections</th>
<th>Detentions</th>
<th>3-years detention rate</th>
<th>Performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>144</td>
<td>0</td>
<td>0.00</td>
<td>NA</td>
</tr>
<tr>
<td>2003</td>
<td>208</td>
<td>2</td>
<td>0.66</td>
<td>NA</td>
</tr>
<tr>
<td>2004</td>
<td>271</td>
<td>2</td>
<td>1.06</td>
<td>NA</td>
</tr>
<tr>
<td>2005</td>
<td>197</td>
<td>1</td>
<td>1.15</td>
<td>NA</td>
</tr>
<tr>
<td>2006</td>
<td>186</td>
<td>1</td>
<td>0.86</td>
<td>NA</td>
</tr>
</tbody>
</table>

Source: EMSA Report

5.2.3 Canada

5.2.3.1 General overview

Transport Canada Marine Safety (TCMS) is the lead agency for flag and coastal State activities. As evident from its name, “TCMS falls within Transport Canada, which is responsible for all modes of transportation”. TCMS establishes a formal quality management system for the STCW Department, while the rest of the organization
has some sort of internal procedure similar to the quality management system in ISO 9001 (Canada Audit Report, 2007, p.7)

5.2.3.2 Strategy in the Canadian MARAD

A strategic plan entitled “The Next Wave”\(^\text{13}\) for the period 2003-2010 has been drawn up for Transport Canada Marine Safety. It is a comprehensive plan comprising mission, vision, values and targets, proceeds to promote safety culture and environmental appraisal, defining strategic objectives and the measures needed to achieve those objectives.

5.2.3.3 Legal issues and national legislation

“TCMS is the government entity with principle responsibility for the preparation of new legislation and improvements to existing legislation related to enforcement of the mandatory IMO instruments” (Canada Audit Report, 2007, p.7).

Although Canada gives tacit approval to IMO conventions, it does not formally accede to an IMO convention until the entire national legal regulatory framework is completed. Under this approach, it would never come to pass that an IMO instrument to which Canada has acceded would lack the attendant national legal authority for enforcement as required by the Implementation Code, Part 1, and paragraph 7.1 (Canada Audit Report, 2007, p.8).

5.2.3.4 Relation with other government entities

“TCMS has delegated some tasks and responsibilities to other governmental organizations as well as TCMS’s regional directors, who individually address the relevant aspects of implementation and enforcement of the mandatory IMO instruments.” (Canada Audit Report, 2007, p.9).

These regional directors or government entities including the Canadian Coast Guard are fully conversant with their tasks and responsibilities.

5.2.3.5 Provision of penalties with adequate severity

The audit report of Canada shows that, there were some provisions in Canadian laws for discouraging violations of national and international rules by ships; however, the Canadian government felt that it was not of adequate severity and the monetary fine was very low. Therefore, they rectified this problem by amending the outdated regulations and via the adoption of the Shipping Act of 2001 and the Canadian Environmental Protection Act, which increased and boosted the fines up to maximum 1 million dollar and 3 years of imprisonment.

5.2.3.6 Exemptions, equivalents and extensions

According to the Audit Report of Canada, the Department for Operations and Environmental Programme is responsible for:

interpretations of SOLAS, MARPOL, Load Line, Tonnage and COLREGS, and the granting of certificates as well as consideration of requests for extensions, exemptions, equivalence (EEE) to compliance with those conventions. The Headquarters office maintains electronic files of all ships under its flag and all correspondence related to requests for EEE. The division provides the Administration’s interpretations regarding SOLAS and creates policy as necessary to clarify the Administration’s position in those areas where discretion is granted by the Convention in the manner of its application (Canada Audit Report, 2007, p.11).

Therefore Canada shows that it complies with the requirements of part 16.5 of the Implementation Code, which requires flag States to have a system for “development, documentation and provision of guidance concerning those requirements that are to the satisfaction of Administration, found in relevant mandatory IMO instruments” (IMO, 2008, p.7).
5.2.3.7 Delegation of Authority

According to GISIS, Canada has recognized seven IACS members, namely ABS, BV, DNV, GL, LR, NKK and RINA to work on its behalf. There is a written agreement based on the requirements of Resolution A.739(18) and A.789(19). TCMS is responsible for accomplishing site audit of its ROs on the ground of their quality management system. "Oversight records are maintained in individual ship’s file.. but are not documented for the purpose of measuring ROs performance overtime" (Canada Audit Report, 2007, p.14).

5.2.3.8 Marine casualty investigations
The Transportation Safety Board of Canada (TSB) is an independent agency created in 1990 by an Act of Parliament (Canadian Transportation Accident Investigation and Safety Board (CTAISB) Act. Under this legislation, the TSB's role is to advance transportation safety in the federally regulated elements of the marine, rail, pipeline, and air transportation systems. The TSB marine section has offices around Canada in order to provide easy access in real time to any accidents in Canadian waters, as well as having investigation personnel on duty 24 hours a day, 365 days per year, and procedures in place to investigate any accident to a Canadian ship or casualty involving a Canadian Citizen outside their territory (Canada Audit Report, 2007, pp.16-17).

5.2.3.9 Port State Control

"TCMS has a very robust system for follow up on port State control detentions of Canada flag ships" complying with the requirement of Code, Part 1, para.13 (Canada Audit Report, 2007, p.9). Canada has a dual membership in Paris and Tokyo MOUs, which means that it is a member in both of the memoranda. The performance of Canada in the Paris, Tokyo and USCG MOU on PSC are shown in Table 10.
### Table 10: Canadian Port State Control Figures

#### Paris MOU

<table>
<thead>
<tr>
<th>Year</th>
<th>Inspection</th>
<th>Detention</th>
<th>Excess factor</th>
<th>performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>1</td>
<td>0</td>
<td>-2.60</td>
<td>N/A</td>
</tr>
<tr>
<td>2003</td>
<td>6</td>
<td>0</td>
<td>-1.34</td>
<td>N/A</td>
</tr>
<tr>
<td>2004</td>
<td>4</td>
<td>0</td>
<td>-1.50</td>
<td>N/A</td>
</tr>
<tr>
<td>2005</td>
<td>4</td>
<td>0</td>
<td>-1.18</td>
<td>N/A</td>
</tr>
<tr>
<td>2006</td>
<td>5</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

#### Tokyo MOU

<table>
<thead>
<tr>
<th>Year</th>
<th>Inspection</th>
<th>Detention</th>
<th>Excess factor</th>
<th>performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>1</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>2003</td>
<td>0</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>2004</td>
<td>0</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>2005</td>
<td>3</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>2006</td>
<td>0</td>
<td>0</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

#### USCG MOU

<table>
<thead>
<tr>
<th>Year</th>
<th>Inspection</th>
<th>Detention</th>
<th>3-year detention rate(%)</th>
<th>performance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>46</td>
<td>1</td>
<td>0.37</td>
<td>N/A</td>
</tr>
<tr>
<td>2003</td>
<td>56</td>
<td>2</td>
<td>1.15</td>
<td>N/A</td>
</tr>
<tr>
<td>2004</td>
<td>121</td>
<td>0</td>
<td>1.27</td>
<td>N/A</td>
</tr>
<tr>
<td>2005</td>
<td>53</td>
<td>0</td>
<td>0.83</td>
<td>QUALSHIP 21*</td>
</tr>
<tr>
<td>2006</td>
<td>60</td>
<td>1</td>
<td>0.46</td>
<td>QUALSHIP 21</td>
</tr>
</tbody>
</table>

Source: Annual report of Paris, Tokyo and USCG MOUs

* The Quality Shipping for the 21st Century program, or QUALSHIP 21, recognizes and rewards vessels, as well as flag States, for their commitment to safety and quality. The criteria for inclusion are very strict and less than ten percent of all foreign-flagged ships that operate in the United States have earned the QUALSHIP 21 designation. (Source: PSC annual report 2006)
5.2.3.10 Organization structure

Figure 8 shows the organizational chart of Transport Canada.

