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WORLD MARITIME UNIVERSITY
Malmö, Sweden

**THE PANDEMIC: IMPACT ON IMO MEMBER STATE AUDIT
ON THE PACIFIC ISLAND MEMBER STATES**

By

SHALEEN LATA

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

MASTER OF SCIENCE

in

MARITIME AFFAIRS

(MARITIME LAW AND POLICY)


2022

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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): 

(Date): 19 September 2022

Supervised by: Prof. Dr. Henning Jessen

Supervisor's affiliation: Professor – Maritime Law and Policy

ACKNOWLEDGMENTS

When dreams become reality, this is what it looks like. Graduating from this prestigious Institution World Maritime University with a Master of Science in Maritime Affairs was my dream since 2013 when I first joined the Fiji Maritime administration. My passion for maritime grew whilst implementing procedures, policies, and IMO instruments at the Fiji Maritime administration as this came with challenges with a lack of expertise and guidance in the area. As a woman in this challenging industry, my vision is to make a difference in this industry and empower as many women as possible to pursue a career in the marine industry.

This dream of becoming a reality would not have been possible without the blessing of God Almighty whom I am utmost grateful. I thank God for his continuous blessing through this wonderful journey of my life. To my sponsor Australian Maritime Safety Authority (AMSA), I sincerely appreciate their assistance towards my fellowship program and for allowing me to enhance my technical, professional, leadership, and maritime skills to advocate maritime interests in the Pacific region.

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Last but not the least, I would like to dedicate this success, achievement, and hard work to my late parents Late Mr. Sant Ram and Late Mrs. Swaran Lata, fulfilling the promise of always making them proud. I wish they could be here to see me receive the Certificate for my Master but I know their blessing is always with me. The Main pillars behind my success are my sister Shireen Kumar, brother-in-law Nitesh Kumar, my brothers Sharnil Ram and Shakeel Ram, my two wonderful nieces Richel and Nyra whom I missed dearly, and the rest of my families and friends for their continuous support and encouragement.

ABSTRACT

Title of Dissertation: **The pandemic: Impact on IMO Member State Audit on the Pacific Island Member States**

Degree: **Master of Science**

Various countries imposed a mandatory lockdown along with domestic and international restrictions to prevent the spread of the pandemic. The Pandemic's unparalleled effects brought disruption to several industries all around the world.

For International Maritime Organization (IMO) it meant further postponements of the IMO Member State Audit (IMSAS) schedule due to travel restrictions. (25) IMSAS are conducted in a year to meet the full audit cycle of (7) years to assess the effective implementation of the IMO instruments by the Member States.

The dissertation provides a summary of the role of IMO and IMSAS with the objective: The Pandemic: Impact on IMO Member State Audit on the Pacific Island Member States and the strategies and decision of remote audit by IMO amidst the pandemic to maintain quality and consistency as the best way forward.

This research also looks at some of the current challenges and the challenges that would be encountered by IMO auditors and the Pacific Island Member States during IMSAS. Feedback received by IMO from the Member States that were scheduled for audit in 2021 was compared and analyzed with the feedback received through questionnaires and interviews for this research.

The results were collated to assess the views on the introduction of the remote audit by IMO and the preferred method by the IMO auditors and Pacific Island Member States should the pandemic continue considering the challenges currently in place or that could be encountered during the IMSAS.

The findings summary is presented in the final chapter and action by IMO with some of the recommendations on the way forward for the consideration the pandemic situation in the State can change at any given time.

KEYWORDS: IMO, IMSAS, Pandemic, Pacific Island State, remote audit, the preferred methodology

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LIST OF ABBREVIATIONS

EC	Emergency care
ICAO	Civil Aviation Organisation
IMLI	IMO International Maritime Law Institute
IMO	International Maritime Organization
IMOCO	Inter-Governmental Maritime Consultative Organization
IMSAS	Member State Audit Scheme
ISPS	International Ship and Port Facility Security Code
JWG	Joint Working Group
LDC	Least Developed Countries
MEPC	Maritime Protection Committee
MoC	Memorandum of Cooperation
MoU	Memorandum of Understanding
MSC	Maritime Safety Committee
PIF	Pacific Islands Forum
SIDS	Small Island Developing States
SPC	South Pacific Commission
SPCs	Single point of contact
UNCLOS	United Nations Convention on Law of the Sea
UNESCAP	The United Nations Economic and Social Commission for Asia and the Pacific
VIMSAS	Voluntary IMO Member State Audit Scheme
WHO	World Health Organization
WMU	World Maritime University

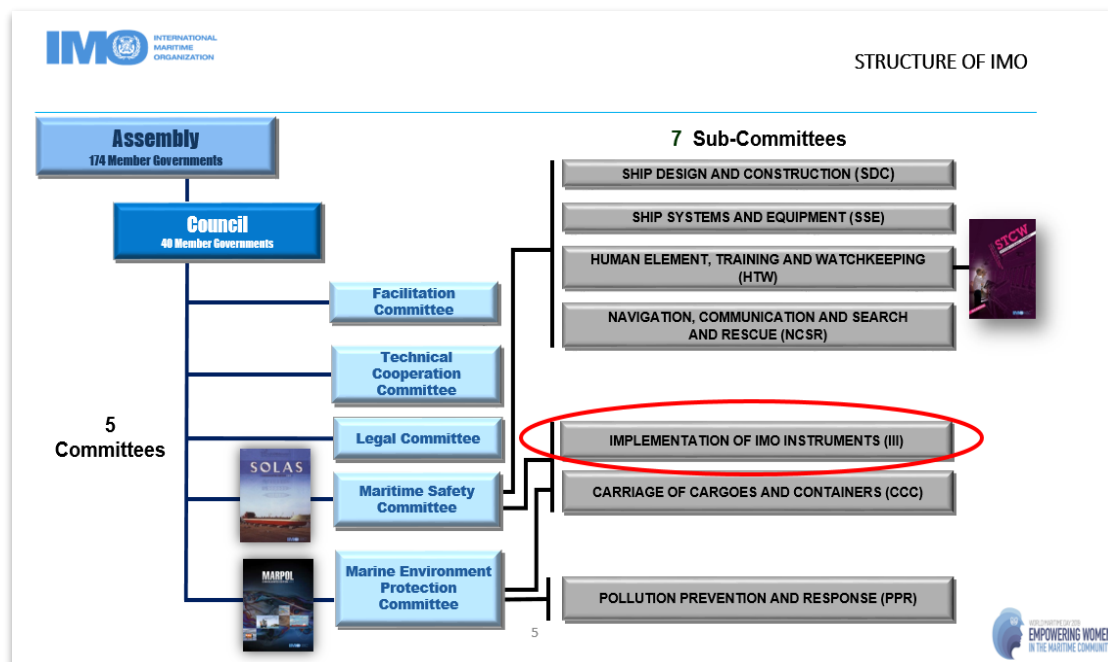
Chapter 1 – INTRODUCTION

1.0 Brief Background of the International Maritime Organization

An international congress in Geneva formally enacted a convention that established the International Maritime Organization (IMO) in 1948. The organization was formerly named the Inter-Governmental Maritime Consultative Organization (IMCO), but when the IMO Convention was ratified in 1958, It adopted the new name - IMO in 1982. Article 1(a)¹ of the Convention articulates the purpose of the IMO (International Maritime Organization [IMO], n.d.-a; Arroyo, 2015, p.577.). Based in London as its head office, the IMO consists of the Assembly, council committees, and sub-committees as shown in Figure 1 that assist the main technical committees.

Figure 1

The IMO Structure



Note. From "Report International Organization", by Colin P Young, n.d. PowerPoint slide 5 (<https://slidetodoc.com/report-international-maritime-organization-mr-colin-p-young/>)

¹ Article 1(a) "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"

The IMO is the leading advocate of global technical standards. IMO develops a “regulatory framework for the shipping industry that is fair and effective, universally implemented that promotes safe, secure, environmentally sound, efficient and sustainable shipping” (IMO, n.d.-b). IMO has played a significant legislative role since its establishment, and has adopted more than (50) international conventions, codes, protocols, and amendments and recommended them through technical committees, particularly the Maritime Safety Committee (MSC) and the Maritime Protection Committee (MEPC) (IMO, n.d.-c). The principal legally binding agreements are typically supplemented by an abundance of non-binding rules, recommendations, and regulations. These non-binding instruments may on occasion be incorporated into applicable treaties to become legally binding (Beckam & Sun, 2007). For instance, an example given by Beckam and Sun (2007, p. 10) is the two codes that are “mandatory under SOLAS and MARPOL - The International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (the IBC Code) and the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code)”.

All areas of ship safety, construction, cargo, operations, navigation, search and rescue, radio communications, and maritime environmental protection are covered by the IMO guidelines.

1.0.0 The IMO Member States and Pacific Island

There are a total of (175) the IMO Member States and (3) Associate Members, (16) States composed of the Pacific Islands of which (14)² are the IMO Member States, (11) Territories³, and (14) Pacific Island States are Small Island Developing States (SIDS)⁴ and (3) are Least Developed Countries” (LDC)⁵” (IMO, n.d.-d).

Given the Pacific Ocean's geographical dispersal of more than 30 million square kilometers, the most prevalent and important mode of trade and transportation in the Pacific region is shipping. All Pacific Islands deal with the comparatively high expense of shipping their imports and exports to and from developed countries, which is often done by sea due to even higher

² “Pacific Island countries: Australia, Cook Islands, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu”.

³ “Pacific Island Dependent Territories: American Samoa (United States), Christmas Islands (Australia), Cocos (Keiling Islands) (Australia), Commonwealth of the Northern Mariana Islands (United States), French Polynesia (France), Guam (United States), New Caledonia (France), Norfolk Islands (Australia), Pitcairn Islands (United Kingdom), Tokelau Islands (New Zealand), Wallis and Futuna (France)”.

⁴ “SIDS in the Pacific: Cook Islands, Federated States of Micronesia*, Fiji, Kiribati, Marshall Islands, Nauru, Niue*, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu”.

⁵ “LDCs in the Pacific: Kiribati, Solomon Islands, Tuvalu”.

Niue and Federated States of Micronesia – they are not member of IMO and therefore are not audited.

air freight. Inter-island shipping services are essential to the provision of the basic means of transportation since ships and sailing are vital traditions in the Pacific region. The majority of regional and national markets are reached by marine transport, as is the majority of international trade and commerce. The majority of Pacific Islands depend on the sea for both employment (fisheries) and sustenance and the area provides a sizable number of seafarers to the local and international maritime fleet. The region's sustainable growth and reduction of poverty are greatly aided by maritime transport (IMO, n.d.-d).

Figure 2

Status of Convention for Small Island Developing States

[illegible]

Note. From “Status of Conventions”, by International Maritime Organization, n.d.-e. (<https://www.imo.org/en/About/Conventions/Pages/StatusOfConventions.aspx>)

1.0.1 Implementation of Instruments Support

The United Nations Convention on Law of the Sea (UNCLOS) sets down the rights and obligations of States that conduct marine activities in various maritime zones by their duties as Flag State, Port State, and Coastal State. The Flag State's rights and duties are prioritised with vessels flying its flag. (Beckman & Sun, 2017). The Flag State is responsible for implementing policies and procedures through its national legalization and enforcing the same. Articles 90⁶ and 91⁷ of UNCLOS define the rights whilst Article 94⁸ is the obligations of the Flag States.

The Flag States are obligated by the international legal system to guarantee that their ships adhere to international laws wherever they go. In their article, Hebbbar and Geymonat (2021) noted that the Flag State accounts for 70% of the State's overall control over the Port and Coastal State. The administrative duty of the Flag State is described under UNCLOS as ratifying instruments and giving full effect to international accords.

The IMO has continued to evaluate Member State performance as part of its continuous efforts to address the lack of enforcement of its instruments. This initiative resulted in the guidance adopted in 2001 to assist the Flag States in evaluating their performance while outlining the requirements and performance indicators for the evaluation. This was followed by the creation of the **Voluntary IMO Member State Audit Scheme (VIMSAS)** and the transition to the **IMO Member State Audit Scheme (IMSAS)** in 2003.

1.1 Problem Statement

Travel restrictions in place had a cascading effect on the Member State's mandatory audit by IMO. Overall IMO audit schedule had to be readjusted upon the readiness of the Member State. According to the **A 32/10** Report on the implementation of the Scheme published by IMO in October 2021, "audits of (25) Member States have now been added to the modified audit schedule for 2022, and audits of (22) Member States have been added to the updated schedule for 2023 and (34) the Member States and (1) Associate Member have been rescheduled from 2023 to 2024". The tentative schedule prepared by IMO is for remote audit based on the global pandemic situation and various mitigation protocols implemented by the Member States (IMO, 2021a, p. 2).

⁶ Article 90 of UNCLOS - Right of navigation

⁷ Article 91 of UNCLOS - Nationality of ships

⁸ Article 94 of UNCLOS - Duties of the Flag State

IMO is urging the IMSAS to continue as it is vital for “consistent and effective implementation of applicable IMO instruments and assist Member State to improve their capabilities as Flag, Coastal and the Port States”. IMO hosted a virtual meeting for auditors to review the process and the way forward. (98) auditors from (50) Member States attended, and opinions on the viability of a remote audit method were expressed (IMO, 2021b, para. 2).

Technology advancement has come a long way and its importance is being felt across the globe. Remote audits can be the platform that can be used to verify the compliance of Member States. According to Al-Khasawneh (2021, p. 1) “Electronic visual techniques, electronic authentications will be used as a type of audit evidence, artificial intelligence tools will be used for performing audit works and tasks”. The Council, at its 32nd extraordinary session held from 4 May to 3 August 2020 had a preliminary discussion and concluded that “remote audit using available technology for virtual meetings is the most realistic option for ensuring the required level of verification when a “face-to-face” audit is not possible” and “remote audits (partially remote or fully remote) are conducted using the same audit process as for on-site audits, but using electronic means to remotely obtain audit evidence and to evaluate it objectively to determine the extent of conformity to the audit standard” (IMO, 2020, p.6).

Member States audits are mainly affected due to country lockdown and travel restrictions imposed by the pandemic thus limiting IMO tracking of the performance of the Member States. This study will analyze The Pandemic: Impact of IMO Member State Audits on the Pacific Island States, identifying the challenges that would be encountered by IMO auditors and the Pacific Island Member States during IMSAS and the strategies adopted amidst of pandemic.

1.2 Objective

Despite a pandemic's lengthy history, virtually limited medical literature defines the term. Significant pandemics have happened regularly throughout human history, and pandemic-related crises have had a severe impact on international health, the economy, and even national security (Qiu et al., 2017).

Most nations believed that the battle against COVID-19 would end soon, however, on November 26, 2021, the World Health Organization (WHO) revealed the existence of another variant, B.1.1.529, called Omicron (World Health Organization [WHO], 2021). The WHO had been “monitoring and assessing the evolution of SARS-CoV-2” since January 2020, Dr. Ryan voiced concern about the existing global COVID-19 epidemiological situation in a statement

at the 12th meeting of the International Health Regulations (2005) Emergency Committee regarding the coronavirus disease (COVID-19) pandemic. “Cases of COVID-19 reported to WHO had increased by 30% in the last two weeks, largely driven by Omicron BA.4, BA.5” (WHO, 2022a, para. 2). Likewise, in his opening remarks at the COVID-19 media briefing on July 12, 2022, WHO Director-General highlighted concerns “that cases of COVID-19 continue to rise putting further pressure on stretched health systems and health workers. I am also concerned about the increasing trend of deaths” Director-General further adds that “sub-variants of Omicron, like BA.4 and BA.5 continue to drive waves of cases hospitalization, and death around the world” (WHO, 2022b, para. 1).

This is an indication this virus is evolving and there could be more variants that may be discovered. The end of this pandemic is unknown and it has changed the “normal” work process to have business-as-usual innovativeness and artificial intelligence tools.

The prolonged outbreak has delayed quite several Member States audits as mentioned above with a request to reschedule for 2022 and 2023. IMSAS is crucial for assessing the State's overall performance per the criteria of the instruments, this pandemic could lead to 100% remote audits or even hybrid audits to be conducted depending on the situation of the Member States. This study aims to assess the pandemics on Pacific Island Member State audits and the challenges from the perspective of IMO auditors and the Member States. This research focuses on SIDS hereafter referred to as Pacific Island Member State. Therefore, the objective of this study is:

1. To identify the impact of the Pandemic on Pacific Island Member State audit;
2. To identify the challenges that would be encountered by IMO auditors and Pacific Island Member States during IMSAS; and
3. To investigate the strategies adopted by IMO and the Pacific Island Member States amidst of pandemic to maintain quality and consistency.

1.3 Research Question

President of WMU, Dr. Doumbia-Henry in her opening remarks at the IMSAS seminar in 2016, stated that “the auditing scheme is probably the most powerful tool to help Member States review and assess their performance in respect to their obligations under the international instruments agreed in IMO” (Doumbia-Henry, 2016, p. 2). Thus this research intends to explore and analyze some of the challenges that are encountered by IMO auditors and the Member States due to the new emerging pandemic. The research question includes:

1. What is the response – the impact of the Pandemic on the Pacific Island Member State

IMSAS audit?

2. What could be some of the challenges that might be encountered by the Pacific Island Member State and the IMO auditors during remote audits and strategies adopted to overcome those challenges?
3. Which is the preferred method for audit should the pandemic continue?

1.4 Methodology

This research adopted a mixed methodology with systemic reviews of the literature to collate data through primary and secondary sources as illustrated. The data and information gathered from the interviews and questionnaires were quantitatively used to analyze the (3) research questions which are discussed in Chapter 4 and the feedback received is attached as appendix 3. Except for one interview done in person, all other interviews were done via zoom, and questionnaires were distributed through WMU student email. Before conducting interviews and distributing questionnaires, approval from WMU Research Ethics Committee was sought.

1.4.0 Data Type and Sources of Data

Primary data was obtained through interviews and questionnaires based on the research questions. Questionnaires were administrated to the IMO Head - Member State Audit Department for Member State Audit and Implementation Support and IMO Audit Officer to obtain information and data to analyze the challenges and actions taken by the IMO on the research topic.

Interviews and questionnaires were prepared and administrated to Member States auditors to capture their perceptions based on the research questions. From the first interview of an IMO auditor, names and contact details of other IMO auditors were obtained after which auditors were contacted through email providing an overview of the research and request to participate in the interview/questionnaire.

Through the assistance of the IMO Technical Cooperation Officer for Asia and Pacific Islands Region Single Point of Contact (SPCs) for Pacific Island Member States, maritime administration was obtained for (14) the Pacific Island States. Interviews and questionnaires request were sent to only (12) SIDS as two (2) SIDS, Niue and Federated States of Micronesia are not members of IMO and therefore are not audited though the two islands have ratified some conventions as shown in **Figure 2**.

Empirical evidence of several studies was obtained through review and analysis of literature reviews, journals and articles, IMO Meetings Reports, Circulars and Publications, Government reports, websites, google scholar, Framework and Procedure for the IMO Member State Audit Scheme, and the IMO Instruments Implementation Code (III Code), Consolidated audit summary report.

1.4.1 Data Information and Analysis

Data and information gathered through primary and secondary sources were analyzed quantitatively and qualitatively and portrayed through charts and tables in Chapter 4. The analysis of the respondents gave an overview of the impact of pandemic COVID -19 on Pacific Island Member States and a primary view of the preferred mode of the audit and the way forward.