Figure 8: Organization Chart of Transport Canada

Source: Transport Canada website
(http://www.tc.gc.ca/eng/aboutus-department-menu.htm)

5.3 Summary

This Chapter explored the status quo of the Iranian MARAD. It was recognized that in order to have better understanding and to ensure the continuous improvement, benchmarking with some leading maritime nations is of great importance. In Chapter 6, the contemporary issues concerning the readiness of Iran for the IMO audit, the gap analysis and the examination of the present status of implementation and enforcement of international maritime treaties in Iran in comparison with the three selected countries of the present Chapter, which have excellent performance and successful audit result in VIMSAS, will be discussed.
CHAPTER 6: Contemporary issues in the Iranian MARAD and Gap Analysis

The aim of this Chapter is to raise the contemporary issues, which in the opinion of the writer of this research, are necessary to be addressed. Theses issues include those which the author has experienced at work, the outcome of benchmarking with successful MARADs in IMO audit, requirements of the Implementation Code as well as the implication of application of NPM principles, as appropriate. Whereas the requirements of the Implementation Code are very broad and wide-ranging, only those which need immediate response and apparently practicable in accordance with laws and regulations prevailing in Iran for public administration, will be discussed and presented.

6.1 Areas of positive development

6.1.1 Remaining in the white list of STCW

Chapter 3, para.3.5.2 asserts that one of the performance indicators in the industry organizations’ Table of Flag State Performance “is to be on the latest STCW white list. As per information on IMO website, Iran has achieved the white list status in 2001. The STCW Convention requires that the Contracting Government provide information which permits checking the validity and genuineness of certificates issued by it, avoiding the fraudulent certificate and allowing qualifies seafarers to work onboard via proper training programme. IMO, 2009b, Table 11, shows that Iran continues to be on the STCW white list.
6.1.2 **Representation at IMO meetings**

In order to have a clear picture in what is going on in IMO, it is necessary to be closely involved in the deliberations taking place in different IMO meetings. Active participation in IMO meetings, despite the cost which is put on the shoulder of MARAD, keeps the MARAD updated with the current issues in the maritime world.

Being a mute recipient of what is going on in the IMO is neither the intention nor to the benefit of any country, including Iran. AsIMO (2003, p.110) claims, “The successful functioning of IMO relies on the contributions made by Member States in the form of proposals, information, technical papers, reports, etc. and their participation in the meetings of technical committees.”

Given the importance of IMO representation, Iran since 2003 has nominated a Deputy Permanent Representative to IMO and actively participates in all committees, sub-committees, correspondence and working groups. The industry organization’s round table results in 2009 (Appendix A) shows appropriate representation of Iran in IMO meetings. It should be mentioned that since 2000 till the end of June 2010, 118 documents have been submitted by Iran (Islamic Republic of) to the different technical committees of IMO (www.pmo.ir). Despite this success, some red tapes for sending delegation to IMO should be removed and procedures need to be facilitated because in most of the cases due to

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**Table 11: Status of Iran in the STCW while list**

<table>
<thead>
<tr>
<th>Confirmed STCW Party* (regulation I/7)</th>
<th>Independent evaluation (regulation I/8)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Due date of report to be communicated to the Secretary-General</td>
</tr>
<tr>
<td>Iran (Islamic Republic of)</td>
<td>01/02/2004</td>
</tr>
</tbody>
</table>

Source: MSC.1/Circ.1164/Rev.6 (IMO,2009b)
delay in issuance of visa and other processes, only the deputy permanent representative is attending the IMO sessions which is not quite enough.

6.1.3 Age of the fleet

“The age of a ship is not an indicator of quality and the condition of a ship is ultimately determined by the standard of its maintenance” (ISF, 2006, p.14). Iran, as per IMO, 2009c, enjoys a fleet of 1,096,418 gt as of 31 December 2009, with the average age of about 23 years (PMO website at www.pmo.ir), which according to industry organizations’ flag state performance is still acceptable and does not count a negative point for the country (Appendix A). Appendix A shows a better view and comparison between Iran and the three benchmarking countries. Appendix C shows the average age of world fleet stood at 11.8 years, but the significance is the highest average age in general cargo ships in developing countries. Appendix C also indicates that the average age in developed countries is the youngest (9.7 years) comparing to that of developing countries (12.3 years). The PSC performance of the three countries of Denmark, Canada and UK (known as developed countries) shown in Chapter 5, is an indication and approved sign of this claim. Their performance in PSC regimes especially in Paris, Tokyo and USCG MOUs are quite satisfactory. Based on the information in Chapter 5, Para.5.1.16, despite the fact that Iran is not on the white list of the Paris and Tokyo MOUs, the number of detentions are decreasing over time, which is quite encouraging. The number of accidents, according to the filing system of PMO, shows a downward trend which can be considered another success of the country (PMO filing system of marine accidents).

6.1.4 Annual objective

The existence of annual objectives, which describe the short term goals and objectives of the organizations for the year ahead, is one of the achievements of PMO. These annual plans are drawn by each division and are approved by the deputy managing directors and subsequently by the Head of organization before the New Year starts. The annual plan of ports
all over the country is also in line with the objectives of the headquarters. The existence of such annual plan makes the realization of the periodic “evaluation and review” requirement of the Implementation Code (Para.42 of the Implementation Code) more achievable.

6.1.5 Effective SAR services

The geographical status of the Islamic Republic of Iran is a unique one with more than 2700 kilometers of coastline bordering the Persian Gulf and the Gulf of Oman in the southern part of the country. The Gulf areas are known as sensitive sea areas. Therefore, accident prevention and pollution control is of great importance in these areas. Though the SAR Convention is not among the Ten Commandments of the Implementation Code, SOLAS Chapter V include the requirement of ensuring availability of such facilities to render assistance in emergency cases. Despite all the measures taken to reduce the number of accidents and incidents, casualties do occur at sea, some of which result in loss of lives. PMO has developed a national plan for this purpose. It comprises the responsibilities of all entities participating in a SAR operation. PMO quarterly statistics of SAR activities shows that during the first 3 months of Iranian Calendar (March, April and May 2010) 226 persons from in 22 cases of accidents were rescued by SAR teams. Furthermore, every year, two regional exercises in southern ports and one in a northern port are conducted with the cooperation of littoral States in the Persian Gulf (ROPME) and the Caspian Sea (PMO website at www.pmo.ir). Thus, Iran conforms to the requirement of SOLAS Chapter V (regulation 7 of the SOLAS consolidated edition 2004) as well as Para. 3.1.3 of Chapter 3 of this thesis.

6.1.6 Involvement of the industry in the decision making process

Each Year, the “Maritime Organizations’ Conference” is held with the presence of all national and private professional bodies and organizations as well as the trade unions who operate in the marine sector in one way or another. One of the aims of holding such a conference is to improve the knowledge level of participants, to set principal and joint
policies and to establish coordination in their activities at national and international levels.

In addition, in order to participate effectively in IMO meetings discussions, some committees and sub-committees similar to those of IMO, are held at PMO headquarters. Participants from the industry, including the shipbuilding industry, oil companies, shipping companies, recognized organizations, maritime universities and experts in the maritime field get together and study, discuss and express their views on different IMO documents.

These measures fulfill partially the requirements of continuous performance review and necessity of strategic planning (Para 3.1.1 and 3.1.3 of the Implementation Code).

6.1.7 Proper position within the government

Recalling the different positions of maritime administrations within the government in Chapter 3 (Para. 3.2) and the importance of being “in a position to implement and enforce” IMO instruments with appropriate infrastructure (Para 7 of the Implementation Code), PMO is known to be a ‘statutory administration’. This means that some sort of autonomy exists, but PMO is responsible for reporting to the Ministry of Roads and Transportation. PMO is administered by the ‘Board of Directors’ and headed by ‘Deputy Minister of Roads and Transportation’.

6.1.8 E-governance

The e-governance system is running successfully in PMO, especially in the ‘Directorate General on standards, training and maritime certificates’, which mainly deals with STCW matters and the ‘Ship Registration Department’. In addition, a paperless system is functioning on the entire PMO. Both of these systems are assisting in effectiveness and efficiency. The feedback from applicants shows that the systems are running well and it can be said that 3 Es of NPM (economy, efficiency and effectiveness) plus feedback from customers are already applied in PMO’s
structure, as already presented in Para 2.3.5, 2.3.8 and 2.4 of Chapter 2 of this thesis. It is worth mentioning that by making IMAS system operational, complete and thorough e-governance will be achieved.

6.2 Areas of further improvement

6.2.1 Existing issues in common areas

6.2.1.1 Strategy/policy

The importance of strategy has been highlighted many times in this thesis. In Chapter 2 (Para 2.4), when NPM was introduced and the relation between VIMSAS and NPM was presented, it was emphasized that both are focusing on strategy formulation. Usually the term strategy and policy are used to imply the same meaning. Nevertheless, some believe that strategy is a long term action plan and policy is a short term one. Regardless of the title which is attached to them, the Implementation Code (Part 1, Para 3) requires IMO States to have a strategy in place for:

1. Implementation and enforcement of mandatory instruments;
2. Observance of non-mandatory (recommendatory instruments);
3. Continuous evaluation and assessment of the status of the State to meet its obligations pertinent to international treaties to which it is party; and
4. Realization, upkeep and enhancement of overall organizational functioning.

As it was introduced in Chapter 5, Denmark, the UK and Canada, all enjoy having some sort of strategy or action plan in a form of pamphlet which is available on their websites. As described earlier in Chapter 5, in Iran, ‘the twenty-year outlook document’ has been developed for all public administrations but it is too wide-ranging. In addition, comparing with the ‘Danish Maritime Cluster–an Agenda for Growth’, the UK’s ‘British Shipping- charting a new course’ or Canada’s ‘The next wave’, it neither includes any specific agenda for the PMO’s progress in terms of safety and
marine environment protection, nor contains any action plan on how to achieve objectives. The concern over the absence of similar strategy covering the requirements of the Implementation Code for PMO of Iran should be taken into consideration through formulation of specific policy to address the above-mentioned requirements for over the next 5 years as a minimum. In Chapter 7, the policy document for PMO of Iran, mentioning how it should look like and the features to be included will be proposed.

6.2.1.2 Absence of up-to-date national legislation

Following the monistic method in implementation of international treaties, generated this assumption that there is no need for national laws as such, because the sole ratification to an international instrument automatically makes that instrument as ‘national law’ as soon as it comes into force.

It was argued earlier that monistic method does not rule out the necessity of national legislation, national legislation is required but limited (ESCAP, 1991).

In addition, the Iranian Maritime Code adopted in 1964, consists of 194 articles covering areas such as registration of ships, carriage of goods by sea, salvage, shipowner’s liability and collisions. The need to update this Code was recognized by the Iranian maritime community, since the Iranian Maritime Code goes back to 46 years ago, yet due to some reasons this issue can still not be realized. Besides, this piece of legislation does not reflect the needs of today’s global shipping. In fact, the international treaties of IMO have gone through so many amendments since their existence, but these changes are not given into effect in the Iranian Maritime Code or any subsequent legislation. For example, an ‘Act of Law relating to Protection of the Sea and Frontier Rivers against Pollution by Oil’, was adopted in February 1976, which somehow fulfills requirements of MARPOL Annex I. In this act, the enforcement mechanism to discourage violation of the requirements of MARPOL is addressed via fines and imprisonment, yet they are not of adequate severity to
discourage violations. The fines are low and non-deterrent. By the time the Persian Gulf and the Gulf of Oman were considered as special areas, the necessity to update this piece of law was recognized. However, due to the lengthy procedure of amendments to national legislations, this ideal decision has not yet been realized. Similar to Canada’s decision to adopt the shipping Act 2001 and the Canadian Environmental Protection Act to boost the monetary penalties and imprisonment, appropriate measures to update national rules and regulations should be taken.

Further to the need for updating the existing legislations and laws, the absence of national legislation in cases where “the satisfaction of the Administration” is required, seems to be relevant. At present, there is no procedure for this purpose within the Iranian MARAD. This issue is of great importance and should be addressed. In Chapter 5, it was discussed how Canada plays its role in approving extensions, exemptions and equivalents where the discretion of administration was required.

In addition, there is no procedure for the amendments which are adopted and brought into force under ‘tacit acceptance’ procedure. PMO has recently taken some measures, yet the procedure which is drafted is again lengthy and it needs parliament’s approval. Rasmussen, 2010, who has been awarded by IMO for his effort to prepare the Implementation Code, states that in Denmark, the adoption of tacit acceptance amendments is delegated to DMA; this is to facilitate and shorten the procedure of ratifying amendments\(^{14}\). In Denmark, “parliamentary approval is only necessary for new instruments”\(^{15}\). Similarly, it would be appropriate if the authority for ratifying amendments is delegated to the Ministry of Roads and Transportation or PMO. This will shorten the procedure and the time needed for approval of such amendments.