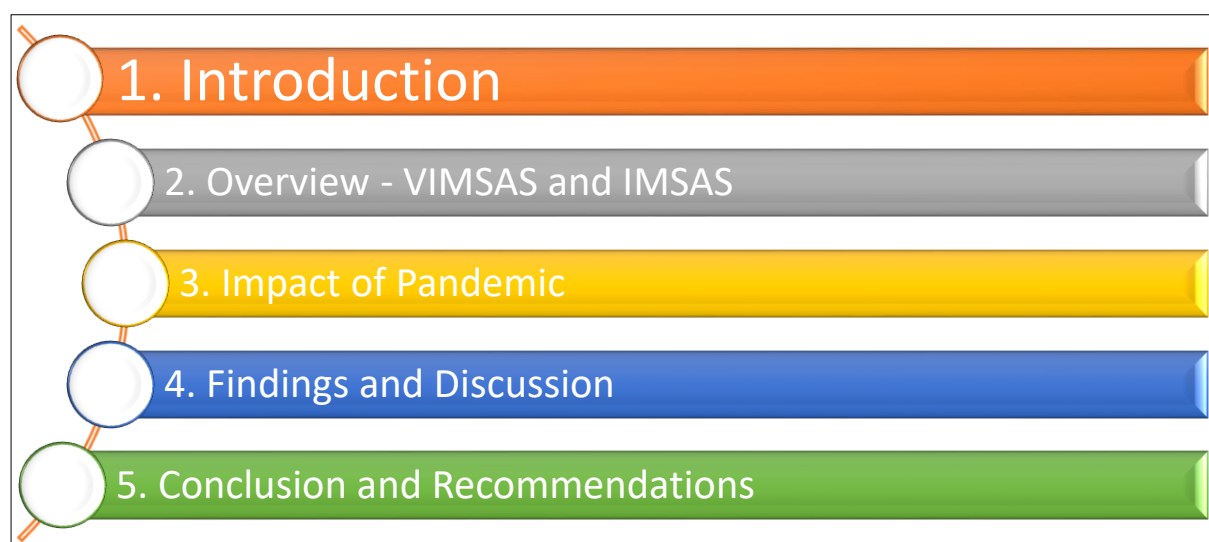
Consolidated audit summary reports were also analyzed to give a comparative analysis of findings of VIMSAS and IMSAS and which areas are still a concern for the IMO as repetitive findings are noted.

1.5 Organization of the Dissertation

The structure of the study is as follows.

Figure 3

Structure of the Research



Note: Author's elaboration

Chapter 2 - VIMSAS AND IMSAS OVERVIEW

Introduction

The commitment of Flag States has been a key indicator of how well international treaties have been implemented. A Member State's effective execution of Flag State obligations would oblige that it fulfills all of its obligations as well as the administrative, social, and technological obligations imposed by the treaties to which it is a party. Evaluation of the efficiency of IMO standards and their implementation and enforcement by the Member States became necessary given the lack of enforcement powers.

2.0 The Voluntary IMO Member State Audit Scheme

Some major maritime accidents and incidents lead to the creation and execution of the IMO Convention such as COLREG after the sinking of SS Princess Alice on 3 September 1878, SOLAS – the sinking of the RMS Titanic 14 -15 April 1912, Torrey Canyon Oil Spill 18 – 30 March 1967 lead to the creation of MARPOL (Kenney, 2021, slides 5-8) thus the need for “continuous monitoring” and “global safety oversight” hence IMO adopting the similar audit programme as International Civil Aviation Organisation (ICAO). Zhu and Jessen (2016, p. 2) describe ICAO as a “regulatory role model for the IMO in the area of global safety oversight, in particular in assessing the effectiveness of a country’s safety and security oversight capacity”.

The IMO Member States acknowledged the need for effective and consistent execution of globally agreed-upon rules by the Member States to get a transparent, unbiased, and independent evaluation of the degree of implementation of IMO instruments by its Member States. The IMO perceives VIMSAS as an instrument to ensure consistent and global application of IMO standards under IMO instruments to which a Member State is a party. The strategy address issues by adopting appropriate laws (Mansell, 2009).

The IMO on 29 November adopted 2001 Resolution A.912(22)⁹ to guide and assist the Flag States to conduct self-assessment and self-evaluation of their capacities and performance in

⁹ Resolution A.912(22) - Adopted on 29 November 2001 - Self-Assessment of Flag State Performance

putting into effect the IMO instruments to which they are party to and voluntarily submitting self-evaluation reports to the IMO (Beckam & Sun, 2017).

In June 2002, in its 88th session, the IMO Council approved the development of the “IMO model Audit Scheme” a proposition by (19) Member States. A year after the endorsement, the MSC with the MEPC through a suggestion by the Sub-Committee on Flag State (FSI) that a new Code is created to aid in the application of the IMO mandatory instruments which would be the “Audit Standard” under the scheme (IMO, n.d.-f; Barchue, 2009; Beckman & Sun, 2017).

Joint Working Group (JWG)¹⁰ was established at the request of the Council in its 89th session in November 2002 and in the first meeting at MSC 77 in June 2003, the JWG had planned to develop “documentation for the Audit Scheme and the Code for the implementation of mandatory IMO instruments” (Barchue, 2009, p.4). Barchue (2009) further adds the additional decisions of the Council were:

- a) approval of the objectives of the Scheme and that sovereignty and universality, consistency, fairness, objectivity, and timeliness; transparency and disclosure quality and inclusiveness, and continual improvement should be the principles of the Scheme;
- b) endorsement of the JWG’s decision that the scope should be comprised of sections on IMO instruments (obligations and responsibilities of a Member State);
- c) endorsement of the safety-and security-related areas and environmentally-critical areas for the Scheme;
- d) endorsement of the capacity-building and technical cooperation aspects of the Scheme;
- e) agreement in principle that the Secretary-General should be assigned certain tasks relating to the functioning of the Scheme; and
- f) approval of a draft Assembly resolution on the Voluntary IMO Member State Audit Scheme, which was later adopted by the Assembly in November 2003 as resolution A.946(23)¹¹. The resolution endorsed the decisions and work of the Council and formally established the Audit Scheme (p.5).

¹⁰ Joint Working Group consisted of Maritime Safety Committee (MSC), the Marine Environment Protection Committee (MEPC) and the Technical Co-operation Committee (TCC)

¹¹ Resolution A.946(23) - Adopted on 27 November 2003 - Voluntary Imo Member State Audit Scheme

The Assembly adopted Resolution A.946(23), titled "Voluntary IMO Member State Audit Scheme," at its 23rd session in November 2003 after approving the Council's recommendations for the development of a VIMSAS program. The IMO Assembly authorized the progress of VIMSAS by the aforementioned decision and requested the IMO Council to develop policies and other frameworks for the implementation of VIMSAS on a priority basis. The Assembly passed the two instruments during its 24th session in November 2005: Resolution A.973 (24)¹² and Resolution A. 974 (24)¹³ (IMO, n.d.-g). Both Resolutions outline that the "effectiveness of any instrument depends, *inter alia*, upon all States:

- (a) becoming Party to the instruments mentioned above;
- (b) implementing them fully and effectively; and
- (c) reporting to the Organization, as required" (IMO, 2005a, p. 2; IMO, 2005b, p. 2).

2.0.1 Execution of Voluntary IMO Member State Audits

The study by the European Parliamentary Research Service, the Directive of the European Parliament, and the Council on compliance states that the IMO audit scheme is not a tool that is used to penalize States that are non-compliant rather it is to improve the State's performance and to provide assistance in the implementation of the IMO Conventions into effect as per the Code. Mr. Koji Sekimizu, the Secretary-General at the time in his first visit to the Caribbean in February 2013 stated that "the VIMSAS scheme was instituted by the IMO to ensure States are giving full and complete effect to the provisions of its major Conventions.... part of its drive to discharge the responsibility of the Flag, Port and Coastal State obligations" (All About Shipping, n.d., para 2-3).

2.0.2 Audit Scheme

At its 25th session in November 2007, the Assembly adopted Resolution A.996 (25)¹⁴. Subsequently, this was further amended at the 27th session of the Assembly by adopting Resolution A.1054 (27)¹⁵ which supersedes Resolutions A.973 (24)¹⁶ and A.996 (25). The Council further requested MSC and MEPC to review the audit scheme and align to IMO objectives and include safety, environment, and security aspect, thus at the 26th session of the

¹² Resolution A.973 (24) - Adopted on 1 December 2005 - Code for the implementation of mandatory IMO instruments

¹³ Resolution A. 974 (24) - Adopted on 1 December 2005 - Framework and Procedures for the Voluntary IMO Member State

¹⁴ Resolution A.996 (25) - Adopted on 29 November 2007 - Code for the implementation of Mandatory IMO instruments, 2007

¹⁵ Resolution A.1054 (27) - Adopted on 30 November 2011 - Code for the Implementation of Mandatory IMO Instruments, 2011

¹⁶ Resolution A.973 (24) - Adopted on 1 December 2005 - Code for the implementation of Mandatory IMO instruments

Assembly on 25 November 2009, Resolution A.1018(26)¹⁷ was adopted which in its annex illustrates the time frame and schedule of activities as shown in Table 1 to institutionalize the IMSAS (IMO, n.d.-g).

Table 1

Time Frame and Schedule of Activities to Institutionalize The IMO Member State Audit Scheme

IMO Body	Timing	Action
MSC and MEPC	First half of 2010	Consider how to make the Code for the implementation of mandatory IMO instruments mandatory, including provisions for auditing
MSC and MEPC	Second half of 2010	Identify mandatory IMO instruments through which the Code and auditing should be made mandatory
Council	End 2010	Establish a Joint Working Group (JWG) of MSC, MEPC, FAL, and TCC to review the Framework and Procedures for the Scheme
MSC and MEPC	2011 and 2012	Develop provisions to make the Code mandatory through the identified mandatory IMO instruments
Council	Second half of 2011	Approve a progress report for submission to A 27
Assembly 27	November 2011	Receive a progress report and decide as appropriate
JWG	2011 and 2012	Review the Framework and Procedures for the Scheme
JWG	2013	Finalize the Framework and Procedures, taking into account the finished product of the Code and the related amendments to mandatory

¹⁷ Resolution A.1018(26) - Adopted on 25 November 2009 - Further Development of the VIMSAS Scheme

		IMO instruments
The first	First half of 2013	Approve the Framework and Procedures for the Scheme, for submission to A 28 for adoption
Committees	2013	Adopt amendments to the mandatory IMO instruments concerned for entry into force on 1 January 2015
Assembly 28	November 2013	Adopt resolution on the Framework and Procedures for the Scheme and amendments to those mandatory instruments under the purview of the Assembly
Council, Committees, and Secretariat	2014	Preparatory work for the commencement of an institutionalized audit scheme

Note. From “Resolution A.1018(26) Adopted on 25 November 2009 (Agenda item 9) Further Development of the Voluntary IMO Member State Audit Scheme” by International Maritime Organization, 2010, p.5 ([https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/AssemblyDocuments/A.1018\(26\).pdf](https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/AssemblyDocuments/A.1018(26).pdf))

The Assembly, at its 27th regular session (21st to 30th November 2011), reviewed the progress for the implementation of the VIMSAS and proposed further improvement of the Scheme and that an adequate number of auditors are needed which if not dealt with promptly, could create technical and administrative problems for the implementation of a mandatory scheme.

In light of this, it was recognized that one of the crucial elements necessary for the scheme to be successful was that the personnel undertaking the audit functions are aware of the audit process and are adequately trained. Accordingly, it was decided to develop a training programme to train personnel within the Maritime Administrations to prepare for the VIMSAS, by conducting internal audits that would provide IMO with a pool of auditors specifically trained to conduct IMO Member State Audits. (4) regional courses/workshops for auditors were delivered in 2011, (2) regional training courses for auditors, and (3) regional workshops for maritime administrators were delivered in 2012. A total of (410) people from (146) countries had been trained for the VIMSAS with (28) regional courses/workshops (IMO, n.d.-h).

To further address this issue, a training programme was developed by IMO. A series of regional training courses were held worldwide. Nearly (30) participants from the Maritime

Administration and other National Authorities attended the three-day national workshop on the VIMSAS organized by the SafeMed II Project in close collaboration with the IMO in Haifa, Israel from June 13 to June 15, 2010 (Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea, 2010).

A regional workshop on the VIMSAS's implementation was held by the IMO from September 30 to October 4, 2013, and (16) delegates from (11)¹⁸ nations attended. The workshop's objectives were to help governments prepare for the VIMSAS and to resolve any audit-related issues. The workshop served as a venue for discussing the lessons learned from the previous audits (Antigua & Barbuda Department of Marine Services and Merchant Shipping, n.d.).

2.0.3 Preliminary Study on the Voluntary IMO Member State Audits

Barchue (2009) describes that

Audits should be constructive in approach and carried out voluntarily, at the request of the Member State to be audited, and by established procedures. Nevertheless, the benefits of the scheme would be greater for all Member States to submit to an audit.

All Member States will benefit from positive and constructively conducted audits (p.5).

IMO created the Audit Scheme which applied to 10¹⁹ of the 50 treaties to which the Member States were audited (Barchue, 2009, p 6; IMO, n.d.-f).

Barchue (2009) further adds that a summary of the Audit Scheme was presented to the 101st session of the IMO Council in November 2008 through a note from the Secretary-General that among other things informed the Council:

¹⁸ "Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Haiti, Jamaica, St. Kitts and Nevis, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago"

¹⁹ the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 1974);

the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS PROT 1978);

the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS PROT 1988);

the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended (MARPOL 73/78);

the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978 relating thereto (MARPOL PROT 1997);

the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, as amended (STCW1978);

the International Convention on Load Lines, 1966 (LL 66);

the Protocol of 1988 relating to the International Convention on Load Lines, 1966 (LL PROT 1988);

the International Convention on Tonnage Measurement of Ships, 1969 (Tonnage 1969); and

the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended (COLREG 1972)

From the comments received from the audited States and the findings contained in the various audit reports, the application of the Code for the implementation of mandatory IMO instruments by the audited Member States strongly suggests that the Code represents a very useful tool for the proper and effective organization and operation of a maritime administration. It provides a well-structured approach that once properly implemented, would promote a culture for the systematic monitoring and evaluation by States of how well they meet or otherwise their obligations and responsibilities under the relevant mandatory IMO instruments to which they are Parties. As the “audit standard”, the Code has also proven to be effective as the basis for external evaluation of the performance of a State and provides a universally applicable benchmark for maritime administrations, irrespective of their level of development and structure of government entities (pp 7-8).

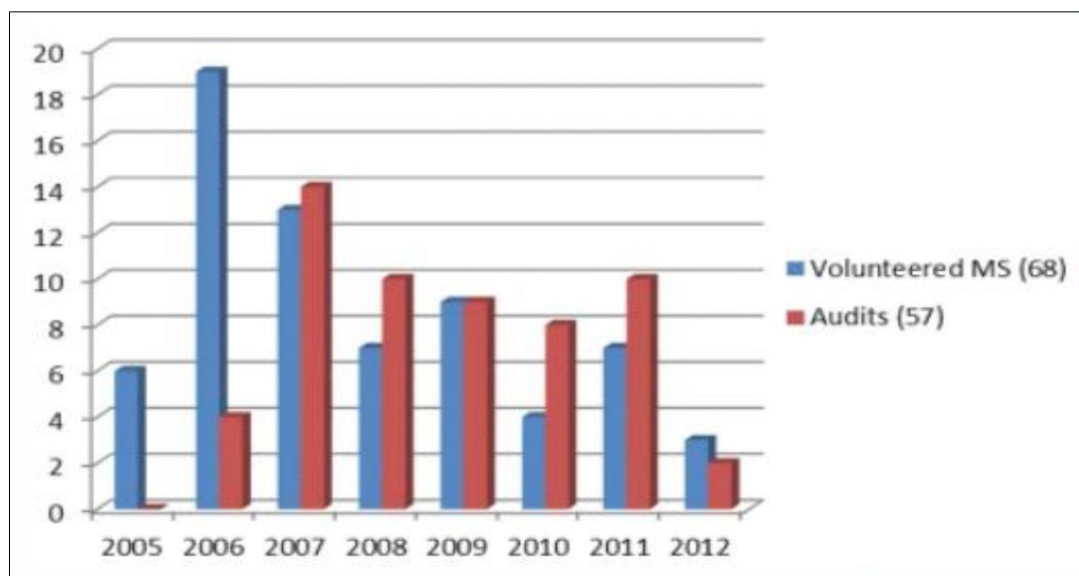
According to Resolution A.1067(28)²⁰, since audits began in 2006, quite a few Member States had volunteered to be audited. The first few States to volunteer for an audit was Denmark. Japan, Chile, Spain, the United Kingdom, and Spain followed soon after. By June 2008, (21) audits had been conducted and more than (40) States had offered their services. Countries with open registries were also included such as “Panama, Liberia, Cyprus, the Marshall Islands, Vanuatu, and Belize” (Allen, 2008).

The IMO Member State Audit presentation handout by Ms. Krilic (2012), as referenced by Zheng (2014), shows that by 2012, of the (68) States that had volunteered, (57) States had complied with the VIMSAS as shown in **Figure 4**.

²⁰ Resolution A.1067(28) - Adopted on 4 December 2013 - Framework and Procedures for The IMO Member State Audit Scheme

Figure 4

Voluntary Member States Conforming to VIMSAS



Note. From “Assessment on PSC inspection during IMSAS on implementation of MARPOL 73/78”, by Zheng, Y, 2014, Master’s thesis, World Maritime University, p.25 (https://commons.wmu.se/msem_dissertations/141/).

By the end of 2015, a total of (75) audits had been performed throughout (67) Member States (twice for a Member), (2) Associate Members, (5) dependent territories, and (16) audits that were carried out during a transitional phase (IMO, n.d.-f; Hebbar & Geymonat, 2021, p.3; Krilic, 2022, slide 7; Fresen, 2015, p.26).

2.0.4 What Is Classified as “Mandatory”

According to Oxford Learners Dictionaries, the word “Mandatory” is defined as “required by law”. Legal information institute making reference to law defines it as “something required or obligatory” and “authority that is binding and must be followed”. In *Lamesa Investments Limited v Cynergy Bank Limited*, Lamesa argued that the word “mandatory” should be construed to mean compulsory” (Stephenson Harwood, 2019).

“*Pacta sunt servanda*”, Article 26 Vienna Convention on the Law of Treaties (1969, p. 11) describes that “every treaty in force is binding upon the parties to it and must be performed in good faith” the fundamental principle of law. A State can be bound by a treaty through “signature, ratification, acceptance, approval and accession” (IMO, n.d.-c).

Barani (2006) distinguishes between a binding and a non-binding instrument as “soft law” and “hard law”. Ringbom (2008) identified recommendations, resolutions, and guidelines made by the IMO as significant soft law documents which are adopted by consensus among IMO members. Through future references to specific codes or suggestions in the key IMO conventions, their legal standing may be (and usually is) “upgraded.” However, giving the IMO resolutions in general normative consequences would not be consistent with the official status of such standards or, in many cases, the objectives that drove their development. Ringbom adds that in the absence of any particular circumstance that would strengthen the legal standing of these instruments, their legal significance will therefore primarily be determined by their *de lege ferenda* effect and the ability to influence how the “hard law” rules and standards are perceived and applied. The choice to incorporate soft law into hard law by including it in national legislation is one that the Member States make frequently thus giving the “mandatory” effect.