\(^{14}\) Personal communication with Mr. Jorgen Rasmussen during VIMSAS Seminar at WMU (April 2010)
\(^{15}\) Denmark Audit Report, 2007, para 8.2.7
6.2.1.3 Availability of technical staff with maritime expertise

It is quite evident that maritime safety administrations need technical personnel with maritime background for discharging their responsibilities. This issue was raised in The Implementation Code para.7.3. The internal audit of the PMO in 2008, in which the author of this paper was a member of the audit team, shows that lack of technical staff with maritime expertise is one of the critical issues (PMO Internal Audit Report, 2008, para.6). Despite the fact that more than 80 persons graduated from World Maritime University in different specializations as well as graduates from International Maritime Law institute (IMLI) in addition to other graduates from local maritime universities, still insufficient numbers of technical staff is a defect. In fact, there is no incentive for local universities graduates to join PMO. This may be due to tough procedure of recruitment, salary or other issues. Hence PMO has taken measures to facilitate recruitment of top level students of maritime universities, yet this is not adequate for solving the issue of unavailability of maritime experts. There is no systematic procedure for promotion or replacement of those who are due for retirement. Experience and knowledge is not transferred through appropriate mechanism to the newly-joined staff.

6.2.1.4 Stimulation of safety culture

Para.12 of the Implementation Code stipulates that, “State should stimulate a culture which provides opportunities to people for improvement of performance in maritime safety and environmental protection activities.” In Chapter 3 (Para 3.7), the three types of culture were introduced in which the safety culture was known as the ingredient of mindset of Maritime Administrations. This safety culture, should not only be promulgated within the MARAD, but should also be transferred and introduced to shipping companies and other entities with which MARAD is cooperating. As it was said before, safety cultures assist in continuous improvement because it looks far ahead of compliance. Proactive measures such as investigating of near misses
and evaluation of performance and efforts to eradicate the cause of non-conformities can also be a part of it. Showing the true image of shipping to the community can also be a part of it. PMO has taken steps toward introduction of safety culture through its website and posters, yet there is a great deal to be done. When talking about the culture, one should be aware that culture will not come all of a sudden. It needs to be introduced, presented, and repeated. The safety culture should become second nature of people; otherwise it will not be of help. Measures should be taken beyond what is presently taken by PMO. Denmark’s initiative to encourage pollution reporting is a good example concerning promoting the culture of safety and pollution prevention appraisal. The UK’s Safety Digest$^{16}$, which is published quarterly, contains information on the lessons learnt from accidents and incidents for the shipping community, with the sole purpose of preventing re-occurrence of similar cases in future. Measures to be taken by PMO will be introduced in Chapter 7.

6.3 Existing issues in flag state implementation

6.3.1 Assignment of responsibilities within Administrations

Similar to all three countries used for benchmarking in Chapter 5, the responsibilities of MARAD are spread across different organizations in Iran. However, there is no bilateral or multilateral agreement between them. In addition, despite the provision of Chapter VI of the “Iranian Maritime Code” and Article 11 of the “Act of Law relating to Protection of the Sea and Frontier Rivers against Pollution by Oil” which gives authority and responsibility to address cases of oil pollution to PMO, some confusion in responsibilities exist between PMO and DOE, whereas DOE is the nominated entity and the focal point within the framework for the Regional Organization for the Protection of the Marine Environment (ROPME). Further to this, the main source of pollution in the Persian Gulf and the Gulf of Oman is exploration, exploitation and transportation of oil which is “under full jurisdiction of the Ministry of Petroleum” (Sharifi, 1996, pp.14-16).

$^{16}$ http://www.maib.gov.uk/publications/safety_digests.cfm
15). From what is said, it can be concluded that delineation of responsibilities between different organizations, ministries and PMO as the ‘Maritime Authority’ of the country is needed. Memorandum of cooperation or bilateral or multilateral agreements which defines the role and the limitation of responsibilities of each entity should be concluded.

6.3.2 Delegation of Authority

As it was presented in Chapter 5, PMO has delegated authority to four IACS bodies as well as two non-IACS members to act on its behalf. In Chapter 3, it is also discussed that one of the criterion for determining flag State performance at the round table of industry organizations is the delegation of authority to non–IACS members. It is also mentioned that despite the fact that delegation of such responsibilities to non-IACS members is not a defect, there is a doubt that non-IACS members comply fully with IMO requirements on behalf of MARAD. It is obvious that complying with resolution A.739(18) is of great importance. One of the criteria for recognition of organizations to work on behalf of administration is that they must have a quality management in place. A glance through GISIS Website reveals that the ‘Iranian classification society’ which is a non-IACS member has been recognized despite not having a quality management system in place. The recognition of two non-IACS members is counted as a negative performance indicator in the flag State performance table of the industry organizations (Appendix A).

With regard to monitoring of the performance of the ROs, PMO exercises office audits plus supplementary audits onboard ships as well as accompanying RO’s surveyor at the time of onboard surveys. However, similar to Canada, “oversight records are maintained in individual ship’s file…but are not documented for the purpose of measuring ROs performance overtime” (Canada Audit Report, 2007, p.14).

Another issue to be considered is the written agreement with the ROs. Comparing with that of Denmark, which is available in DMA’s website, there are some points which are not included in the agreement
which enhance the power of administration to withdraw the recognition from a specific RO in case of inappropriate and low performance. As an example, the liability of RO is not properly included in the RO agreement between PMO and its ROs. Another problem is that compared to the Danish agreement which is an agreement approved by European Union (EU) and is used in all EU States, the language used in the agreement between PMO and its ROs is placid and it is not authoritative, for example, “PMO shall be granted access to all plans and documents including reports of surveys..” or “PMO will be given the opportunity to satisfy itself that RS quality system continues to comply with requirements.....”. Another point in the agreement between PMO and its ROs is that agreement is said to be valid for 5 years and such duration may weaken the authority of MARAD and bring inertia to the RO as it may give the impression that in any case RO has some business or income in the next five years regardless of being effective or observant to IMO requirements. In addition to these, in the agreement between PMO and it RO, lines of communication, case by case authorization, obligations of RO to inform or consult PMO when it is necessary and the conditions under which PMO can amend the agreement, are not included or defined (PMO/RS agreement, 2009).

6.3.3 Enforcement

Paragraphs 21.6 and 21.8 of the Implementation Code, respectively, require flag States to take necessary measures to ensure that their flagged ships and persons under their jurisdiction observe international instruments and shall institute proceedings after conduction of an investigation against vessels and persons which/who have violated international standards. Meanwhile, in Chapter XIII, Article 188, of the Iranian Maritime Code, the Ministry of Justice has been given a 3 month period of grace to propose the establishment of the “Admiralty court” to deal with claims and disputes arising out of the implementation of the Iranian Maritime Code Act. As per Article 189, it was decided that the Maritime Administration (PSO at that time) approves the competency and qualification of marine experts who will be the member of the Admiralty
Court. The establishment of such a court is essential for cases of fraudulent certificates, marine casualties, violation of regulations of Traffic Separation Scheme (TSS) and marine environment pollution. Nonetheless, the ‘Admiralty Court’ has not yet been set up and cases of maritime nature are handled by Civil courts with judges who may not have maritime expertise and background.