2.1 IMO Member State Audit Scheme (IMSAS)

There are no provisions in the IMO Convention that provide the IMO the authority to enforce things. “With the drive for greater transparency and accountability, it has often been said that IMO needs teeth to ensure compliance”. Measurement of the efficiency of IMO standards, as well as their implementation and enforcement by the Member States, became necessary given the lack of enforcement powers (Krivic, 2014, slide 4).

The IMO continues to create and execute programs to provide focused capacity-building and technical cooperation that supports, stimulates, and promotes implementation efforts, particularly those of developing nations to achieve the goal of uniform implementation.

2.1.0 The “Transition” And Development of the Mandatory Audit Scheme

The Audit Scheme is a positive indicator in strengthening the efficient execution of the requirements of the required IMO instruments, according to feedback from the States that were audited under VIMSAS “experience with VIMSAS has further reinforced our view that the scheme is crucial in raising the overall quality of shipping” as stated by Lam Yi Young, chief executive officer of the Maritime and Port Authority of Singapore (The Gleaner, 2011, para. 5).

The IMO established the IMSAS ensuring all of its Member States could carry out their commitments under international law. It was created in response to complaints that the Flag States would encourage poor shipping by failing to do their bit to ensure seafarers' welfare, safety, and the prevention of pollution. According to Fresen (2015) MSAS aims to ensure that all States perform equally so that they can function productively and preserve the reputation of IMO and its leadership position as the world's leading shipping regulator. The Secretary-General believes that the "goal of IMSAS is to eliminate substandard shipping by assessing Member States' performance in meeting their obligations and responsibilities as Flag, Port, and the Coastal States under the relevant IMO treaties and then offering the necessary assistance where required for them to meet their obligations fully and effectively" (Fresen, 2015, p. 4).

It was decided not to implement IMSAS through the formulation of a new treaty since States would first need to ratify this new treaty to be bound by the Audit Scheme. Member States would be subject to the obligations of the Audit Scheme by their participation in the other important IMO treaties rather than by ratifying a new treaty to amend the major IMO treaties presently in force (Barchue, 2009; Fresen, 2015).

Barchue (2009, p.9-10) and Fresen (2015, p.21) explain that "approximately 99.04% of the world shipping tonnage are a party to the 1974 SOLAS" therefore unless a Member State exercises its right to object to a particular change, the provisions relating to the Audit Scheme would "apply to 99.04% of the world's shipping tonnage" when SOLAS is amended to incorporate them. An amendment to SOLAS is more effective at ensuring compliance with the Audit Scheme than a new independent treaty, despite the possibility that certain States may exercise their right to protest.

10 years after the VIMSAS was first established, on December 4, 2013, the IMO Assembly's 28th session confirmed: "the transition" to IMSAS. Thus on 1 January 2016, Audits under the Scheme became mandatory with the number of IMO instruments as shown in Table 2 amended for the institutionalization of the Scheme and through Figure 5 the Development and evolution of the Audit Scheme from 2005 to 2016 is portrayed.

Table 2*Institutionalization of the Audit Scheme*

IMO Instruments	Resolution
the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 1974)	MSC.366(93)
the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, as amended (STCW 1978)	MSC.373(93)
the Seafarers' Training, Certification, and Watchkeeping (STCW Code)	MSC.374(93)
the Protocol of 1988 relating to the International Convention on Load Lines, 1966 (1988 Load Lines Protocol), as amended	MSC.375(93)
the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended (COLREG 1972)	A.1085(28)
the International Convention on Load Lines, 1966 (LL 1966)	A.1083(28)
the International Convention on Tonnage Measurement of Ships, 1969 (TONNAGE 1969)	A.1084(28)
the Annex of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973	MEPC.246(66)
Annex of the Protocol of 1997 to Amend the Convention for the Prevention of Pollution from Ships, as Modified by the Protocol of 1978 relating thereto	MEPC.247(66)

Note. From "The IMO Member State Audit Scheme (IMSAS)", by Krilic, T, 2022b, Lecture Presentation slide 18 (<https://academics.wmu.se/course/view.php?id=740>)

Figure 5

Development and evolution of the Audit Scheme

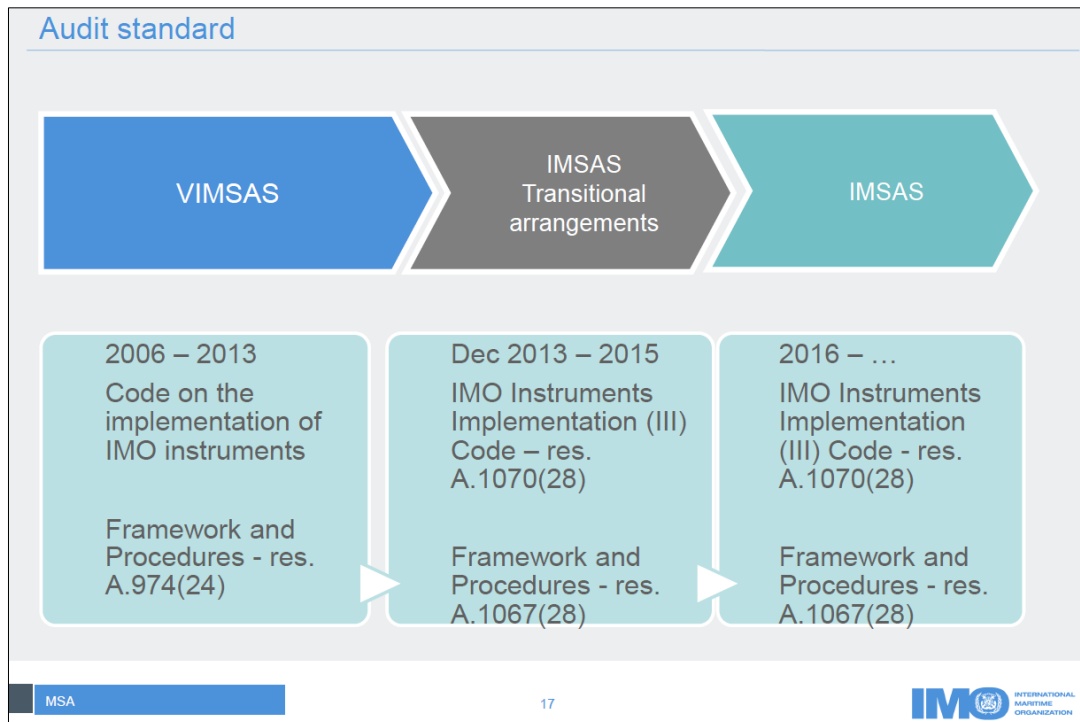
EVOLUTION OF IMO AUDIT SCHEME		
ASSEMBLY 24 – 2005	ASSEMBLY 26 – 2009	ASSEMBLY 28 – 2013
VOLUNTARY IMO MEMBER STATE AUDIT SCHEME (VIMSAS)	DEVELOPMENT OF THE MANDATORY AUDIT SCHEME	IMO MEMBER STATE AUDIT SCHEME (IMSAS)
2005 – 2013	2010 - 2015	1 January 2016
Resolution A.974(24) – Framework and Procedures	Resolution A.1018(26)	Resolution A.1067(28) Framework and Procedures for the IMO Member State Audit Scheme
Resolution A.973(24) – Code for the implementation of mandatory IMO instruments	Revised Code - IMO Instrument Implementation (III) Code	Resolution A.1068(28) Transition from the Voluntary IMO Member State Audit Scheme to IMO Member State Audit Scheme
79 Member States and two Associate Members have volunteered	Amendments to 8 instruments	Resolution A.1070(28) IMO Instrument Implementation (III) Code
59 Member States, two Associate Members and five dependent territories audited	Revised Framework and Procedures	Resolutions A.1083 (28), A.1084 (28) and A.1085 (28)
	Auditor's Manual – Circular letter No.3425	

Note. From “The IMO Member State Audit Scheme (IMSAS)”, by Krilic, T, 2022b, Lecture Presentation slide 15 (<https://academics.wmu.se/course/view.php?id=740>)

The transition from VIMSAS to IMSAS (Figure 6) was marked by amendments to the III Code (adopted in 2013), together with the corresponding IMO Resolutions addressing the Framework and procedure of the audit scheme, which has only been revised once for this purpose. The main objective of IMSAS was to offer a “comprehensive and objective assessment of how effectively a Member State administers and implements IMO instruments” (IMO, n.d.-f, para. 2). IMO promoted capacity-building and associated technical support in connection to maritime safety and the conservation of the marine environment to ensure that “Member States give full and complete effect to IMO instruments” (Zhu & Jessen, 2016; Beckam & Sun, 2007). The authors describe the “two pillars” that form the foundation of IMSAS are the Framework and Procedure for the audit scheme and the III Code.

Figure 6

Audit Standards transition from VIMSAS to IMSAS



Note. From "The IMO Member State Audit Scheme (IMSAS)", by Krilic, T, 2022b, Lecture Presentation slide 17 (<https://academics.wmu.se/course/view.php?id=740>)

2.1.1 Framework and Procedures for The Audit Scheme

2.1.1.0 The Framework

Adopted 4 December 2013 Resolution A.1067(28)²¹ as described by Zhu and Jessen (2016) the Framework being the first pillar has the overall governing strategy which comprises the goals and guiding principles that must be followed while conducting the audit. The framework seeks to build a "common platform" for the objective evaluation of the IMO Member States, and it calls on governments to "cooperate with all parties engaged." Fresen (2015, p. 22) further elaborates on the objective of the Framework as an assessment of the implementation and enforcement of legislation by the Member States to improve "maritime safety and prevent marine pollution".

Paragraph 1 of Resolution A.1067(28) articulates the purpose of the Framework "is to describe the objective, principles, scope, responsibilities and capacity-building aspect of the IMO

²¹ Resolution A.1067(28) - Adopted on 4 December 2013 - Framework and Procedures for the IMO Member State Audit Scheme

Member State audit, which together constitute the strategy for the audit scheme". The objective of the audit is to "determine the extent of implementation of the applicable IMO instruments which include:

1. safety of life at sea;
2. prevention of pollution from ships;
3. standards of training, certification, and watchkeeping for seafarers;
4. load lines;
5. tonnage measurement of ships; and
6. regulations for preventing collisions at sea" (IMO, 2013a, para 7).

The Scope outlines the "areas covered by the audit" which includes the administrative, legal, and technical areas:

1. General
2. IMO mandatory instruments
3. Obligations and responsibilities
4. Areas to be covered by the Scheme
5. Jurisdiction
6. Organization and Authority
7. Legislation, rules, and regulations
8. Promulgation of IMO mandatory instruments, rules, and regulations
9. Enforcement arrangements
10. Control, survey, inspection, audit, verification, approval, and certification functions
11. Selection, recognition, authorization, empowerment, and monitoring of ROs, as appropriate, and of nominated surveyors
12. Investigations required to be reported to IMO; and
13. Reporting to IMO and other Administrations and organizations (IMO, 2013a, sub-para 7.4).

Zhu and Jessen (2016, p.18) add that Flag State, Port State, and Coastal State are governed by (5) principles which include:

1. “Sovereignty and universality
2. Consistency, fairness, objectivity, and timeliness
3. Transparency and disclosure
4. Cooperation
5. Continual improvement”.

It is the obligation and responsibility of Member States to adopt and enforce the aforementioned through their national legislation. According to Barchue (2013) and Krilic (2022b) as indicated in Table 3, there are (5) key ACTORS that guarantee adherence to international maritime norms including:

Table 3

Key actors guaranteeing adherence to maritime norms

IMO	develop technical safety, security, and pollution prevention standards related to maritime transport;
Governments	must implement and enforce these standards;
Recognized Organization	must be impartial and exercise due diligence
Shipping Companies	responsible for applying the same standards to individual ships; and
Shipboard Personnel	has the task of putting into operation the various safety and anti-pollution measures applicable to the ship

Note. From Barchue, 2013, p.2 and Krilic, 2022b, slides 5-7

IMSAS contributes to the capacity building and technical assistance that is delivered by IMO to its Member States. Young (n.d.) in one of his regional training highlighted that the Framework for the Audit anticipates that the IMO's relevant organs will take comments from audits into consideration for two reasons:

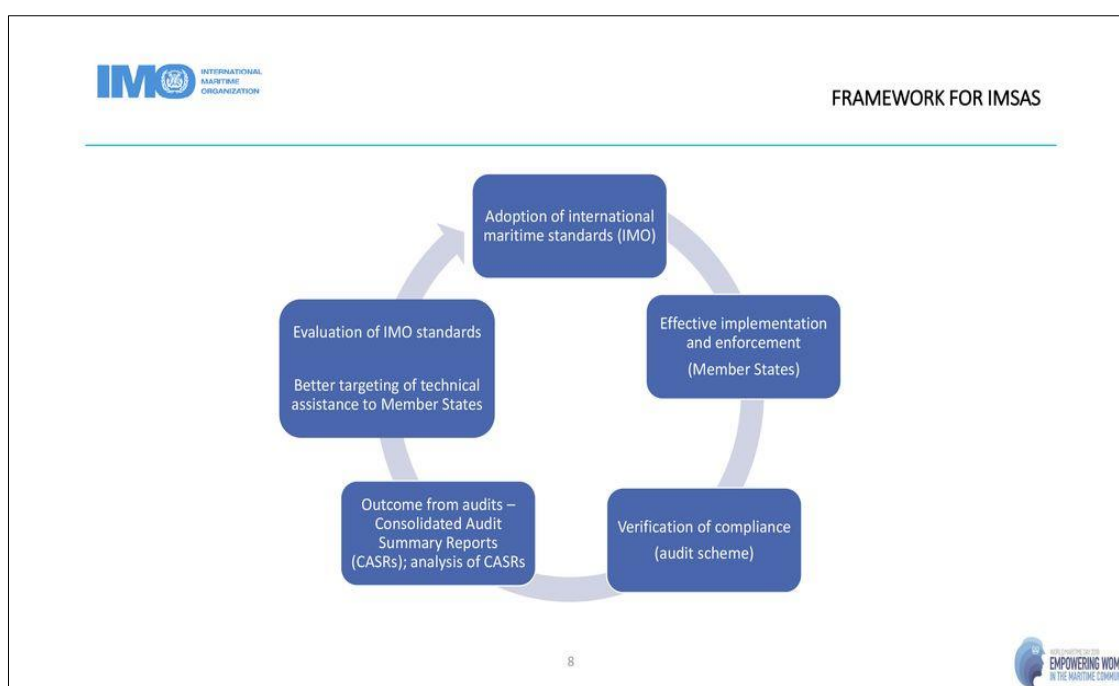
1. “to systematically feedback on any lessons learned from the audits for further consideration by the relevant organs of IMO of the effectiveness and

- appropriateness of its legislation; and
2. to foster capacity building and the provision of related technical assistance” (Slide, 8).

The Framework is similar to **Plan Do Check Act (PDCA)** cycle used for continuous improvement in organizations. Similarly, **Figure 7** shows how the performance of Members States is assessed for continual improvement.

Figure 7

IMSAS Framework Model for Member State assessment



Note. From “The Report International Maritime Organization”, by Young, C. P, n.d, Presentation slide 8 (<https://slidetodoc.com/report-international-maritime-organization-mr-colin-p-young/>)

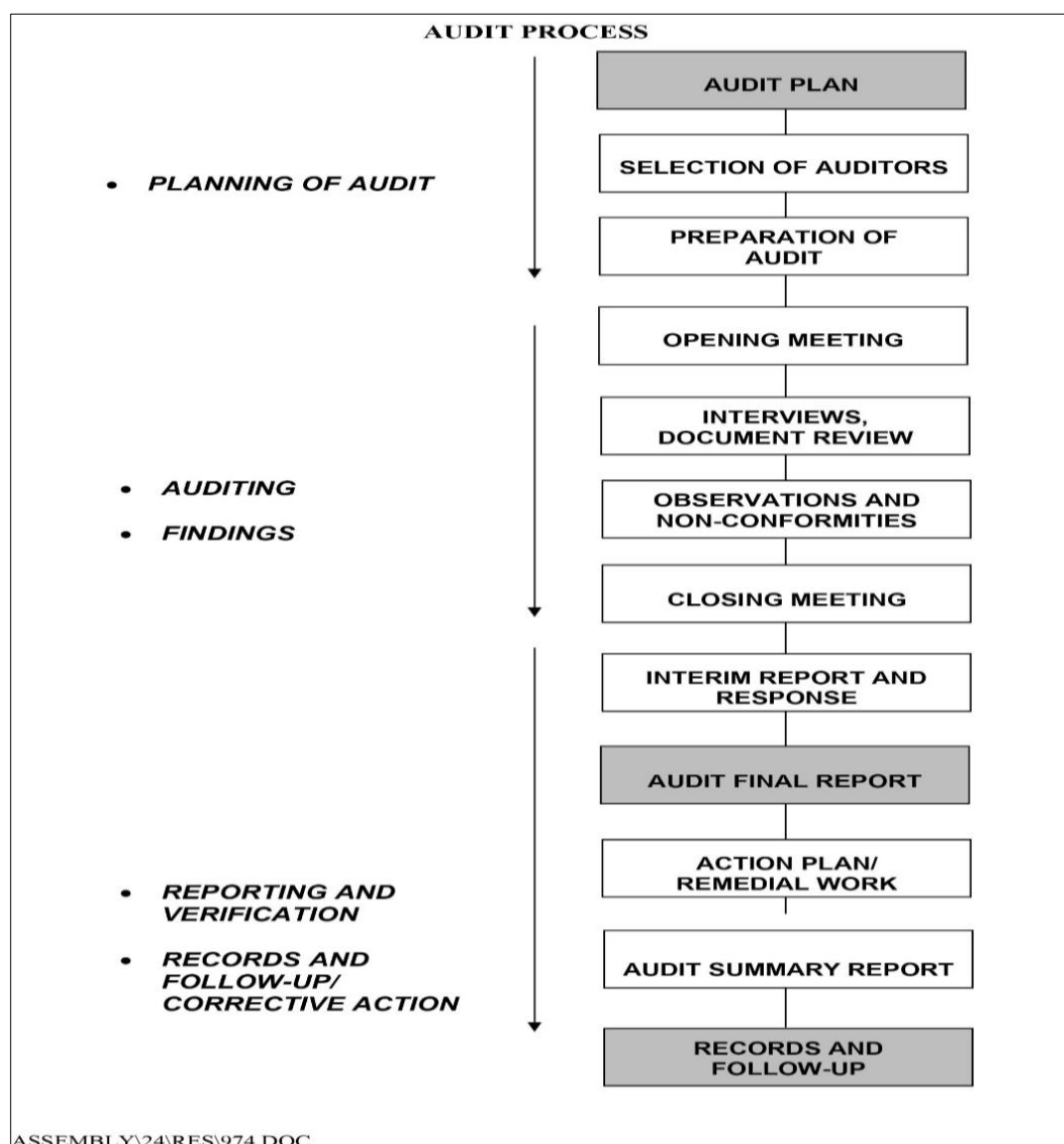
2.1.1.1 The procedure

The second pillar of the Framework is comprised of the III Code and the IMO Member State audit procedure. As described by Zhu and Jessen (2016, p.19) the Framework for IMO Member State audit outlines the whole process (5 stages) from the “initial preparation phase, **the Audit, Findings, Reporting and Verification, and Record**”. An Audit is conducted at least once every (7) years per the schedule prepared by the General Secretary. A Memorandum of Cooperation (MoC) between a Member State and the Secretary-General is completed upon the Member States' readiness and notification to the Secretary-General.