6.3.4 Provision of port reception facilities

Information available at IMO website (see Appendix D), shows that Iran along with the other three benchmarking countries (Denmark, the UK and Canada) have already ratified Annex VI of MARPOL 73/78. Nevertheless, GISIS website shows that there are no reception facilities in any port of Iran for receiving ozone depleting substances and exhaust gas cleaning residues under Annex VI of MARPOL 73/78.

6.3.5 Flag state surveyors

The internal audit of PMO showed that there is a shortage of technical people with maritime expertise, both at headquarters and in ports. Flag state surveyors are not exception. There are guidelines for recruiting and training requirements of the surveyors, yet there is no systematic and documented system for continuous updating of their knowledge (PMO Internal Audit Report, 2008).

6.3.6 Investigation of marine casualty or pollution incident

In Chapter 5, it was said that the Marine Affairs division within the General-Directorate of Maritime Affairs is responsible for investigating accidents on the Iranian vessels and foreign ships within Iranian territorial waters and there is no independent entity or division for such purpose. The comparison with the three benchmarking countries in Chapter 5 confirms that in each of these countries either there is a separate branch within MARAD which only deals with marine casualties (like Denmark) or there is a separate entity for this purpose (MAIB in the UK and TSB in Canada) to provide independent, impartial and unbiased investigation report.
Another issue which needs to be taken into consideration is that as per discussion in Chapter 4 about “external criteria” in assessment of Flag State performance; the number of casualties, accidents and incidents, lives lost and personal injuries leading to 3 days absence from duty are considered as indicators of flag performance (IMO, 2002a). Therefore, it would be necessary to investigate near misses as well as to report very serious casualties (if any) to IMO as per requirement of the Implementation Code.

Lack of an electronic database for keeping the records of casualty investigation is another issue which should be addressed in PMO.

6.3.7 Evaluation and Review

The merits of benchmarking were presented in Chapter 5. It was discussed that benchmarking is against “paradigm blindness” and necessary for continuous improvement. The Implementation Code also three times under the heading of Flag, Port and Coastal state refers to “Evaluation and Review”. For the purpose of evaluation, there is a need to have some performance indicators. Some of these indicators were presented by academics and industry studies in Chapter 3, such as PSC detention rates, IMO representation, cases of incompetency or misconducts by persons having certificates of the flag in question, age of the fleet and so on. Further to this, in Chapter 5, it was discussed that the UK and Denmark are members of the Maritime Administration Implementation Group (MAIG). These two countries along with some others like Sweden and the Netherlands, have prepared some common performance indicators among themselves as a means of continuous progress. They benchmark and evaluate their performance against those indicators. It is not unusual if this type of comparison with others is called as “benchmarking”.

There are neither such common performance indicators between Iran and other countries of the region (Gulfs area), nor periodical evaluation other than casualties.
6.4 **Existing issues in port State implementation**

6.4.1 *Absence of mechanism to target ships before carrying out PSC*

In Denmark, they make use of the SIRENAC system. SIRENAC is a private database and information system, with a mailbox to exchange messages between different ports. There is no access for outsiders, but inspection and detention records for a ship can be found on the Paris MOU website and are also passed on to the EQUASIS database (Janssen, 2002). The relevant division within DMA (Centre for Ships) is informed on a daily basis about the vessels presently in Danish ports and for vessels going to call at Danish ports. Then a file is produced and popped in the SIRENAC system with the relevant target feature associated with the individual ship. All relevant information about the ship is subsequently forwarded to the regional offices in Denmark for the purpose of carrying out PSC. This system assists in selecting high risk ships which may pose a danger to the marine environment of the State at the time of calling at ports (Denmark audit Report, 2007). In PMO, there is no such a link between headquarters and regional ports for this purpose. The chain of command is missing since as a member of the Indian Ocean MOU on PSC, ten percent of ships calling at Iranian ports are selected randomly for PSC checks at the discretion of each port.

6.5 **Existing issues in coastal State implementation**

6.5.1 *Evaluation and review*

The Implementation Code requires developing a monitoring programme so that based on statistical data, the trend analysis can be accomplished to spot problem areas. There is no systematic and documented statistical data in PMO for obligations under coastal state. Statistics of search and rescue cases are kept but not in a form of database. For other rights and obligations, such as pilotage, there is no database to show the number of pilots and their qualifications to foresee the junior pilots’ requirement of training or to track the rate of retirement and replacement of senior pilots. There is no system or queuing method to
make use of pilots in queue to familiarize all the pilots with all types of ships and to avoid fatigue among them.

6.6 Other issues

6.6.1 Ratification of ILO Conventions

As discussed earlier in Chapter 2, one of the performance indicators in ISF, 2009 and the studies done by Winchester and Alderton, 2003 is the ratification of ILO conventions and reporting requirements under pertinent conventions. In Chapter 5, it was presented that the only ILO convention which is related to shipping and seafarers is the Convention 108 on Seafarers' Identity Documents Convention, 1958. In the table of Industry's Organizations (Appendix A), Iran has got a negative point in non-reporting to ILO. The ratification of the Maritime Labor Convention 2006 is under consideration by the Government of the Islamic Republic of Iran, but since the focal point for ratification of ILO conventions is the Ministry of Labour and Social Affairs, the ratification process is under consideration by that Ministry.

6.6.2 Application of NPM principles

In Chapter 2, NPM principles were introduced. It was said that the UK and Canada were among the leading countries that in the early 1980s, opted for it. It was also discussed that NPM focuses on flexibility, accountability, customer focusing, optimization of Information Technology (IT), ensuring performance and control, transparency, strategic planning, and manager's responsibility and commitment. The relation between NPM and VIMSAS was also demonstrated. If looking at Denmark, as an example, the transparency can be seen in putting the VIMSAS Audit Report, the Danish agreement with ROs and the initiatives taken by the Admiral Danish Fleet on the campaign for oil pollution reporting by the public, as a policy toward transparency. The Rule-finder software is an example of customer focusing and IT optimization. In case of the UK, principles of strategic planning and transparency can be discovered in MCA's Framework document (DEFRA 2007), “British Shipping-Charting a
new course” and presentation of the VIMSAS Audit Report on DFT’s website, respectively. Being a Member of the MAIG shows the country’s decision for ensuring performance improvement and control. In Canada, clarification and provision of the Administrations’ position and interpretation in those areas where discretion is granted by the Convention is a symbol of commitment and flexibility. The economy, effectiveness and efficiency (three Es) principle of NPM is reflected in Canada’s performance. Preparation of national legislation before entry into force date of the conventions shows the country’s efficiency and effectiveness. Economy aspect of NPM can be derived from the delegation of authority to ROs and downsizing 25 positions in the late 1990’s in Canada.

The Implementation Code para.3.3 and 3.4 requires continuous review, verification of effectiveness and improvement of overall organizational performance.

However similar essence of NPM can be found in the Maritime Administration of Iran (PMO), yet the examples above and current status of PMO suggests that more “transparency” and “Commitment from the Top” or manager’s responsibility is required to establish effectiveness and efficiency. As noted in Chapter 3, Para 3.5.2 according to the industry organizations, one of the criterion which shows transparency is to publish the results of audit for the benefit of the maritime community. The report of pilot audit of PMO is not available at their website. In order to maintain transparency, this loophole should be addressed appropriately.

6.6.3 Optimization of Information Technology

The comparison and benchmarking however suggest that PMO has taken steps toward e-governance and a paperless system (automation in administrative affairs); nonetheless, a great deal remains to be done. Examples of “Rule-finder” and “SIRENAC” suggests more utilization of IT capacities in maritime affairs day-to–day activities.
6.6.4  *Shortcomings in the “Act of law on the establishment of PSO”*

As Sharifi (1996, p.18) pointed out, the draftsmen of the “Act of law on
the establishment of PSO” focused only on commercial aspects of ports
and vessels, and not shipping activities as a whole. Close evaluation of the
functions of the PSO (which is called PMO now) shows that the act is silent
concerning safety and environmental aspects. However, the word safety
used twice in paragraph seven and eight of the functions, it is worth noting
that it is not “pure” safety; it is “safety of navigation”.

It is evident that shortcomings in the Act of Law, in reflecting the
responsibility of PMO with regard to safety, (security) and protection of the
marine environment should be addressed.

6.6.5  *Inflexibility and the need for structural reform*

Earlier in Chapter 2 and the present Chapter, flexibility was said to
be one of the principles of NPM that helps the organization to be able to
cope with different situations. The current PMO’s structure is too rigid and
inflexible. When VIMSAS initiative took place in 2006, the IMO
organizational chart was changed slightly and a new division called
‘Member State Audit and Internal Oversight Section’ was added to the shell
of the IMO. The institution of this new division at a short period of time,
reflects a credit on IMO for being so flexible in its organizational
restructure. This pride should be emulated by PMO to appear more
effectively. Similarly, it is reasonable that PMO sets up such a division
under the auspices of the top management of PMO, in order to be
independent from executive divisions whose responsibility is to implement
and enforce treaty instruments, to carry out regular internal audits, to verify
the effectiveness of the MARAD in meeting its obligations under mandatory
instruments and to propose the areas of improvements.

6.7  *Summary*

In this Chapter the issues of positive improvement and the issues for
further development were presented. These issues are the outcome of assessing
against what was discussed in chapters 2 to 5 and are mostly those aspects which
can be addressed before the voluntary IMO audit. The gap analysis shows that the current status of the MARAD of Iran is by and large, a confirmation of the figures and studies of IMO presented in Chapter 4. In other words, absence of proper legislation, absence of strategy, lack of coordination among various organizations and ministries, absence of evaluation and review and documented procedures are examples which confirm the analysis done by IMO in document FSI18/Inf.7, as it was shown in Figure 4 of Chapter 4, Para 4.6.

In Chapter 7, approaches, procedures and the means to move from the current situation to a desirable status will be presented and illustrated.
CHAPTER 7: Moving from existing status toward a desirable one

In the previous Chapter the areas of positive improvement and areas of further development were presented. In this Chapter the solutions and proposals on how to move from the current situation toward a desirable MARAD complying with the requirement of the Implementation Code and the treaties to which Iran is party, will be presented briefly.

7.1 Issues in common areas

7.1.1 Strategy

A strategy should be developed. This strategy should be based on Strengths, Weaknesses, Opportunities and Threats (SWOT). The strategy can be titled as: “The way ahead” or “Maritime ambitions” or “PMO: pride in safety, pride in environment”

The strategy may contain the following items:

- Introduction
- Vision
- Mission
- Introduction of safety culture
- Safety, security and environmental indicators
- SWOT analysis
- Strategic aspirations, target dates and expected results
- Management Commitment
- Who is responsible for what?
The introduction may explain the compelling need or purposes for MARAD to have a strategy in place. While vision can be for example: Forward-looking, competitive, efficient, transparent and customer–oriented Maritime Administration in the Middle East by 2015 where safety, security and environmental issues are in top priority.

Mission can shed light on how to achieve the vision, viz: To achieve the vision, focus should be on the following areas:

- Adherence to the international instruments which are applicable to Iran
- Adherence to international guidelines and recommendations
- Development of a regulatory regime and transposition of international instruments to national legislation
- Enhanced supervision of tasks delegated to ROs
- Improvement of seafarer’s education and training
- Increased awareness projects via media, seminars, bulletin
- Expansion of relations with countries of the region (littoral States of the Persian Gulf and the Gulf of Oman)
- Efficient PSC/FSC surveys
- Strengthening of Research and Development (R&D)

Safety culture and safety, security and environmental indicators such as reduction of casualties and incidents of the fleet by 15 percent, hailing for reporting of incidents onboard flagged ships, promotion of pollution reporting by ships/public and measures to checks in ports can be introduced and included.

Strategy should also contain SWOT analysis, an example in case of regulatory regime could be:
- Strength: adequate number of qualified personnel within the MARAD
- Weakness: lack of updated national regulations
- Opportunity: enhance quality of shipping within the fleet (safety aspects) as well as cleaner environment
- Threat: low performance of the fleet at international level, increased environmental risks

*Strategic aspirations* can be illustrated in Table 1:

**Table 12: Strategic Aspirations**

<table>
<thead>
<tr>
<th>Strategic objective</th>
<th>Target completion date</th>
<th>Expected outcome</th>
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</table>
| Development of new national rules and regulations and fine-tuning of the existing legislations | Mid 2011 for new regulations, end of 2010 for updating the current regulations | • Preparation of the national legislation before ratification of new instrument  
• updated and adjusted national rules and regulations  
• making use of knowledge of WMU and IMLI graduates |

Furthermore, the commitment from the top and importance of involvement of top managers in progressing and realization of the strategy should not be overlooked.

Strategy can also demonstrate which division within the MARAD is responsible for which strategic objective and its implementation. This can be illustrated in a form of schematic presentation or diagram.

7.1.2 *National rules and regulations*

The existing rules and regulations should be updated. The monetary penalties and imprisonment should be adequate enough and deterrent. The Iranian Maritime Code should be revised and updated as well. National rules and regulations should be developed when the international maritime treaty asks for discretion of Administration by
mentioning “to the satisfaction of administration”. Regarding tacit acceptance amendments, in order to facilitate and shorten the procedure, authority for acceptance of tacit amendments should be given to the Ministry of Roads and Transportation or in an ideal situation, to PMO itself.