Fresen (2015, pp.23-24) adds that the audit cannot “proceed until MoC is signed and exchanged”. The Secretary-General selects an audit team with members from different geographical locations. Once the audit team is in place the rest of the audit process follows as summarized in **Figure 8** whilst the audit process is detailed in the flow chart attached as **appendix 1**. Upon completion of the audit, a follow-up audit is conducted after 3 - 4 years for the Member States and is scheduled again by Secretary General to verify the status of implementation of the State’s corrective actions (Krilic, 2022b; Fresen, 2015).

Figure 8

Flow chart of Audit Process



Note. From “Resolution A.974(24) - Framework and Procedures for The Voluntary IMO Member State Audit Scheme”, International Maritime Organization, 2005, p.14
([https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/AssemblyDocuments/A.974\(24\).pdf](https://wwwcdn.imo.org/localresources/en/KnowledgeCentre/IndexofIMOResolutions/AssemblyDocuments/A.974(24).pdf))

2.1.2 Code for The Implementation of Mandatory IMO Instruments

IMSAS introduces a required audit program for the Member States, replacing VIMSAS. The voluntary scheme simply evaluated Flag States' capacity, but the new mandated plan has a larger scope.

IMSAS's primary instrument is Resolution A.1070 (24) - IMO Instruments Implementation Code, often known as the III Code. The second pillar adopted at the 64th session by MEPC and at the 91st session of MEC revoked Resolution A.1054(27) the Code for the Implementation of Mandatory IMO Instruments, 2011. The Code was created to serve as the foundation for the "audit standard" and has listed all pertinent IMO instruments that the Member States have to adhere to. The scope as per paragraph 6 of the III Code includes the following (9) instruments:

1. "SOLAS 1974
2. SOLAS PROTOCOL 1988
3. MARPOL 73/78
4. MARPOL PROTOCOL 1997
5. STCW 1978
6. LOAD LINES 1966 (LL66)
7. LL 66 PROT 1988
8. TONNAGE 1969
9. COLREG 1972" (Krilic, 2022b, slide 20; IMO, 2013b, p4).

The III Code depicts the many standards dispersed throughout an enormous amount of IMO treaties and instruments by assembling them into four main parts: **Common Area, Flag States, Coastal States, and Port States** (Guggisberg, 2020). All Member States are audited per the Code to determine whether the States have the ability and resources to carry out their obligations under the four provisions. The Member States are assessed for the implementation, enforcement of IMO instruments, and evaluation for continuous improvement.

2.1.2.0 Common Area

The objective of the Code in paragraphs 1 and 2 is the same as VIMSAS "to enhance global maritime safety and protection of the marine environment and assist States in the implementation of the instruments..." (IMO, 2013b, p4). An Administration is only bound by the instruments to which it is Party as there may be different circumstances in different States.

Whilst paragraph 3 of the Code recommends a State to:

- Develop an overall strategy to ensure that its international obligations and responsibilities are met;
- Establish a methodology to monitor and assess that the strategy ensures effective implementation and enforcement of relevant international mandatory instruments; and
- Continuously review the strategy to achieve, maintain and improve the overall organizational performance and capability (IMO, 2013b, p4).

Treaty law (UNCLOS) is not an IMO mandatory instrument, it is an "umbrella convention" hence the audit is carried out against relevant mandatory IMO instruments and not against UNCLOS as articulated in paragraph 6 of the Scope and paragraph 7 for the Areas covered by the audit.

According to the III Code, a State Party as required by the MO instrument must possess the ability to:

1. Through appropriate national law;
2. execute and enforce its provisions.; and
3. have required infrastructures for implementation and enforcement.

Preserve the records, defined procedures, and preventative measures in place to avoid non-conformities, as well as communicate information to the IMO when needed (IMO, 2013b, p5).

2.1.2.1 Flag State

The obligation of the Member State to guarantee the safety and environmental compliance of the ships that sail under its Flag lies at the very core of the IMO audit. From this fundamental rule flow all other IMO laws. Therefore, even when inspection duties are delegated to other entities, the Member State still needs to ensure that the IMO instruments are being followed (Coutu, 2016). In addition, III Code covers:

Legislation → policies → responsible parties → resources and processes → implementation.

Paragraph 15 of the Code articulates the “responsibility and obligation of Flag State to effectively discharge its duties:

1. implement policies through issuing national legislation and guidance, which will assist in the implementation and enforcement of the requirements of all safety and pollution prevention conventions and protocols to which they are a party; and
2. assign responsibilities within their Administrations to update and revise any relevant policies adopted, as necessary” (IMO, 2013b, p.6).

According to paragraph 16 of the Code, the Flag State must set up the procedures and resources necessary to manage safety and environmental protection. Zhu and Jessen (2016, p.11) add that the Flag State must put in place the essential protective measures and legal framework to ensure the requirements derived from the mandatory IMO instruments are effectively enforced. Examples include providing penalties, including fines for severe violations of international rules, regulations, and standards guaranteeing through national legislation the effectiveness of the enforcement mechanism, and having enough competent people for implementation and enforcement of national legislation.

According to the III Code, authorized entities (recognized organization) may be given responsibility for inspection and surveying however these is delegated by the Flag States when the requirements are met by the RO Code.

To assess whether staffing, resources, and administrative procedures are sufficient to fulfill its obligations, the performance of the Flag State is evaluated using a variety of performance indicators, including:

1. accident rates;
2. Port State Control detention rates;
3. Flag State Inspection results;
4. Casualty investigation;
5. Maritime pollution rate;
6. Inspection rate;
7. Issuance, Endorsement, cancellation of certificates (IMO, 2013b, para 44, p13).

2.1.2.2 Coastal State

These are the areas where the Member States guarantee the protection of people and ships along their coastlines. The Coastal States are subject to certain duties and rights. They bear

additional obligations when using their rights and create policies and regulations that assist in carrying out and upholding responsibilities (IMO, 2013b; Coutu, 2016). The rights, obligation, and responsibility of the Coastal States as per the Code includes:

1. "Radio communication services;
2. Meteorological services and warning;
3. Search and rescue;
4. Hydrographic services;
5. Ships' routing;
6. Ship reporting system;
7. Vessel traffic services; and
8. Aids to navigation" (para 48, p.14).

According to paragraphs 49-51 of the Code, the Coastal State must take essential steps to ensure when exercising its rights and upholding its commitments, international laws are followed. Have control and monitoring measures in place to regularly assess its effectiveness and ongoing improvements. An example given by Dr. Schröder –Hinrichs (2015) of the Coastal State obligation is the Search and Rescue operation by the Chilean Navy Centre that rescued (54) crews when the Explorer collided in Antarctic water with an iceberg in November 2007.

According to Zhu and Jessen (2016, p.12), to enable bilateral or multinational collaboration when examining marine casualties, the Flag States and Coastal governments are expected to work together in the execution of a monitoring plan, have a method of data collecting and having a prompt reaction to problems in the appropriate area of responsibility.

2.1.2.3 Port State

Port State Control is the process of inspecting foreign ships in domestic ports to make sure they are crewed and run in compliance with international standards and that their equipment, criteria, and condition are met. The Port State Control inspection was initially created as a corrective measure or as a constrained set of processes that the Port States might implement to address problems with the use of Flag State authority for foreign ships freely entering ports (Molenaar, 2007; IMO, n.d.-i).

Resolution A.682(17) on Regional cooperation in the control of ships and discharges and Procedures of Port State Control 2007 was adopted by IMO for effective enforcement of PSC

measures. In addition, (9)²² regional agreements on Port State control MoUs is in place with the United States Coast Guard maintaining the 10th PSC regime (IMO, n.d.-i).

IMO held (6) workshops for PSC MoU/Agreement secretaries and database managers, which were paid for by the IMO Technical Cooperation Fund, to support regional PSC regimes. These workshops provided a venue for interaction, a chance for people to share expertise, and a venue for collaboration (IMO, n.d.-i).

Among other things, paragraphs 52 - 56 of the Code outline the rights, obligations, and responsibilities including:

1. "provision of appropriate reception facilities or capability to accept all waste streams regulated under the instruments of the Organization.
2. port State control.
3. keeping a register of fuel oil suppliers" (IMO, 2013b, pp. 14-15).

Resolution A.1157(32)²³ enacted on December 15, 2021, supports the code. A non-exhaustive list of IMO Instruments Implementation and its annexes - **Figure 9** is a tool used for gap analysis by the Member States.

Figure 9

Annexes of Non-Exhaustive List of Obligations Under Instruments Relevant to the IMO Instruments Implementation Code (III Code)

Annex 1:	OBLIGATIONS OF CONTRACTING GOVERNMENTS/PARTIES
Annex 2:	SPECIFIC FLAG STATE OBLIGATIONS
Annex 3:	SPECIFIC COASTAL STATE OBLIGATIONS
Annex 4:	SPECIFIC PORT STATE OBLIGATIONS
Annex 5:	INSTRUMENTS MADE MANDATORY UNDER IMO CONVENTIONS
Annex 6:	SUMMARY OF AMENDMENTS TO MANDATORY INSTRUMENTS REFLECTED IN THE NON-EXHAUSTIVE LIST OF OBLIGATIONS (ANNEXES 1 TO 4)
Annex 7:	AMENDMENTS TO IMO INSTRUMENTS EXPECTED TO BE ACCEPTED AND TO ENTER INTO FORCE BETWEEN 1 JANUARY 2020 AND 1 JULY 2020

Note. From "The IMO Member State Audit Scheme (IMSAS)", by Krilic, T, 2022b, Lecture Presentation slide 18 (<https://academics.wmu.se/course/view.php?id=740>)

²² Paris, Tokyo, Acuerdo de Viña del Mar, Caribbean, Abuja, Black Sea, Mediterranean, Indian Ocean, and the Riyadh MoU

²³ Resolution A.1157(32) 2021 - Non-Exhaustive List of Obligations Under Instruments Relevant to the IMO Instruments Implementation Code (III CODE)

2.2 IMO Member State Capacity Building and Technical Assistance Measures

Through UN General Assembly Resolution, A/RES/50/120 Article 22, the United Nations in 1996 declared capacity development to be not only a strategy for development but also a crucial path through which development occurs (Vallejo & When, 2016). Similarly, Brown et al. (2001, p.3) define Capacity as “the ability to carry out stated objectives”. The authors posit the view that capacity building is a “multi-dimensional and dynamic process” that leads to improvement in the performance of an individual, group, or organization in meeting the objective.

IMO to achieve its Mission, Vision, and Sustainable Development Goals organizes through its technical cooperation division a series of regional workshops and capacity-building training to assist Member States to implement applicable IMO instruments.

As a new strategic plan, the Assembly adopted three resolutions that focus on IMO’s capacity-building work to support the implementation of the UN Sustainable Development Goals. A key strategic direction for IMO is to improve implementation ensuring regulations are effectively, efficiently, and consistently implemented and enforced. (IMO, 2017, para. 3).

In addition, IMO has (5) regional coordinators to assist the Member States. The locations include:

Abidjan, Côte d’Ivoire for the west and central Africa (Francophone); Accra, Ghana for the west and central Africa (Anglophone); Nairobi, Kenya for eastern and southern Africa; Manila, the Philippines for East Asia; and Port of Spain, Trinidad and Tobago for the Caribbean. IMO also funds one Technical Cooperation Officer within the Pacific Community (SPC), based in Suva, Fiji (IMO, n.d.-j, para. 4).

IMO has founded the World Maritime University (WMU) and the International Maritime Law Institute (IMLI) to further research and education in maritime issues. These institutes also offer training for capacity-building and technical support. Graduates from both institutes through their endeavors also assist IMO in achieving its objective. Mr. Kitack Lim Secretary

General of IMO, Mr. Moin Ahemd, Director General, International Mobile Satellite Organization, H.E. Dwight C. R Gardiner OBE Ambassador Extraordinary and Plenipotentiary, Director\ Registrar General, Antigua, and Barbuda Flag administration are few of many alumni of WMU setting examples.

2.3 Challenges Under the Mandatory Scheme

Ms. Krilic during her special lecture for Maritime Law and Policy students this year delivered some of the challenges that are faced by IMO through the Mandatory audit of the Member States as shown in table 4 and remedies by IMO to overcome the challenges.

Table 4

Challenges Under the Mandatory Scheme and its Remedies

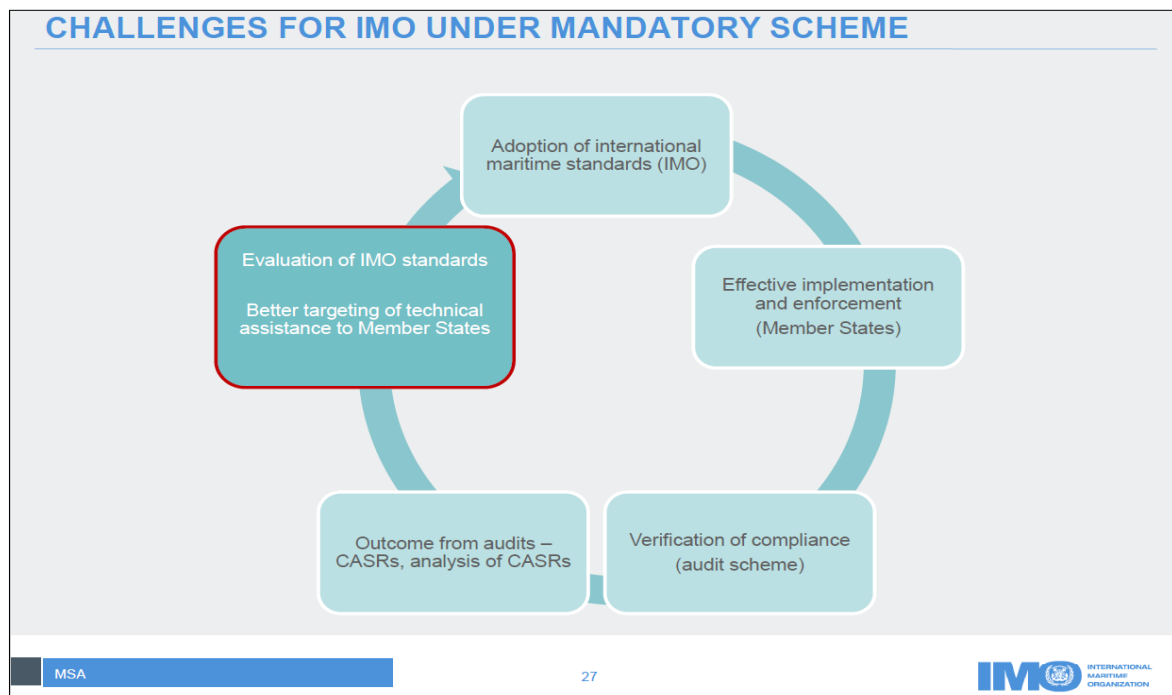
Challenges	Possible Solution
<p><i>Competency of auditors and Conduct of audit</i></p> <p>With (25) audits scheduled a year for the cycle of (7) years, the difficulty in setting up the audit team with appropriate qualifications and having to work with the same resources and capability of auditors as during VIMSAS. The lack of experienced and qualified auditors and the lack of enforcement of IMO instruments continue to be the biggest challenge.</p>	<p>IMO continues to train more auditors and the Member States through capacity building and technical assistance. Through remote audit methodology, more auditors can be trained.</p>
<p><i>Communication and feedback to IMO</i></p> <p>Noting that the audit schedule is prepared and established by the Secretary-General, uncertainty if Member States would be prepared for the scheduled audit as some Member States do not respond to the notification for audits by IMO. In addition, some countries do not communicate their feedback on their implementation of corrective actions thus difficulties in scheduling follow-up audits noting the limitation in resources.</p>	<p>The Member State Audit Module has been created to offer assistance from the planning stages of the audit through the reporting phases, helping to improve the efficiency with which audits are carried out and the controlled distribution of audit results to all Member States.</p>
<p><i>Pandemic</i></p> <p>Disruption due to the pandemic has caused delays and rescheduling of (24) audits from 2020.</p>	<p>As a contingency measure, IMO has rescheduled audits with the adoption of a remote audit methodology.</p>

Note. Adapted from “The IMO Member State Audit Scheme Experience and Challenges”, by Krilic, T, 2022a, Lecture Presentation slides 23/24 (<https://academics.wmu.se/course/view.php?id=740>)

IMO through the model of continuous improvement model as shown in Figure 10 intends to overcome the challenges under the mandatory scheme for effective implementation and enforcement of IMO instruments by the Member States.

Figure 30

Challenges for IMO under Mandatory Scheme

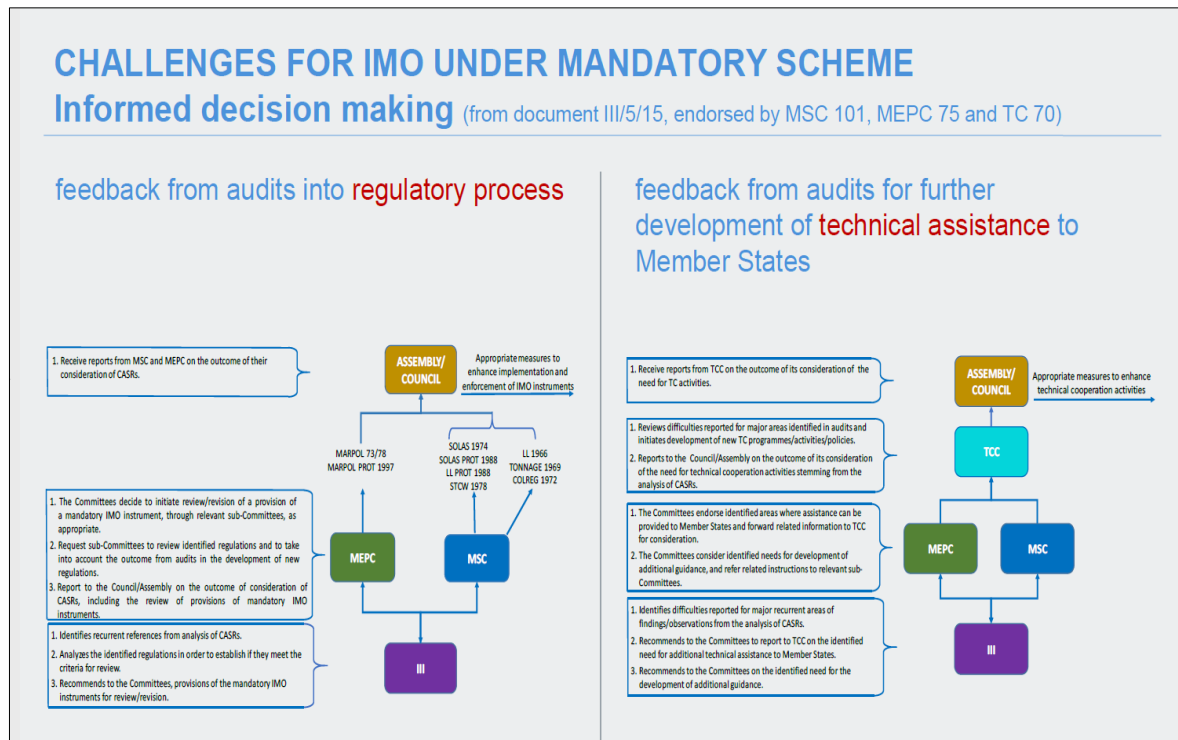


Note. From “IMO Member State Audit Scheme Experiences And Challenges”, by Krilic, T, 2022, Lecture Presentation slide 27 (<https://academics.wmu.se/course/view.php?id=74>)

During the 5th session of the Sub Committee on the implementation of IMO instruments (III 5) and at MSC 101 and MEPC 75, the approval of the regulatory process model as illustrated in Figure 11 was done for IMO to make informed decisions and provide technical assistance to the Member States by critically analyzing the audit reports, feedback from audits and lesson learned.

Figure 11

Informed Decision-Making Process



Note. From “IMO Member State Audit Scheme Experiences and Challenges”, by Krilic, T, 2022, Lecture Presentation slide 25 (<https://academics.wmu.se/course/view.php?id=740>)

Conclusion

Obligations under several IMO treaties, Member States' accountability is established and strengthened through the audit program. Additionally, it inadvertently supports the demand that States fully carry out the obligations they have under UNCLOS by improving the application and enforcement of the IMO's global shipping standards.

It is plausible to assume that the audit plan will have several advantages, such as highlighting the areas where capacity-building would be most effective. The ability to focus on the right actions to boost performance would be significantly increased. The Member States would get insightful input that would help them become better equipped to implement the relevant instruments.

Chapter 3 – IMPACT OF PANDEMIC ON THE PACIFIC ISLAND MEMBER STATES

3.0 Pandemic – COVID -19

The term "pandemic", which refers to an illness that affects several countries and sometimes continents, is derived from the Greek terms "pan", which means "all" and "demos", which means "the people" (Qiu et al., 2017; Morens et al., 2009). Morens et.al (2009) describes that back in 1666 the word "Pandemick" was interchangeably used with "Epidemick" and now the modern definition refers to as either "pandemic" or "epidemic" whilst the World Health Organization (WHO) as cited by Qiu et al. (2017) defines a pandemic as a circumstance when a revolutionary contagious viral variant to which none (or very few) human populations has immunological resistance develops a foundation in the human population before spreading quickly across the globe.

According to Qiu et al. (2017) and Grennan (2019), the history of pandemics goes back to the 20th century with the " Pandemic of "Spanish" influenza in 1918–19, which claimed 50 million lives worldwide, the "Russian influenza" of 1889–93, "Asian flu" in 1957-1958, and "Hong Kong flu" in 1968-1969, the bubonic plague (also known as the "Black Death") in the 14th century, the SARS virus in 2003 and HIV/AIDS, the H1N1 virus in 2009 claimed lives of millions of people and affecting the world economy. In addition, Maurice (2016) adds as cited by Qiu et al. (2017) the pandemic Zika 2015 – 2016 "killed more than 11 000 people costing the world more than USD 2 billion as per World Bank Calculation". This indicates that viruses or pandemics regenerate and evolve given their long history.

Wuhan China reported an outbreak of the coronavirus disease in December 2019 (COVID-19), which the WHO declared a pandemic on March 11, 2020, as it spread globally (Zhang et al., 2020; Spinelli & Pellino, 2020; Adedoyin & Soykan, 2020). Baker et al. (2020) describe the impact of the COVID-19 pandemic much greater than the "Spanish Flu".

Padhan and Prabheesh (2021) label it as a very contagious and dangerous viral illness classified as a worldwide pandemic. COVID-19 is regarded as a "pathogen of the century" with a mortality risk of (1%), worse than the ordinary influenza risk since it infects both healthy

adults and elderly individuals. This fatality risk is comparable to the Spanish flu of 1918 (2%) and the influenza pandemic of 1857 (0.6%). Writers further add that the exponential pace of the spread of this illness suggests that COVID-19 will be a more catastrophic pandemic than before.

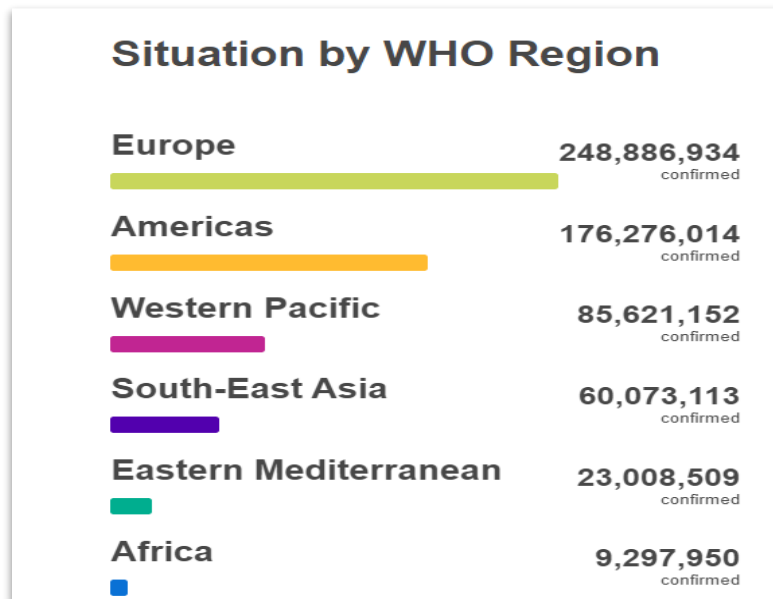
WHO with many institutions had been working on developing vaccines that could eradicate the COVID-19 pandemic with the first human trial for the vaccine in March 2020. Soon after other manufacturers were seen developing vaccines for the world to return to normalcy. However, various individuals and organizations around the world had shown differences in vaccine uptake and reluctance which slowed the recovery (Shakeel et al., 2022). Fisayo and Tsukagoshi (2021) in their study stated “the quality and quantity of short and mid-term immune responses to these different COVID-19 vaccine regimens are currently limited and real-world studies are urgently needed to develop rational and efficient vaccination schedules for the long-term protection”.

According to WHO Director, “COVID-19 is a powerful demonstration that a pandemic is so much more than a health crisis [...] it illustrates the interconnectedness between health and the economy, security, education and there are many lessons to learn about what has worked and what has not” (Feldscher, 2022, para. 3).

“Globally, as of 5:54 pm CEST, 6 September 2022, a total of 603,164,436 confirmed cases of COVID-19” had been recorded with the Europe region recording the highest number of active cases as shown in Figure 12. The statistics from WHO show that as of 1 September 2022, a total of **6,482,338 deaths** reports and a total of **12,478,615,692 vaccine doses** have been administered” (WHO, n.d.-a).

Figure 42

COVID -19 Data by Region as of 6 September 2022



Note. From “Global Situation - WHO Coronavirus (COVID-19) Dashboard,” by World Health Organization, n.d.-a (<https://covid19.who.int/>)

Within two years, the pandemic imposed significant restrictions on international activity. Institutions, businesses, and outdoor activities were compelled to shut down and alternative modes of communication such as internet platforms have since been established for business continuity (Adedoyin & Soykan 2020). Many nations implemented measures to prevent the transmission of disease in reaction to COVID-19 and to stop the pandemic, including social isolation, travel restrictions, and the closing of international borders (Red Cross, 2020). Devi (2020) estimates that about (130) nations placed restrictions on travel, including screening, quarantine, and a prohibition on leaving high-risk areas. Nearly (90%) of passenger aircraft operated by airlines had been grounded since the COVID-19 pandemic began.

The Prolonged duration of COVID – 19 had led many businesses and intuitions to have a remote platform for business continuity. In Canada, research by Gallacher and Hossain (2020) shows that (41%) of work can be done remotely, similarly, a study by Craft (2020, p.229) emphasized that for “successful remote work, technology access, including hardware, software with internet connectivity is very critical”.

3.1 COVID 19 – Pandemic in the Pacific States

The States in the Pacific were preparing and taking precautions when the Pacific’s first case was reported in French Polynesia a day after WHO had declared a COVID-19 pandemic. Unfortunately, the virus had reached the shores of the other Pacific States such as Fiji, New Caledonia, and Papua New Guinea (Filho, 2020). Since the declaration of the pandemic in March 2020, almost all Pacific Islands Countries had reported COVID -19 and still have active cases. Table 5 details the current status of the Pacific region as reported by WHO as of **6 September 2022**.

Table 5

Covid – 19 Cases Across the Pacific Region

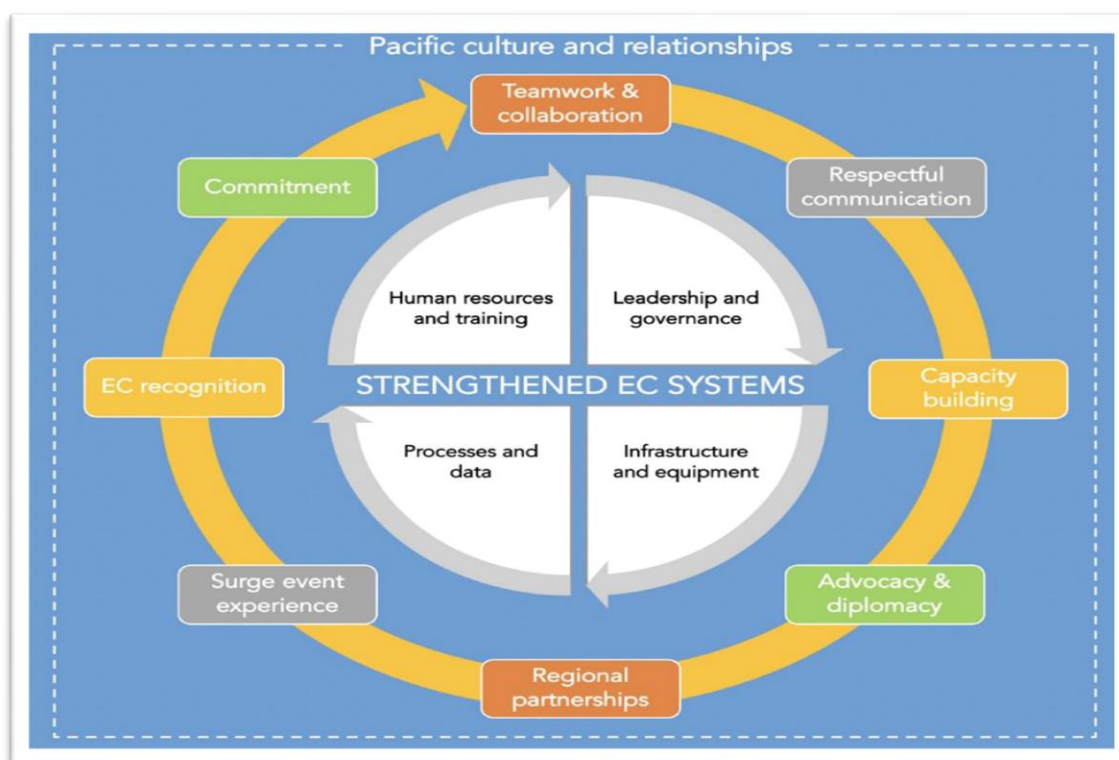
Pacific Island Countries	Cases – Cumulative Total	Cases – Newly reported in the last 7 days	Deaths Cumulative total	Deaths – newly reported in the last 7 days	Total Vaccine doses administered per 100 population
Australia	10,075,722	69,859	14,077	318	247.76
New Zealand	1,734,684	12,313	2,861	66	242.02
Fiji	68,195	42	878		171.46
Papua New Guinea	44,896	16	664		5.35
Solomon Islands	21,544		153		75.09
Tonga	15,964		12		190.82
Samoa	15,839		29		221.28
Marshall Islands	15,063	144	17	1	171.85
Vanuatu	11,864	78	14		84.75
Federated States of Micronesia	8,776	1,450	27	1	145.78
Cook Islands	6,373	108	1		225.53
Palau	5,403	55	6		265.36
Nauru	4,610		1		212.07
Kiribati	3,430		13		212.07
Niue	80	1			133.85
Tuvalu	20				201.37

Note: Adapted from “Situation by Region, Country, Territory & Area - WHO Coronavirus (COVID-19) Dashboard,” by World Health Organization, n.d. (<https://covid19.who.int/table>)

Country lockdowns with board closure, quarantine requirements, strict domestic curfews with proper use PPEs, and mandatory use of masks and vaccination drives were some of the quickest mitigating measures put in place by all Pacific Islands. The health system was put to test, Herron et al. (2022) in their research identified that emergency care (EC) systems were challenged by COVID-19 as this is very much evident with the number of active cases in Australia and New Zealand regardless of having well developed EC. Herron et al. (2022) further add that EC systems of other Pacific Island Countries' are underdeveloped or constrained and both pre-hospital and facility-based EC, however, continued operating "business as usual" despite frequent shortages of resources, tools, and skilled personnel. The writers investigated that due to strong Pacific regional pandemic response framework as illustrated in Figure 53 led to overcoming the challenging COVID-19 situation in the Pacific.

Figure 53

Factors Contributing to Strengthened Emergency Care (EC) Systems in PICTS



Note. From "The Lancet Regional Health - Western Pacific - When all else fails you have to come to the emergency department": Overarching lessons about emergency care resilience from frontline clinicians in Pacific Island countries and territories during the COVID-19 pandemic" by Herron et al., 2022, Science direct Journal (<https://doi.org/10.1016/j.lanwpc.2022.100519>)

Support from other Governments and agencies provided additional assistance for countries such as the Funding to the Federal State of Micronesia and Palau from the Government of Japan through WHO (WHO, 2022c) while the World Bank in the “wake of COVID -19 pandemic provided emergency operation assistance to Fiji, Kiribati, Marshall Islands, Papua New Guinea, Samoa, Tonga and Vanuatu” (World bank, 2020, para. 1).

In addition, the necessity to contain COVID-19 resulted in limitations on the entry and exit of a key maritime transport corridor, as well as restricted or controlled travel within the nations. Due to containment procedures and tight quarantine regulations that were put in place, passenger shipping services between islands and marine tourism were largely discontinued by the Pacific Island States. A report by the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) (2020), revealed several COVID-19-related protocols that were put in place at the Ports of Asia and the Pacific. Some of the protocols include:

1. Keeping cargo ports operational while closing cruise ports;
2. 14 days’ quarantine from the day of departure for vessels arriving from countries affected by the pandemic;
3. Additional safety measures for seafarers who have travelled to affected areas;
4. Allowing cargo to be transported directly to manufacturing plants without entry into the terminal to avoid delayed unloading and shortage of storage space at seaports driven by the concentration of imports;
5. Prohibiting disembarkation and change of sea crews;
6. Strict protocols while transporting goods to outer islands;
7. Strict quarantine measures of the crew disembarkation were allowed (p.7).

Countless efforts were made by nations in the Pacific region to stop the pandemic with different actions made at the national level. Hence, the Pacific Humanitarian Pathway on COVID-19 (PHP-C) was formed and operationalized in meetings of the Pacific Islands Forum (PIF) by the Foreign Ministers and Regional Taskforce in collaboration with the United Nations, World Health Organization, World Food Programme, Council of Regional Organizations in the Pacific agencies and other organizations in recognition of the significance of a harmonized and integrated regional response – a “Pacific response” to pandemic (Pacific Tourism Organization, n.d.; United Nations, 2021).

According to United Nations (2021), “*The Biketawa Declaration*” a framework was created in 2000 for harmonizing responses to regional emergencies and in response to COVID-19 by leaders of the Pacific Islands Forum. “*The Biketawa Declaration*” emphasizes that during times of emergency, all decisions should be made with the understanding that the Pacific countries comprise a large family of Island States as “This is the Pacific Way”. This idea implies that all homes have a moral obligation to look out for their neighbors and residences.

3.2 The Impact of COVID-19 Pandemic on IMSAS Audits

COVID- 19 pandemic brought many challenges to IMO and its Member States, however for global trade to continue and to avoid uncertainties for the maritime industry, IMO continued to issue circulars on ships, seafarer’s certification, medical certification, crew change, recognized organization, maritime and the Member States audits and so forth to assist shipping industry in the difficult situation of the pandemic. The Member States also communicated to IMO on measures undertaken by the States in carrying out their obligation during the pandemic which IMO published as circulars for information of other Member States. According to Zhang and Sun (2021), a historic record of a total of (352) circulars was issued by IMO between January 2020 to July 2021 “providing comprehensive guidance and advice to the Member States and the shipping community”.

According to the **A 32/10**²⁴, the closure of international borders with some countries having strict quarantine requirements and organizations having work-from-home policies to eradicate the spread of the pandemic led Member States to postpone their IMSAS. For the year 2020, only (1) audit was conducted whilst the rest was postponed to 2021. A total of (24) the Member States for 2021 and (25) Member States for 2022 had their audit postponed to 2022 and 2023 respectively due to the impact of COVID -19 (IMO, 2021a, p. 2).

For the Pacific Island States, Nauru, and the Cook Islands audits scheduled for 2022 and 2023 have been rescheduled for 2024. Follow-up audits that are conducted after 3 - 4 years of the original audit will be conducted for the following Pacific Island Member for the audits completed in:

2016 – PNG

2017 – Vanuatu, Kiribati

2018 – Fiji, Samoa

2019 - Tuvalu, Tonga, Solomon Islands, and Palau.

²⁴ A 32/10 (1 October 2021) - Report on the implementation of the Scheme

3.3 IMO's Mitigation Towards Pandemic

Feedback received by the Secretariat from the Member States (attached as appendix 4 and 5) that were to be audited in 2021, (19) Member States showed the wiliness and had the resources to proceed with a remote audit compared to (4) that preferred on-site audit (IMO, 2021d, pp. 3-4). The first remote audit for Member States (the United Kingdom and Denmark) was conducted in the second half of 2021 through the method of virtually viewing facilities and processes. The audited Member States showed a significant dedication to the audit scheme by investing a lot of time and resources in evaluating and perfecting the administrative processes put in place to execute the remote audit mechanism (IMO, 2021c). This provided some assurance that remote audits can work.

The IMO Council at its 32nd extraordinary and 125th session from 28 June 2021 to 13 July 2021 endorsed remote audit as “an interim measure” during the COVID-19 pandemic. The audit is to be carried out using the present Framework and Procedures for the IMO Member State Audit Scheme (Resolution A.1067(28)), where possible, on-site audits may be conducted. The Council also approved the use of “additional pre-audit information” together with a “pre-audit questionnaire” and remote audit timetable for ease of work and communication during a remote audit. The audit would be (5) hours per day with a duration of (8) to (10) days compared to a traditional (5) days audit. The auditors would be given (2) days to prepare and issue an interim report. The Council further added that MoC which has already been signed for the Member States will be amended to reflect the methodology of the audit as remote (IMO, 2021e).

According to **A 32\10**, after the feedback from the Member States, audits of (25) Member States have now been included in the updated schedule for 2022, and audits of (22) Member States have been included in the updated audit schedule for 2023. Audits scheduled for 2022 and 2023 have generally been confirmed as remote audits in case the on-site audit is not feasible due to the prevailing conditions in international travel, with certain exceptions, audits of (34) the Member States and (1) Associate Member have been rescheduled from 2023 to 2024 (p.2).

Subsequently the postponement of several audits due to the pandemic, the Council submitted the amended overall audit schedule for the Member States under the IMO Member State Audit Scheme to the 32nd regular session of the Assembly (included in appendix 2). The Council at its 127th Session on 10 June 2022, noted that “(5) audits, including (2) hybrid audits were conducted in 2022 for Canada, Namibia, Maldives, Saudi Arabia, and the United States, with strong demonstration and commitment for implementation of the remote audit mechanism by all audited States” (IMO, 2022, p. 2).