7.1.3 Technical staff with maritime expertise

Recruitment of maritime university graduates should be on the agenda of PMO. Incentives for retention of current staff should be provided. Job promotion criteria should be defined. It is recommended that there should be a system showing the information about the experts who are near to their retirement and the number of juniors to be replaced in different positions while seniors are getting promotion. PMO statistics shows that there is 172 technical staff (in PMO headquarters and ports) comparing to that of support staff, which is 1500 (www.pmo.ir). Similar to Canada, downsizing is recommended in supporting staff, if PMO wishes to be efficient and effective. In return, staff with maritime expertise should be employed.

7.1.4 Safety culture

Despite the few steps taken by PMO to promote safety culture in its website through a section “for kids”, in order to familiarize children with the importance of the sea, shipping and environment protection still a great deal has to be done. Stimulation of safety culture is not something that can be injected. In practice, PMO should appear committed to safety and environmental appraisal. When safety culture became second nature, it needs to be promulgated. Brochures of safety awareness containing accident and incident reviews should be in the agenda of PMO. Seminars, conferences, and knowledge-sharing gatherings should be conducted. Documentary movies and programs showing the true image of shipping should be produced and distributed to shipping companies and used in media. Marine and environment protection subjects could be among the subjects taught in schools. In ports, where people used to swim or in tourist
places, billboards and awareness bulletins can be of help to show the commitment of PMO to the safety and environmental issues. Signs showing the promotion of environmental culture will be useful (Figure 9).

Figure 9: Examples for Promotion of Environmental Culture

7.2 Issues in flag State implementation

7.2.1 Delineation of responsibilities among different ministries and agencies

The lines of responsibilities among different agencies and ministries should be clear. A memorandum of cooperation or bilateral or
multilateral agreements should be concluded between PMO as the Lead Maritime Agency and the other entities. “Sensitization seminar(s)”\textsuperscript{17} should be held for this purpose for the entities involved in implementation of international treaties and responsibilities of each ministry or agency should be drawn. It is instructive if a ministry or an agency nominates a contact person to be in touch with the PMO whenever required. This latter, also facilitates the audit of PMO in future.

7.2.2 \textit{Delegation of Authority}

IMO conventions clearly state that maritime administrations are allowed to delegate their flag state obligations to recognized organizations. As such, they have to oversee the task delegated and must ensure having expertise in place to carry out supervision function. The delegation must come pursuant to a “properly formulated agreement”\textsuperscript{18}. Flag administration must be cautious on the agreement and the recognition of recognized organizations. However, non-IACS ROs recognized by Iran are not indicative of their indiscretion, yet PMO should make sure that the Iranian Classification Society has established a quality system and should edit the data in GISIS website accordingly.

A system should be developed to track the performance of ROs over time. Therefore, there is a need to amend the agreements which are already made, to incorporate liability issues preferably in monetary terms. Use of authoritative language is also recommended for the agreement. For example instead of “PMO will be given the opportunity to satisfy itself…” the authoritative language such as "PMO has the right to satisfy itself…” or “PMO is entitled…”should be used.

7.2.3 \textit{Absence of the Admiralty court to deal with enforcement actions}

As it was correctly decided by the government at the time of the development of the Iranian Maritime Code, an admiralty court should be

\textsuperscript{17} Graham (2009)

\textsuperscript{18} Mukherjee (2000), p.113
set up to deal with cases of maritime nature such as fraudulent certificates and violations from requirements of various conventions.

7.2.4 *Port reception facilities*

It is recommended that PMO should take necessary steps to provide reception facilities before their intention to go for ratification of instruments which require such facilities.

7.2.5 *Flag state surveyors*

Systematic and documented procedure for training of flag state surveyors and continuous updating of their knowledge should be taken into consideration. Familiarization with the requirements of the treaties which the government has ratified recently should be taken into consideration. Refreshment courses for other conventions will be of great importance.

7.2.6 *Marine casualty investigation*

A separate division preferably under the auspicious of the Ministry of Roads and Transportation (preferred option 1) or under the control of the Deputy Minister and Managing Director of PMO (option2) should be established (See Appendix E). At present some of the flag state surveyors are members of the casualty investigation team which may result in biased investigation. In order to ensure impartiality of the investigation, independent investigators whose job is only the investigation of maritime accidents and incidents, with a focus on human error elements, should be selected for this purpose. This new division is shown in Appendix E, “the restructured organization chart of PMO”. In addition, an electronic database should be developed for the casualty investigation analysis.

7.2.7 *Evaluation and Review*

It is recommended that PMO initiate to develop performance indicators, such as casualty numbers, detention rates of PSC inspections and the ISM audit reports of flag ships and their companies and subsequently make a group with ROPME States (littoral states of the
Persian Gulf and the Gulf of Oman) and establish “ROPME Implementation Group (RIG) Group” or with the Indian Ocean MOU on PSC “Indian Ocean Implementation Group (IOIG)” to evaluate their performance periodically against those indicators and among such a group.

7.3 Issues in port State implementation

7.3.1 Need for proper linkage with ports

Whereas there is no system in PMO’s PSC department to select the ships to be inspected, generally ports decide about ships for PSC inspections based on their own discretion and check ten percent of ships calling at port at random. However, after selection of the ship, the Equasis database is checked by PSC officers before boarding, yet it would be appropriate if the chain of command is set up between headquarters and ports in a way that the historical PSC data is kept on a file or a database system and the headquarters inform the regional port on selection of ships on a daily basis.

7.3.2 Port State Control Officers

Updated and refreshment courses should be regularly organized for Port State Control Officers in order to enhance their knowledge and to familiarize them with the changes in maritime domain i.e. the technical changes to IMO treaties.

7.4 Issues in coastal State implementation

7.4.1 Evaluation and review

The database should be created for statistics on SAR operations. A system should be in place for evaluation and review with regard to the obligations of coastal states including the effectiveness of VTS, pilotage services and so on in Iran. Such a system should assist in finding the problem areas in order to address them, if any. Moreover, the system should help in familiarizing all pilots with different types of ships and should facilitate the procedure for identifying training needs of pilots and the retirement of senior pilots, given the environmental importance of the
Persian Gulf and the Gulf of Oman, which requires mandatory pilotage in
the area.

7.5 Other Issues

7.5.1 Ratification of ILO Convention

PMO should take steps in persuading the Ministry of Labour and
Social Affairs to ratify the ILO Convention 2006 as soon as practicable.
National legislation should also be drafted accordingly, if necessary.

7.5.2 Application of NPM principles

As discussed earlier, although NPM principles are not explicitly
referred to in the Implementation Code; they are tacitly touched upon in
Para 3.3 and 3.4 of it. For PMO, it is recommended that three Es factors
(Economy, Effectiveness and Efficiency) be taken up if PMO aspires to be
competitive and an ideal administration in the eyes of IMO judges
(auditors). Economy can be gained by downsizing the support staff and
hiring technical people with maritime expertise, as well as flag and port
state officers. Efficiency will come pursuant to wise delegation of flag state
authority to ROs and appropriate supervision of them. Effectiveness will
show itself through performance improvement and continuous progress.
Transparency is a lacuna which merit proper heed. PMO should not worry
about bad reputation. Transparency and reputation do not lie at the
opposite ends of the spectrum. To develop safety awareness brochures
containing the lessons learnt from accidents and incidents onboard flagged
ships or foreign flagged ships in waters under jurisdiction of Iran, and
further making it available on PMO’s website does not prejudice the
reputation of PMO. Conversely, it brings transparency and more
awareness.