IMO's Department for Member State Audit and Implementation Support team organized a virtual meeting for the discussion of remote audit as an alternative due to distribution caused by COVID -19. There were (56) attendees from (34) Member States at the meeting on 8th July 2021. (94) auditors from (54) Member States also attended a virtual meeting organized by IMO in September 2021 to discuss, and share opinions and experience on the remote audit methodology as approved by the Council (IMO, 2021b).

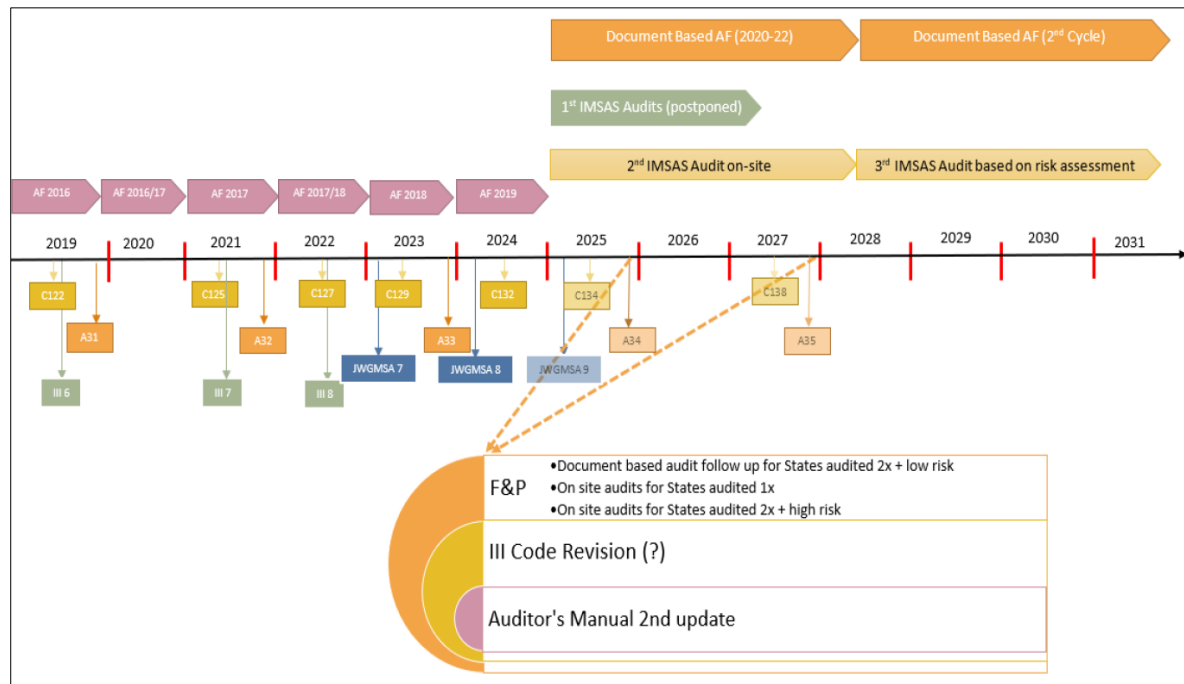
According to **C 127/12/1**²⁵ (p.2), on February 2022, IMO organized additional (2) virtual meetings for the SPCs in the Member States and the other for IMO auditors upon completion of the hybrid audit conducted in January 2022.

IMO believes that “Continuity in the IMSAS is key to promoting the consistent and effective implementation of the applicable IMO instruments and to assist the Member States to improve their capabilities as Flag, Coastal and the Port States” hence with current challenges, few key supporting decision were made and IMO has planned for the audit scheme's ongoing evolution as shown in Figure 64 (Krilic, 2022b, slide, 25).

²⁵ Council Meeting 127th session - 10 June 2022 - Experience gained from the implementation of the remote audit mechanism

Figure 64

IMO's Projection into the Future



Note. From "The IMO Member State Audit Scheme (IMSAS)", by Krilic, T, 2022b, Lecture Presentation slide 26 (<https://academics.wmu.se/course/view.php?id=740>)

Chapter 4 - FINDINGS AND DISCUSSION

Introduction

This section discusses the research results concerning the objective of this study as outlined in Chapter 1. Data and information received from interviews and questionnaires are analyzed with the research questions and compared with the results of IMO for the feedback received from Member State and IMO auditors.

The consolidated audit summary reports for VIMSAS and IMSAS is also discussed to give a preview of the concern areas for the IMO as repetitive findings are noted and the need for IMSAS to continue even in time of pandemic to ensure the Member States effectively implement and enforce mandatory IMO instruments.

4.0 Data Analysis

4.0.1 Overall Audit Performance

VIMSAS commenced in 2006 and by the end of 2015 total of (75) audits had been completed. According to **III 3/INF.29**²⁶ (p. 1), IMO (n.d.-f), Hebbar and Geymonat (2021, p.3), Krilic (2022b, slide 7), and Fresen (2015, p.26) (59) audits were conducted during VIMSAS, and (16) audits were conducted during the transitional yielding “(762) findings (301 non-conformities and 461 observations) and (563) root causes with an average of (10.2) findings per audit” based on the audits conducted for (67) Member States (one Member twice), (2) Associate Members, and (5) dependant territories”.

IMSAS commenced in 2016 and by 2019 according to **III 7/INF.27**²⁷ (p. 1) audits of (67) Member States and (1) Associate Member (corresponding to around 38% of the Organization's Membership) was completed per the Framework²⁸ and the III Code²⁹ which

²⁶ III 3/INF.29 - 13 May 2016 - Sub-Committee on Implementation of IMO Instruments 3rd session Agenda item 7 - Analysis of consolidated audit summary reports issued under the voluntary phase of the Scheme

²⁷ III 7/INF.27 - 6 May 2021 - Sub-Committee on Implementation of IMO Instruments 7th session Agenda item 7 - Analysis of four consolidated audit summary reports under the IMO Member State Audit Scheme (IMSAS)

²⁸ Resolution A.1067(28) - 5 December 2013 - Framework and Procedures for The IMO Member State Audit Scheme

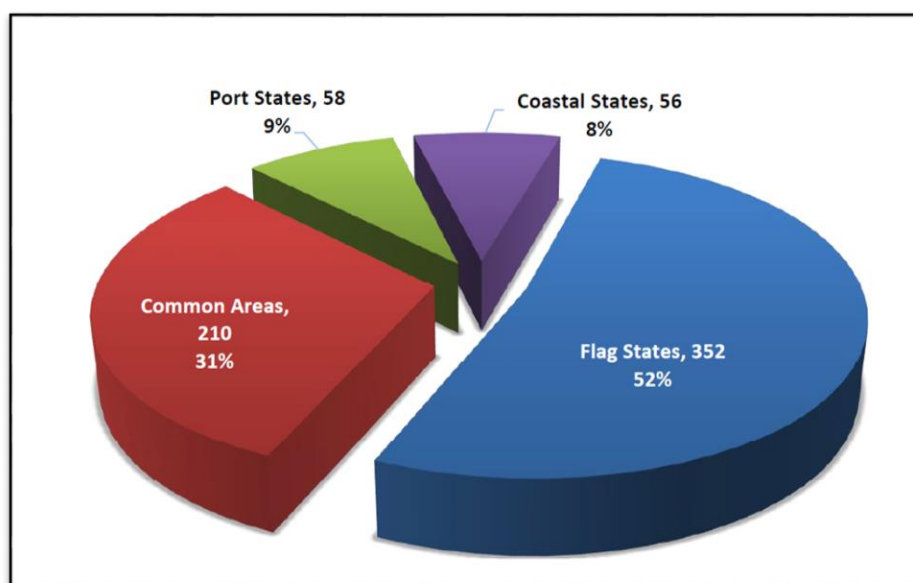
²⁹ Resolution A.1070(28) - 4 December 2013 - IMO Instruments Implementation Code (III CODE)

yielded to a total of (1,167) findings and (107) observations with an average of (17.4)³⁰ findings per audit.

Subsequently, as indicated by the **III 3/INF.29** of the (75) VIMSAS conducted, (52%) of the findings were under the area of Flag, Common Areas (31%), Port States (9%), and Coastal States (8%) as shown in Figure 15 with the majority of the “non-conformities related to the lack of implementation of the requirements of SOLAS 1974 (45%) and MARPOL (34%)” (IMO, 2016, p.3) whilst from (68) IMSAS audits according to **III 7/INF.27**, (42%) of the findings were Flag State responsibilities and obligations, the Common Areas with (27%), the Coastal States with (16%), and with the Port States (15%) as illustrated in Figure 16. The report further analyzed that the majority of the findings reflect the “lack of compliance with SOLAS 1974 (43%) and MARPOL (25%) requirements” (IMO, 2021f, p. 2). A decrease of 2% and 9% respectively.

Figure 75

VIMSAS Findings Per Sections of The III Code

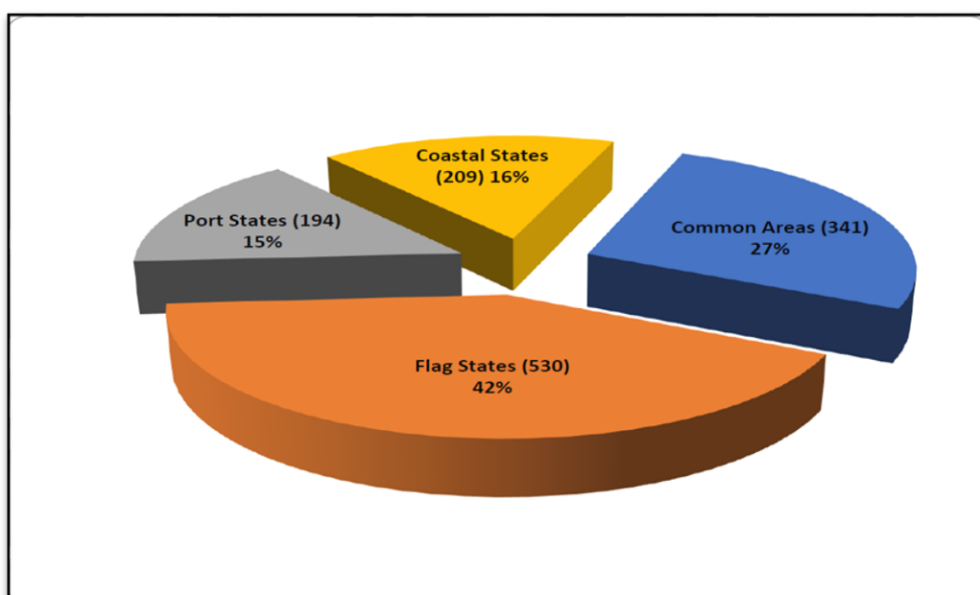


Note. From “Analysis of Consolidated Audit Summary Reports - Analysis of consolidated audit summary reports issued under the voluntary phase of the Scheme” by the International Maritime Organization, 2016, IMODOCS, P.3
<https://docs.imo.org/index.html?iframe=https%3A%2F%2Fdocs.imo.org%2FCategory.aspx%3Fcid%3D30>

³⁰ Outcome of 18 mandatory audits conducted in 2016, with 267 findings and 21 observations
 Outcome of 15 mandatory audits, one conducted in 2016 and 14 in 2017, with 217 findings and 20 observations.
 Outcome of 17 mandatory audits, eight conducted in 2017 and nine in 2018, with 289 findings and 33 observations.
 Outcome of 18 mandatory audits, 11 conducted in 2018 and seven in 2019, with 394 findings and 33 observations.

Figure 86

IMSAS Findings Per Section of III Code



Note. From “Analysis of four consolidated audit summary reports under the IMO Member State Audit Scheme (IMSAS)” by the International Maritime Organization, 2021, IMODOCS, P.2 (<https://docs.imo.org/index.html?iframe=https%3A%2F%2Fdocs.imo.org%2FCategory.aspx%3Fcid%3D30>)

4.0.2 Audit Performance by Section of The III Code

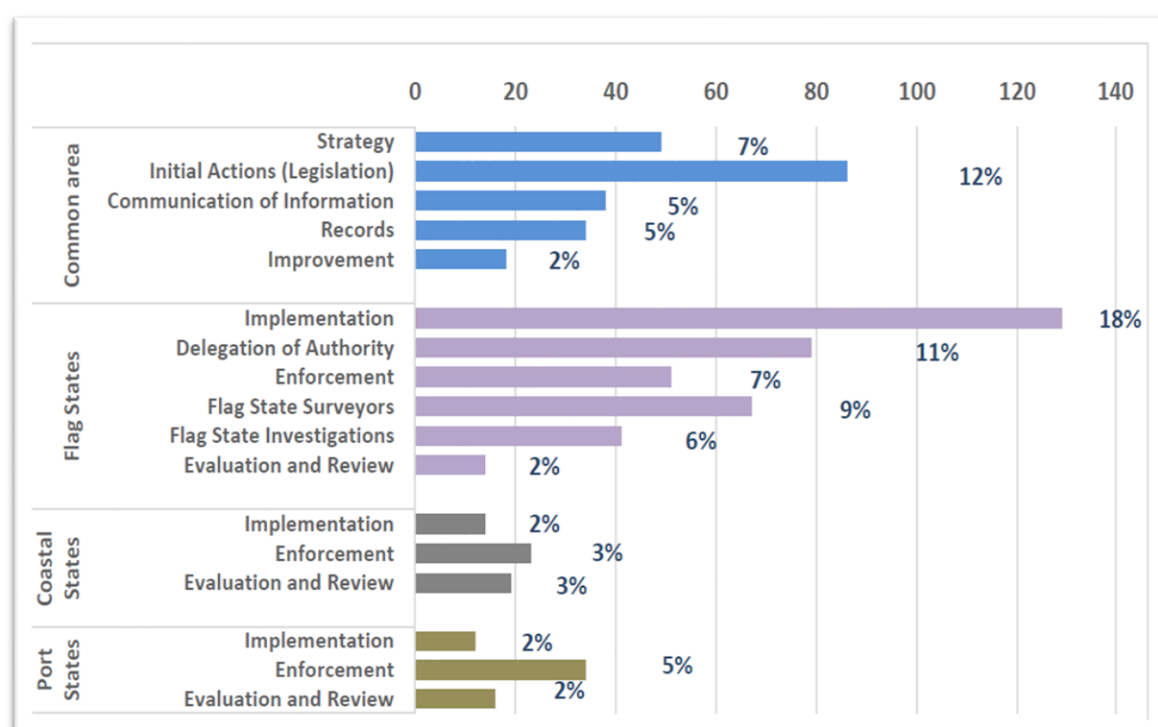
According to reports III 3/INF.29 and III 7/INF.27 for both VIMSAS (210 findings) and IMSAS (341 findings) for the **Common Area** part of the Code, the root causes for major recurrent findings were concerning, “initial actions (legislation), communication of information and records”. The most challenging aspects are the delayed promulgation of amendments that enter into force through the tacit acceptance process, the prolonged period to promulgate new/amended required IMO instruments, and the publication of national laws. The apparent absence of competent experts who could assist in the development of the necessary national legislation and perform the State's duties, including reporting the relevant conventions and assisting with correcting the findings (IMO, 2016; IMO, 2021f).

Under the **Flag State**, the reports reveal the most recurrent findings correspond to implementation followed by enforcement, Flag State surveyors, Flag State investigations, the delegation of authority, and evaluation and review. The categorization of the results for VIMSAS and IMSAS shows a (10%) decrease in findings relating to the Flag States from (52%) to (42%) (IMO, 2021f). The author concurs with Hebbar and Geymonat (2021) that it

would be challenging to fully explain the above tendency given that VIMSAS and IMSAS used distinct audit frameworks and engaged diverse sets of Member States from different geographical regions with very varied organizational structures. However, the analysis revealed that most national maritime administrations still have weaknesses regarding the Flag State requirements which is why this category is seeing the most non-compliances overall as shown in Figures 17 and 18.

Figure 97

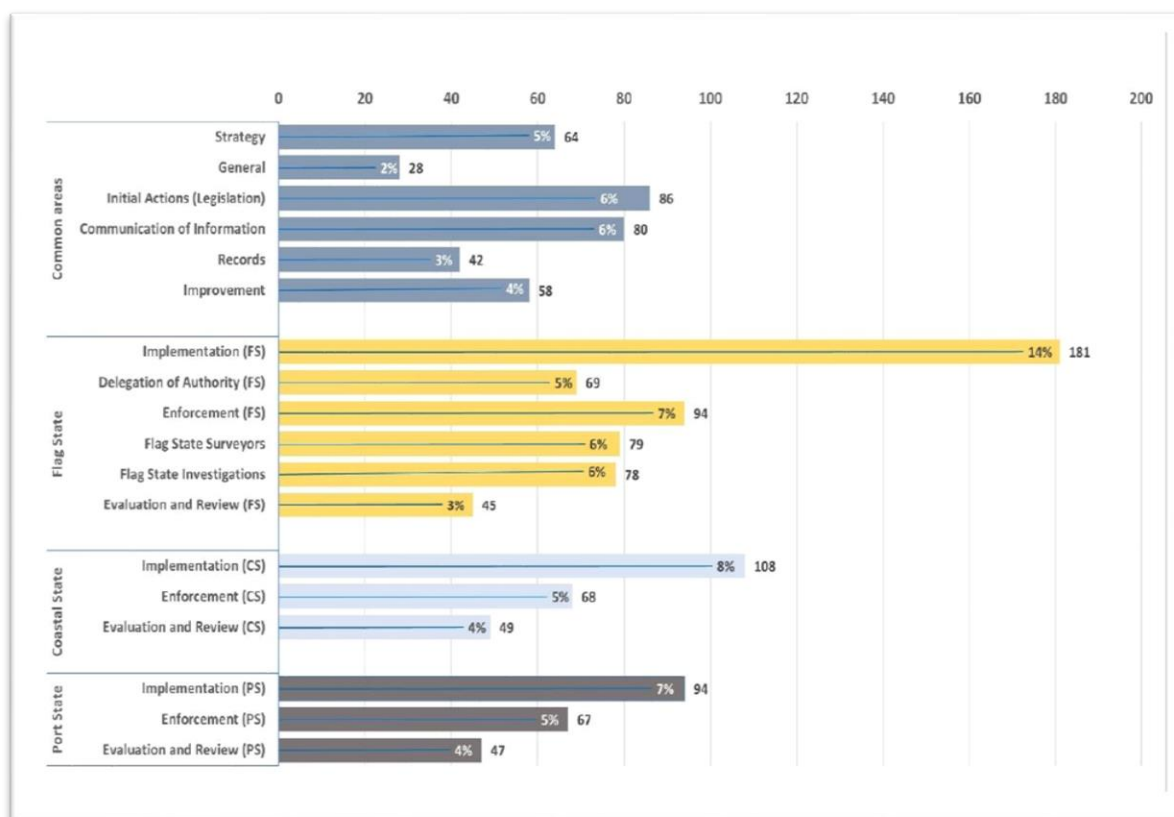
Number and Percentage of Findings by Sections of the Code – VIMSAS



Note. From “Analysis of Consolidated Audit Summary Reports - Analysis of consolidated audit summary reports issued under the voluntary phase of the Scheme” by the International Maritime Organization, 2016, IMODOCS, P.9 (<https://docs.imo.org/index.html?iframe=https%3A%2F%2Fdocs.imo.org%2FCategory.aspx%3Fcid%3D30>)

Figure 108

Number and Percentage of Findings by Sections of the Code – IMSAS



Note. From “Analysis of four consolidated audit summary reports under the IMO Member State Audit Scheme (IMSAS) by the International Maritime Organization”, 2021, IMODOCS, P.10.

(<https://docs.imo.org/index.html?iframe=https%3A%2F%2Fdocs.imo.org%2FCategory.aspx%3Fcid%3D30>)

The findings for **Coastal State** doubled (an increase by 8%) from VIMSAS to IMSAS, according to the consolidated report reveals that failure to carry out policies through the enactment of national legislation and delegating duties to update and modify any pertinent policy issue as the most common issue. When exercising its rights and obligations, the State must ensure that international laws are upheld by taking all necessary precautions, as well as by developing and implementing a control and monitoring program. The assessment and review of recurrent results concern the lack of performance evaluation on several State activities, including radio communications, navigational safety (i.e., the provision of aids to navigation), response to pollution disasters, and search and rescue (SAR) (IMO, 2016; IMO, 2021f).

Three categories of implementation, enforcement, evaluation, and review are used by the III Code to categorize the duties of **Port States**. An increase of (6%) during IMSAS, according to **III 7/INF.27** shows the majority of the findings were “related to the provision of reception

facilities and operational procedures, training of Port State Control officers, provisions of the IMDG Code, IMSBC Code and register of fuel oil suppliers” (IMO, 2021f, p. 9).

In conclusion, both reports (III 3/INF.29³¹ and III 7/INF.27³²) for analysis of the consolidated audit summary indicate that the “(5) major areas identified in audits are related to implementation (Flag, Coastal and Port State), enforcement (Flag, Coastal and Port State), improvement, the delegation of authority and initial actions (legislation)” (IMO, 2016, p. 20, para 50-51; IMO, 2021f, p. 27, para 57-58).

4.1 Analysis of Questionnaire and Research Questions

Questionnaires and interviews were scheduled for only (12) of the Pacific Island Member States from (14) as (2) SIDS Niue and the Federated States of Micronesia are not members of IMO and therefore are not audited. IMO auditors were also approached on capacities to carry out audits during the pandemic. A summary of the response received from questionnaires and interviews and feedback received by IMO on the same is attached as appendix 3 and annex 5.

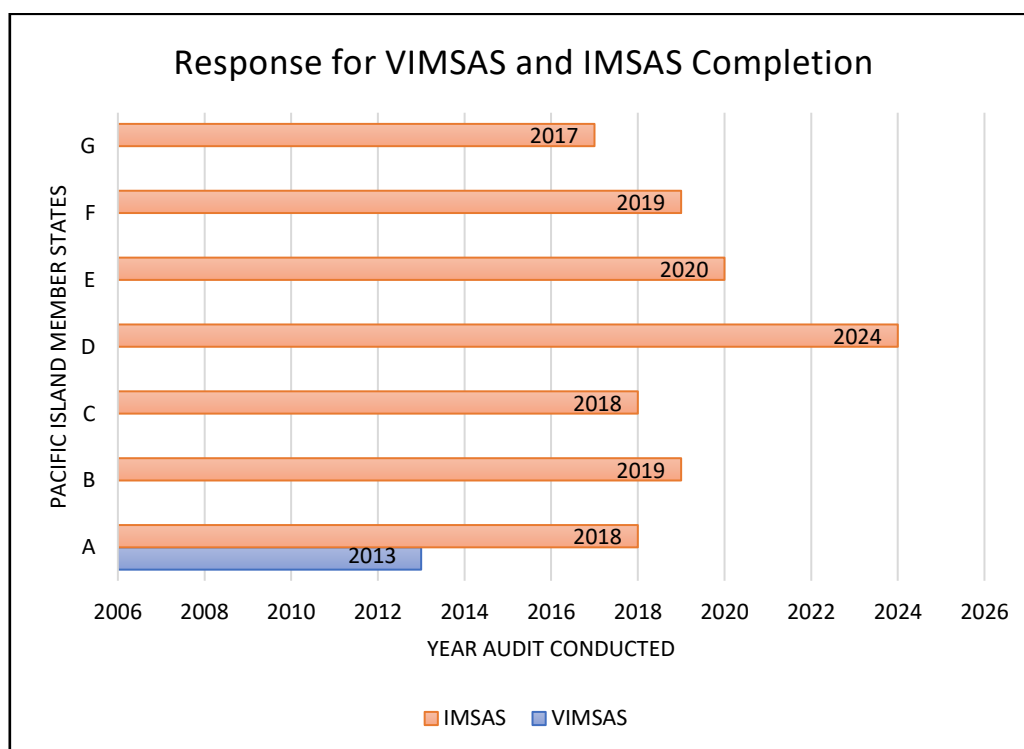
Of the (12) of the Pacific Island Member States only (7) responded. From the response, it was identified that only (1) of the Pacific Island Member State had completed both the VIMSAS and IMSAS whereas the rest completed their IMSAS for the years as shown in **Figure 19** to assess the implementation and enforcement of IMO instruments. (1) Pacific Island Member State indicated that a remote audit was conducted in early 2020 compared to (6) Pacific Island Member State that underwent on-site audits.

³¹ “The five most specific areas identified in 75 audits are implementation. 200 references, initial actions/legislation – 135 references, delegation of authority – 108 references, flag State surveyors – 106 references and enforcement – 119 references”.

³² “The five most specific areas identified in 68 audits were implementation (701 references), enforcement (332 references), improvement (253 references), delegation of authority (210 references) and initial actions/legislation (191 referenceS).”

Figure 19

Response from Pacific Island Member States On Completion of VIMSAS and IMSAS



Note: By Author

Analysis of the three research questions as stated in 1.4 is where further recommendations will be determined.

4.1.0 Research Question 1

What is the impact of the Pandemic on the Pacific Island Member State IMSAS audit?

From the response, all (7) Pacific Island Member States identified that the administration was affected by the impact of the pandemic. Lack of resources has been identified as the major issue and challenge across all States and with the severe impact of the pandemic, the COVID-19 protocol such as domestic curfews and work from home were put in place hence putting extra pressure on the Pacific Island Member State to carry out some of its responsibilities.

Mandatory responsibilities such as Port State Control and to some extent Flag State inspections were withheld due to the severe effect of the pandemic. Expired (non-revalidated) ships and seafarers certificates for the foreign vessels in countries and the non-renewal of

certificates for domestic ships and seafarers certificates with medical was one of the major issues thus leading to an extension of maritime documents which the States communicated to IMO accordingly.

Due to the closure of the international borders, there was a halt in the training and intervention of overseas experts in the countries to assist with continued progress towards maritime functions of the administrations. For instance, (2) Pacific Island Member States indicated the visit of the US Coast Guard for their usual capacity-building training, and the ISPS assessment was canceled.

As discussed in Chapter 3, several audits had to be rescheduled due to the restriction and closure of international borders. The pandemic brought about a significant reduction of funding which delayed the implementation of the corrective actions, specifically those requiring additional staffing and provision of training.

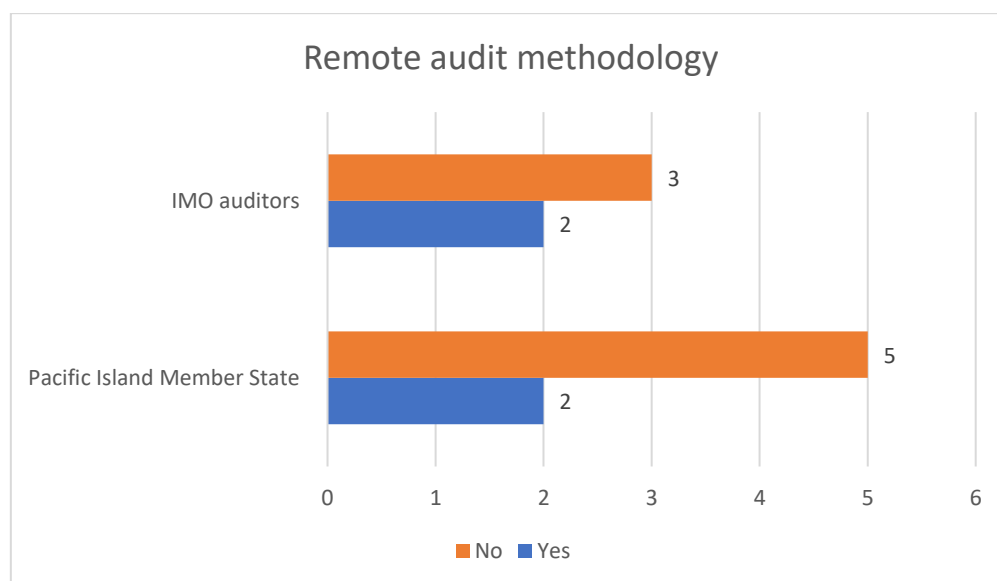
4.1.1 Research Question 2

What could be some of the challenges that might be encountered by the Pacific Island Member State and the IMO auditors during remote audits and strategies adopted to overcome those challenges?

The decision by the IMO Council on remote audit methodology had different reactions. (5) of the Pacific Island Member States did not agree with the remote methodology as shown in Figure 20, due to difficulties within the administration and potential difficulties that could arise during the remote audit. (2) of the Pacific Island Member States, however, stated that there is no other choice as the pandemic is a new reality and still has a significant impact hence the need to adopt new strategies for doing business as usual.

Figure 20

Response To Remote Audit Methodology Adopted By IMO



Note. By Author

Some of the challenges identified by the respondents were:

1. Lack of resources - lack of properly qualified personnel, limited Maritime expertise especially technical Staff, and Maritime Lawyers to assist in the promulgation of the essential legalization and fulfilling all the responsibilities of the State were some of the major challenges identified by the Pacific Island Member States and with the introduction of remote audit added additional challenges as some of the maritime administration does not have proper IT system.
2. Internet speed and connectivity on the day of the audit. The challenge of ensuring adequate connectivity in remote areas.
3. Lack of budget allocation for IT infrastructure and upgrade of IT support system.
4. Staff not familiarized with virtual meetings and platforms such as Zoom and Microsoft teams.
5. Lack of or no training on preparation for remote audit methodology and virtual communication.
6. The availability of other government agencies and the reliability of their IT system during the audit. This is because some of the responsibilities are delegated and not within the maritime administration such as hydrographic service, port reception facilities, pollution prevention response radio communication - notice to mariners, and so forth.
7. Majority of the records will have to be converted into electronic format, the capacity of the server, and the security of confidential documents.

8. All expressed concern about the length of the audit.
9. Auditor's geographical and temporal differences may lead to an audit commencing or finishing outside working hours.
10. The States, particularly those with limited resources or capabilities would find it difficult to be audited remotely whereby the State(s) would have to provide evidence and proofs of activities using audio-visual technology (for example – proof of a well-organized lifeboat or EMS drill, etc). The State would be unable to present the pleasant work that it has been doing due to restrained technology availability.
11. One State chose not to use the option of a remote audit for such a significant audit due to the experience and difficulties encountered with internet access and a power outage on the day of the audit for administration's one of the external remote audit. Scanning of additional documents requested by auditors at the time of the audit resulted in the audit being delayed. Several sections of the audit's scope had to be expedited.

The concern is that through remote audit it would be difficult for the auditors to perceive the full picture of the States giving full effect to maritime conventions through implementation and enforcement process.

Additionally, some States take advantage of this opportunity to host national workshops or training, and engagement with Ministers or political leaders will be missed to promote maritime work, advising the importance of a quick and efficient approval process for legalization and budget allocation for effective implementation of national IMO obligations. For IMO it would mean focusing more of its resources in terms of technical support for SIDS and LDCs due to the limited number of onsite audits.

IMO auditors expressed similar sentiments as (3) of the (5) auditors opposed the option of remote audit and stated that on-site audits should resume as soon as it is practically possible. Auditors believe that remote audits will not be fair to all Member States, particularly those with limited resources and that the IMO needs to conduct at least hybrid audits because difficulties with remote audits such as having a poor understanding of the documentary evidence, proof of compliance, time difference due to composition of auditors from different countries, and subpar communication between the auditor and auditee particularly when the Member State doesn't speak any of the six IMO languages with legalisation only available in the national language.

(1) of the senior auditor (total of 17 audits and audit team leader for 3 audits) interviewed had recently conducted the remote audit. According to the auditor, the audit was conducted within

the span of (2) weeks, and the team was fortunate to have a 3rd audit team member on-site who assisted in the completion of the audit. He adds having at least a member of the audit team on-site assisted the team to establish full facts with physical inspection per the scope of the audit. The communication and language barrier was also rectified. However, he adds the team did face some challenges as there was a time difference with the audited Member State. The online audit was conducted for only (3) hours per day for a period of (2) weeks which made it difficult to balance normal work and audit hours at the same time. Hence, an on-site audit is preferred.

The two (2) auditors acknowledged the necessity to adopt the remote audit approach, noting the large number of ongoing cases throughout the globe and the possibility of future quarantine and travel restrictions. In addition to reducing travel expenses, remote auditing also protects the auditors' health and safety.

Strategies Adopted to Overcome the Challenges

The Pacific Island States used a variety of strategies to address the challenges, which includes:

1. Development of IT systems;
2. Records converted into e-version with an online database;
3. In house capacity building training on virtual meetings and platforms such as Zoom and Microsoft teams;
4. Additional purchase of laptops and Computer accessories to assist staff working from home as well as attending online meetings and training during odd hours in the morning;
5. Formation of a Working Committee established with representatives from different agencies under the scope of the audit. for regular meetings to discuss the challenges and way forward;
6. Assistance from Regional Technical Cooperation Office on capacity building workshop and training for next IMSAS;
7. Assistance from the neighboring Member States in rectifying non-compliance matters, more virtual meetings in preparation for the next IMSAS Audit;
8. Discussion for the development of a single Facilitation of International (FAL) system to cater to Pacific Maritime sectors.

4.1.2 Research Question 3:

Which is the preferred method for audit should the pandemic continue?

From the response as shown in Table 6, (3) Pacific Island Member States and (1) IMO auditors preferred on-site audits. While the other (3) out of the (7) Pacific Island Member States and (3) of the (5) IMO auditors preferred hybrid audit methodology. **Remote audit at this stage was the least preferred method** due to the challenges identified in research question 2.

Table 6

Response to the Preferred Methodology for Audit

Audit Methodology	Respondent		Reasons
	IMO auditor	Pacific Island States	
Onsite audit	(1)	(3)	<ul style="list-style-type: none"> • Brings government agencies together, the realization of the importance of Maritime instruments and their effective implementation. • Creates more industry awareness and capitalization on workshops or training while senior auditors are in the country. • Provide a proper understanding of the audit process, auditor, and auditee to have a more detailed discussion for areas of concern and communication to IMO on corrective actions. • Security of confidential information. • Onsite audit is preferred due to the scope of the audit that has to be covered. • Shipping industries still operate during the pandemic, activities relating to shipping should also continue as normal such as IMSAS. • Verifications are better conducted physically, Internet availability, submission of documents which could be of huge volumes, cannot verify for sure facilities in place, takes much longer. • Learning platform for auditees and more importantly for potential internal auditors who plan to be recognized as one of the IMO auditors. • Onsite is preferred as an online audit can be distracting to both auditors and auditees if other activities have to be attended due to prolong audit timetable.
Remote audit	(1)	(1)	<ul style="list-style-type: none"> • The only option when traveling restrictions are in place. • Saving on the Travel expense. • Health and Safety of auditors – auditors will not be exposed to risks due to the pandemic. • Lack of trust in the audit and commitment from auditees.

			<ul style="list-style-type: none"> • Too early to fully relay on remote audit, if the method is not tested for all Member States. • Will not be fair for all Member States as some have resources while some have limited resources. • The Member States would not be in breach of COVID-19 Protocols if any are in place.
Hybrid audit	(3)	(3)	<ul style="list-style-type: none"> • Moving away from the traditional in-person, a decision by IMO would push Government to invest more in the Maritime industry for Member states, particularly those with limited resources or capabilities. • Fair for all Member States with resources or with limited resources, at least one auditor to be present on-site for ease of communication. • Audit will not be rushed nor lengthy as the audit timetable will reflect the balance of onsite and online verification from the pre-audit question.

4.2 IMO Report On Feedback from Member State

Consequently, as stated in **C 125/6/1**, input obtained by IMO from (20) of the (25) Member States that were due to be audited in 2021, revealed that only (19) Member States Maritime Administration demonstrated the willingness and had the means to perform remote audits, while (4) chose on-site audit. Appendix 4 contains a summary of the Member States' indicative feedback. The (15) Member States planned for audit in 2021 gave favorable feedback in favor of remote audit (IMO,2021d, para 10).

Despite the positive remarks from the Member States, some indicated a few concerns regarding the remote audit, such as:

1. ICT facilities in different Member States;
2. Availability and accessibility of confidential documents via secured source;
3. Interpreters where necessary for translation of national legislation;
4. Verification of certain activities may not be possible through video;
5. Many preferred on-site audits followed by remote audits with the involvement of a limited number of auditors to verify elements that would be difficult remotely (IMO, 2021d, para 11).

In addition, the Member States indicated that consideration for on-site should be determined at the time of preparation for remote audit to determine if the provisions of the relevant IMO instruments are being complied with thus the approach of “hybrid audit” can be considered. Though (19) Maritime administration showed the willingness to proceed with remote audit, the following were some of the concerns received by IMO:

1. “Request for IMO representative to be present to facilitate certain administrative and

coordination aspects (two Member States).

2. Absence of ICT communication capabilities in some entities for remote audits (one Member State).
3. Preference for onsite audit, although willing to accept remote audit under the circumstances (four Member States).
4. Suggestion to have an onsite verification by the audit team leader (ATL) after the remote part of the audit, if possible” (IMO, 2021d, annex 2).

Full feedback received from Member State is attached as appendix 5. The report further highlights that a remote audit is feasible as the Member States would be required to submit some documents and information before the audit which includes but is not limited to the following:

1. Maritime administration organizational setup;
2. General approach to putting the IMO instruments into effect and enforcing them;
3. Legislative process followed under the Member State legal system; and
4. Policies for the implementation of applicable IMO instruments (IMO, 2021d, para. 15).

During the virtual meeting held on 10 September 2020, views for remote audit from (98) IMO auditors from (50) Member States were documented which concluded with the following decisions:

1. Remote audit is most feasible considering the current global pandemic situation;
2. Remote audit methodology per ISO 19011:2018 standards;
3. Same audit process as an on-site audit to determine if remote or hybrid methodology is used;
4. In the view of IMO auditors and the Member States, the remote audit can be effective and productive as it would save travel cost and travel time;
5. Member States to consider all barriers related to remote audit methodology before proceeding with a remote audit;
6. Availability of IT resources and competency of auditor and auditee for the use of technology;
7. Security of information to be at the discretion of Member States;
8. Additional planning and audit tools such as additional pre-audit information and remote audit timetable and programme; and
9. Opportunity to train and engage new and more auditors with no cost to IMO and the Member States (IMO, 2021d, pp. 2-3).