Nevertheless, all these changes and recommendations will not
come true if commitment from the top does not exist. Managers’
responsibility should be defined and understood. Suffice to say that, PMO
will not live up to IMO’s expectation, in the absence of commitment and
dedication from top managers.
7.5.3 Advancement in the IT

Benefiting from expertise of IT staff in PMO, steps should be taken to establish databases similar to “rule-finder”, so that shipowners and even PSC officers can easily see which regulations are applicable to different categories of ships. Software such as SIRENAC of the Paris MOU or the KR-Con developed by the Korean Register of Shipping\textsuperscript{19} will facilitate and bring about efficiency for the Iranian MARAD.

7.5.4 Act of Law on the establishment of PSO

The gap in the Act of law on the establishment of PSO, and the absence of listing safety, security and environmental issues, demands expeditious response. The name change of PSO to PMO should also be taken into account. The Act needs revision to include requirements of the Implementation Code and non-commercial aspects of ports and shipping activities.

7.5.5 Structural reform in PMO

It is recommended that a new division under the auspices of the top management of PMO be established, comprising the auditors nominated by PMO to IMO for VIMSAS pool of auditors and carry out regular unbiased audits of MARAD and report the results directly to the top management. This new division and its fit within the MARAD are shown in Appendix E.

7.6 Summary

In this Chapter, some solutions and recommendations corresponding to the issues raised in Chapter 6 were introduced. \textit{Prima facie}, some immediate changes are necessary for the Iranian MARAD to come successfully out of the IMO’s trial (VIMSAS). Nonetheless, as Kotter (1996, p.162) believes “major change is never successful unless the complacency level is low. A high urgency rate helps enormously in completing all the stages of transformation process.”

\textsuperscript{19} Kr-Con is a database containing all IMO publications (books, circulars, guidelines etc.) developed by the Korean Register of Shipping
CHAPTER 8: Conclusions and further recommendations

8.1 Conclusions

For many years IMO was blamed for generating international maritime instruments without any power to control whether the contracting governments are in compliance with the requirements stipulated in those treaties and if so, to what extent they implement them. In 2002, nineteen IMO member States proposed that IMO should develop a mechanism whereby it would assess how effectively its members States give effect to the instruments to which they are party. Soon after, IMO welcomed this idea and in 2003,IMO adopted three resolutions on this issue. The first resolution A.973(24) was called the “Code for the implementation of mandatory instruments” which has dual function. It was developed as self-assessment instrument whereby any member state can assess and evaluate its performance in implementing and enforcing IMO conventions, while at the same time serve as a tool and basis for IMO to ensure how effectively its member States perceive and give effect to those treaties (IMO, 2005a). The second resolution A.974(24) is comprised of the framework and procedures to be followed in audits by the auditors nominated by the member state itself. The third resolution A. 975(24) involves future development of the scheme. (IMO, 2005b and IMO, 2006)

Iran was one of the countries which participated in the pilot audit along with 5 other member States, in two groups each comprising three States. Although the outcomes of the audit were very beneficial, they were however, due to the trial nature of it, not comprehensive.

One of the benefits of the audit scheme is the capacity-building. This means that the results of the audit will give the feed back to IMO and member state where the technical assistance is required.
Starting with the voluntary IMO member State audit project, IMO is proceeding to make the scheme mandatory in 2015. IMO started its first audits in 2006. Although many countries showed interest at the heyday of the introduction of VIMSAS, the recent statistics on the willingness of the states to expose themselves for the audit shows a downward trend.

This retro-gradation, in addition to the fact that Iran in 2009 nominated itself for voluntary audit, impinged this question into the author’s mind that whether or not Iran, or better to say, the Iranian MARAD, is ready for such an audit. If not, what measures should be taken in order to come out of this solemn trial prideful?

To this end, this thesis exhausted the elements of New Public Management and its similarities with the objectives of the VIMSAS. It is discussed that both of them share some common goals and VIMSAS will serve as a medium which institutes and increases accountability and transparency among IMO member States with regard to their treaty duties.

The Third Chapter dealt with the raison d'être of having a Maritime Administration and how the performance indicator are defined at academic and industry levels. In addition, the notion of safety culture and its importance was highlighted.

Following the introduction of the responsibilities of the MARAD, the background of VIMSAS and its future have been elaborated. Pursuant to this, the status quo of the Iranian MARAD was introduced and compared with three benchmarking IMO States, which showed satisfactory level of adherence to the IMO instruments, and then through benchmarking the areas where further improvement were necessary were being located.

As a partial solution to address those shortcomings, some solutions and recommendations were proposed. These solutions can be simplified into four main categories: 1) laws and regulations 2) human element; 3) processes and procedures and 4) structural reform of the MARAD. It was also concluded that complacency is the enemy of progress and this progress and the required changes will not be materialized in the absence of commitment from the top.
It is quite natural and appropriate to say that the Iranian MARAD should perceive nomination for VIMSAS as an opportunity for pre-assessment and to take steps to rectify any shortcomings. The message of this study for the Iranian MARAD is that PMO should assess itself before being assessed by IMO auditors and should endeavor to upgrade its current status to the level of well-practiced IMO member States by taking proper and prompt actions as suggested in this research work.

8.2 Further Recommendations

The Iranian MARAD should also take the following recommendations into consideration:

- Benefiting from WMU in training of more maritime experts;
- Dispatching of PMO’s experts to the States that are going to be audited as an observer, to make them familiarized with the audit and its procedure both as the auditor and the auditee; and
- Developing and conducting Professional Development Courses (PDCs) through the TC programme of the IMO.

If the lacunae which were identified in this thesis are addressed and the recommendations are taken into consideration, there will be a great hope that the Islamic Republic of Iran proves its continual commitment and faithfulness to the objectives of IMO, i.e. “safe, secure and efficient shipping in cleaner oceans”.

99
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(B) Legal sources-International

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(D) Audit Reports under VIMSAS

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### Appendix A: Shipping industry organizations’ table

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Source: [www.marisec.org/flag-performance](http://www.marisec.org/flag-performance)
# Appendix B: Sample of Analysis of the Self-Assessment Forms

(Source FSI 10/4)

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(Source FSI 11/10)
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Source: Compiled by the UNCTAD secretariat on the basis of data supplied by Lloyd’s Register – Fairplay.

Source: Review of Maritime Transport 2008 (UNCTAD)
## Appendix D: List of the IMO member States and the ratified Conventions

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Source: www.imo.org
Appendix E: Restructured organizational chart of PMO