Both the IMO auditors and the Pacific Island States acknowledges that there is a need to prepare against pandemic or similarly reduced accessibility to the country in the future, however, preferred IMSAS audit to be conducted on-site due to current challenges stated within the research and to ensure a clear understanding of findings. The effort of IMO is acknowledged by both parties however considers remote audit as a sudden change with no preparation. Consideration to slowly transition to the remote methodology can be done when States have sufficient resources and improvements in IMSAS findings.

Chapter 5 - CONCLUSION AND RECOMMENDATIONS

5.0 Conclusions

“Shipping is a truly international industry, and it can only operate effectively if the regulations and standards are themselves agreed upon, adopted, and implemented on an international basis as IMO is the forum at which this process takes place” (IMO, n.d.-b, para. 3). The industry requires and promotes the safety, security, efficiency, and protection of the marine environment for which IMO has established a regulatory framework. The creation of international standards serves as the foundation for IMO's dedication to providing the institutional framework necessary for a green and sustainable global maritime transportation system. Indeed, IMO has played a detrimental role in fulfilling its commitment as this is evident through the signing of more than (50) international conventions, codes, protocols, and amendments and recommending them through its technical committees. Even during the Pandemic, every effort was made to ensure all Member States are equally informed of the guidelines and protocols, with the issuance of (352) circulars by IMO between January 2020 to July 2021 being the testimony of the effort.

This study and the responses from the Pacific Island Member States highlight the significance of IMSAS for every State. Every State has different challenges in implementing the IMO's mandated instruments into practice, enforcing them, and managing them which is seen from the findings and observations from IMSAS. The Member States require appropriate assistance for the effective implementation of the corrective action plan. To accomplish the required goals, resources must be distributed in the appropriate places. The complete execution of several Member States' duties at the current level of implementation in situ is logistically challenging. Training programs, workshops, seminars, consulting services, technical advisory services, and more technical support programs are required to help the Pacific Island States build its capacity.

This research aimed to investigate the impact of the pandemic and the challenges that are in place or that could be encountered by the Pacific Island Member States and IMO auditors during the upcoming IMSAS with mitigating measures put in place to ensure continuity and compliance. The adverse impact of the pandemic led to the closure of international borders,

quarantine requirements, and disruption in inter-island shipping with domestic curfews leading to work-from-home. Analysis of research questions indicates that this led IMO to endorse the decision to postpone the scheduled audits. A total of (24) the Member States for 2021 and (25) Member States for 2022 had their audit postponed (IMO, 2021c, p. 2). The audit for the Pacific Island Member State Nauru and the Cook Islands has been rescheduled for 2024.

This research further shows that there are still quite several active cases of COVID-19 across the globe. Though for now, international and domestic restrictions may have eased, however, there is no assurance of what the few months or following year would bring as it is known that viruses do evolve and the number of active cases continues to rise. The decision to adopt the remote audit methodology by IMO was timely, a “wake-up call to all Member States to assess its resources and capabilities and to prepare and adopt given the situation. As mentioned in C 125/6/1 (2021, p.4), the existing Framework (resolution A.1067(28)) does not expressly mandate that only on-site audits be conducted, nor does it forbid the use of remote audits. The audit process as outlined in the Procedures, including preparation, auditing, and reporting from audits, is anticipated to continue to be followed for the deployment of remote audits; the only variation is that the procedure would be implemented using a remote approach.

Additional tools such as additional pre-audit information and a draft model remote audit timetable have been introduced by IMO to facilitate the conduct of the remote audit. Considering the feedback received by IMO, similar concerns were raised by respondents for this research on the duration of the audit. IMO in its 125th Council session decided that the audit would be (5) hours per day with a duration of (8) to (10) days compared to a traditional (5) days audit. The auditors would be given (2) days to prepare and issue an interim report.

It is believed that the Council's decision to adopt a remote audit mechanism per the current Framework and Procedures would serve as a suitable means of starting remote audits at the time of the pandemic.

However, feedback received from the Pacific Island Member States and the IMO auditors identified the challenges of lack of resources for IT systems and software, internet connectivity, time difference likely to prolong the audit, communication barriers, and unable to physically inspect and verify some of the components as per the scope of the audit led to both Pacific Island Member States and the IMO auditors to prefer on-site audit methodology

This research comes as a significant topic as the impact pandemic led to a major shift from “traditional in-person” audits to the use of remote audits. The feedback received by IMO was

from (19) Member States consisting of only (1) Pacific Island Country (New Zealand). However, New Zealand is not the Small Island Developing State which is the focus of this research. This research may contribute to further decisions of IMO and assist the Pacific Member States with feedback from the neighboring region.

5.1 Limitation in Research

The limitation of this research is that information received through interviews and questionnaires was only from (1) Pacific Island Member State that has experienced remote audits while the rest of the (6) Pacific Island Member State had not. The same was with (1) IMO auditor of the (5) that was interviewed. The feedback may have been different if respondents had some experience with the remote audit.

Of (12) Pacific Island Member States only (7) responded thus it cannot be fully ascertained if the challenges highlighted in the research would be experienced by those Pacific Island Member States as well thus further study on the same topic can be considered.

5.2 Recommendations

IMSAS is of utmost importance for effective implementation and enforcement of IMO instruments by IMO Member States and it is crucial that consideration is done to address the challenges. The recommendation follows after the analysis of (7) Pacific Island Member States and (5) IMO auditors. The proposed recommendations are categorized into two:

5.2.0 IMO

- 1 IMO should conduct a risk assessment and have a matrix for each Member State and plan and conduct an audit based on the risk for the country.
- 2 It is suggested that audit methodology should be chosen on case to case basis depending on the risk assessment of the Member State:
 - a. Onsite Audit for low or no risk States – no travel restrictions and active cases;
 - b. Hybrid Audit – low to medium risk – no international and some domestic restrictions in place with a certain number of active cases in the State;
 - c. Remote audit – medium to high risk - international and domestic restrictions in place with a high number of active cases in the State.
- 3 IMO to conduct an assessment on the Member States on availability of resources for the three modes of audits and have committed timelines from the Member States for

proper availability of resources. This will ease the scheduling of audits in the future.

- 4 IMO with their regional technical cooperation office should conduct training and awareness for all Member States, taking them through the recent decisions of IMO and procedure and expectations from each audit methodology. Thus depending on the situation of the State at any given time, any of the methods can be considered without the State facing any challenges.
- 5 Regional technical cooperation office to maintain regular virtual meetings and communicate with the Member States for assistance and to ascertain challenges for the administration.
- 6 IMO to share experience and lessons learned from the Region that has completed IMSAS through the remote or hybrid method.
- 7 For remote audit, IMO should select auditors within the region due to time zone and for ease of communication.
- 8 It is recommended that IMO, through an official circular instruct the Member States to conduct at least one internal audit for the calendar year through a remote methodology which would form the basis of training for staff, management, and government agencies involved during the IMSAS audit.
- 9 IMO to instruct all Member States to have an effective Quality Management System and an internal audit checklist to include IMSAS pre-audit questionnaire. This will serve as the foundation for effective IMSAS audit in the future.
- 10 The Quality Management System to have documented procedure for:
 - a. Conduct of remote audits;
 - b. Control of Records as an electronic version.
- 11 IMO should conduct mandatory IMO auditor training for internal auditors from the administration so that the audit framework is understood, and ease of auditor and auditee communication during IMSAS thus leading them to be future potential IMO auditors.
- 12 IMO should conduct Follow-up audits through a remote methodology for all Member States for fairness as this would provide hands-on experience for remote audits and also gauge any future challenges.

5.2.1 The IMO Member States

1. Effective communication and collaboration with Ministry so that importance of IMSAS for the State is known. The commitment of Ministries and government agencies is required.
2. Develop a working committee consisting of experts from relevant agencies and

ministries to capitalize on the lack of resources.

3. Working Committee should be assigned to conduct a risk assessment concerning the scope of IMSAS on a periodical basis.
4. Financial budget of the Ministry of the Maritime Administration to include an allocation for IMSAS and effective implementation of IMO instruments based on the risk assessment.
5. Member States should invest in IT systems and services.
6. Develop an in-house training development plan which includes IT-related training.
7. Develop an effective Quality Management System.
8. Effective communication with IMO will lead to more information and informed decisions.

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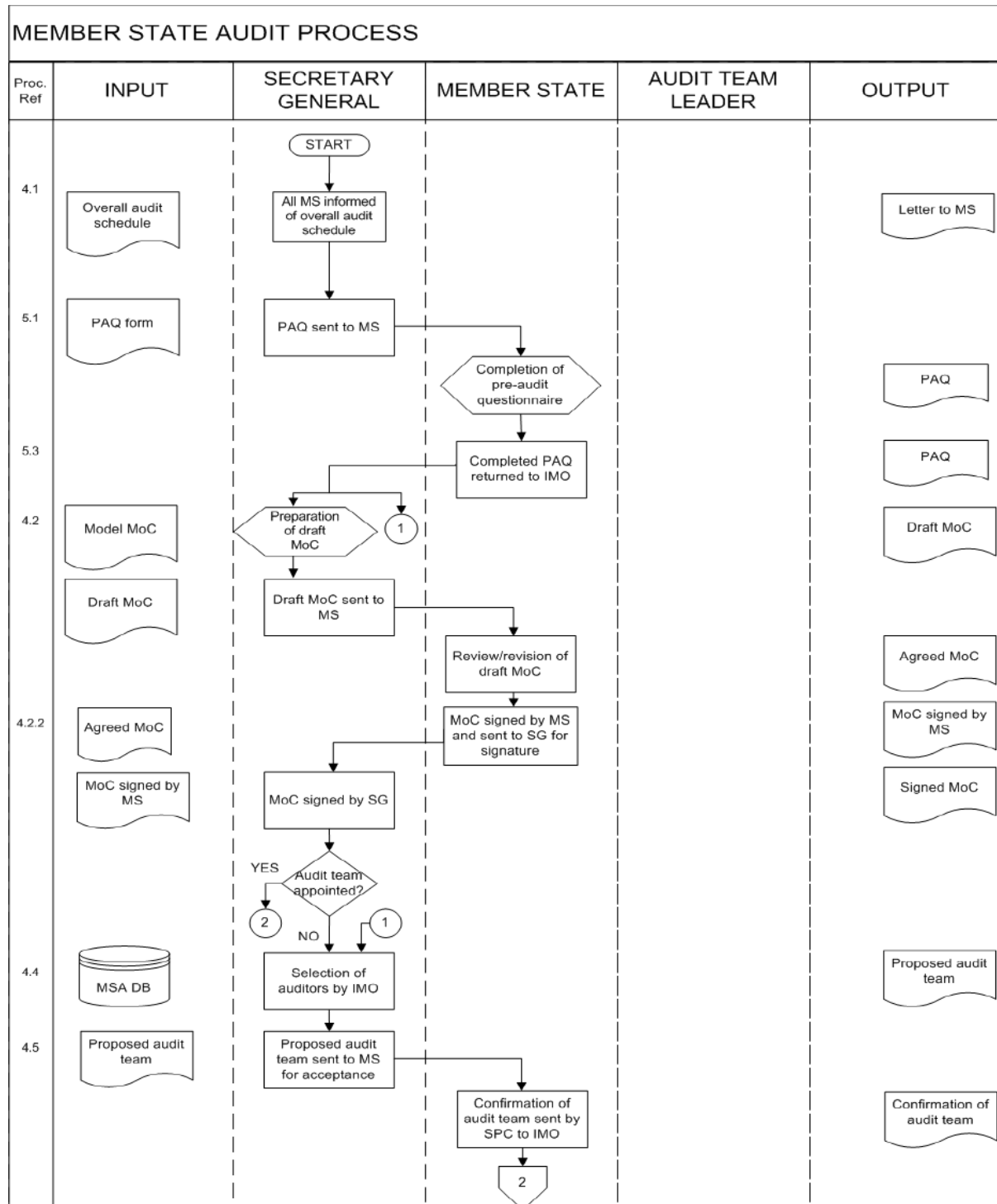
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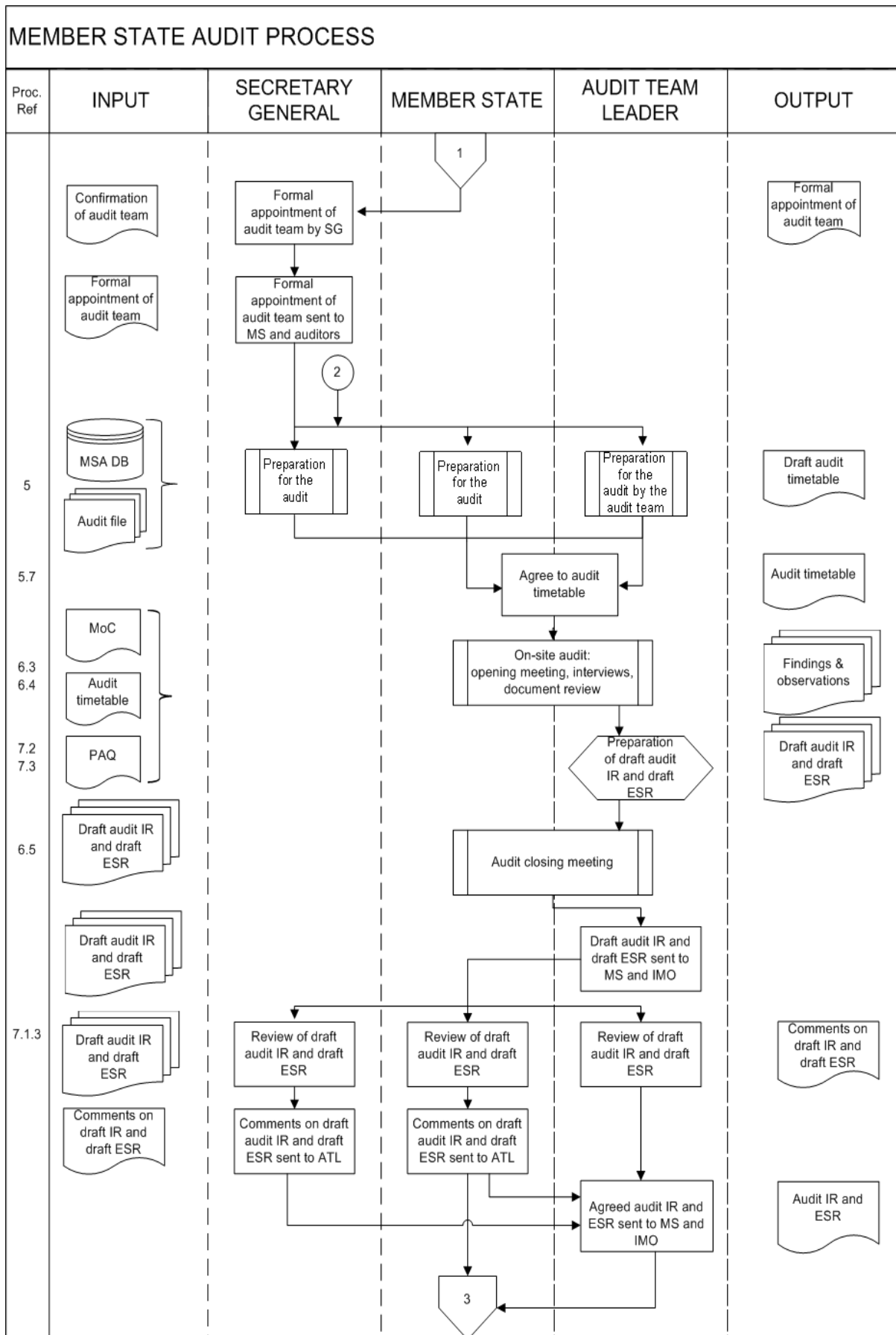
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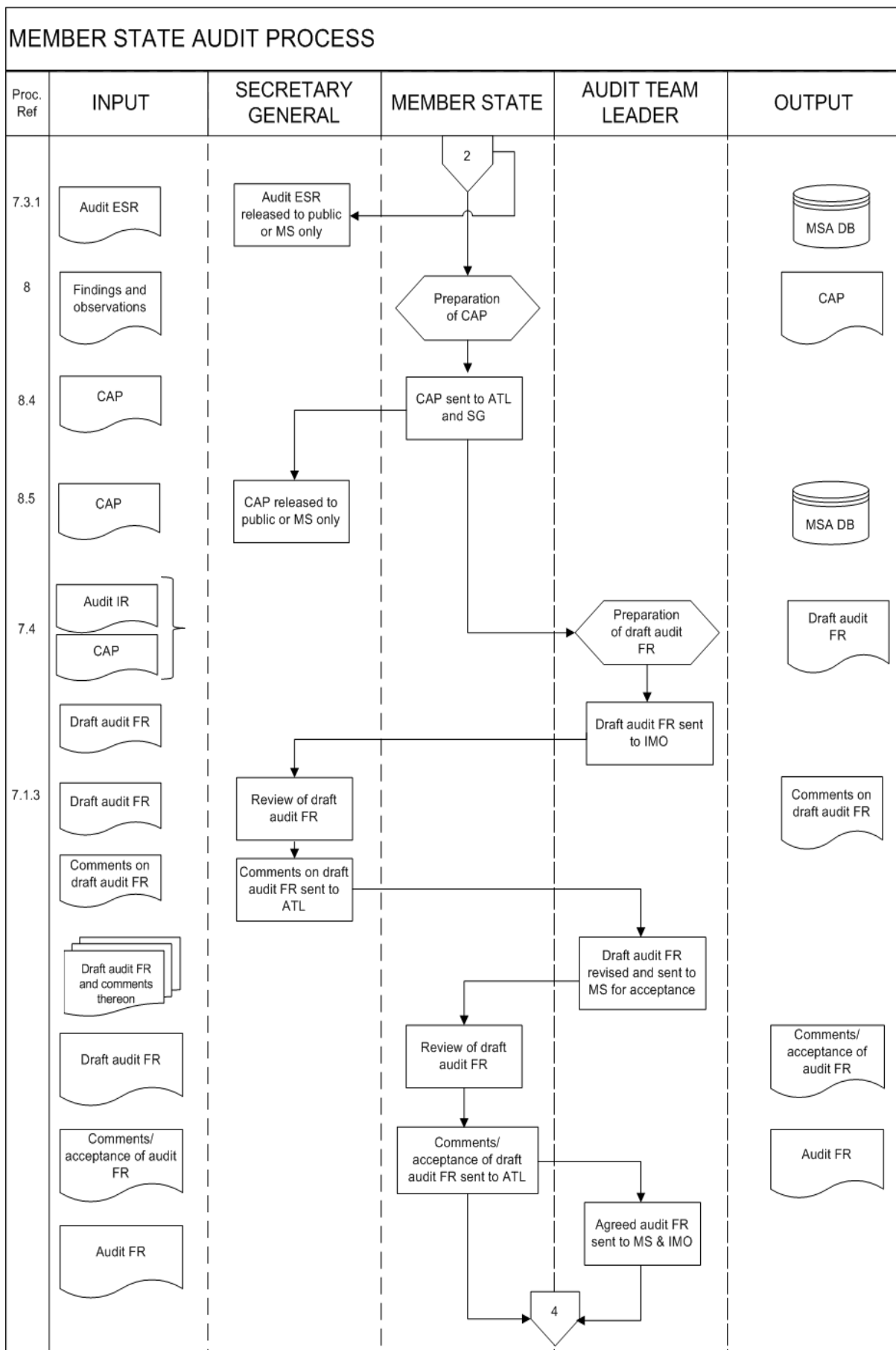
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Appendices

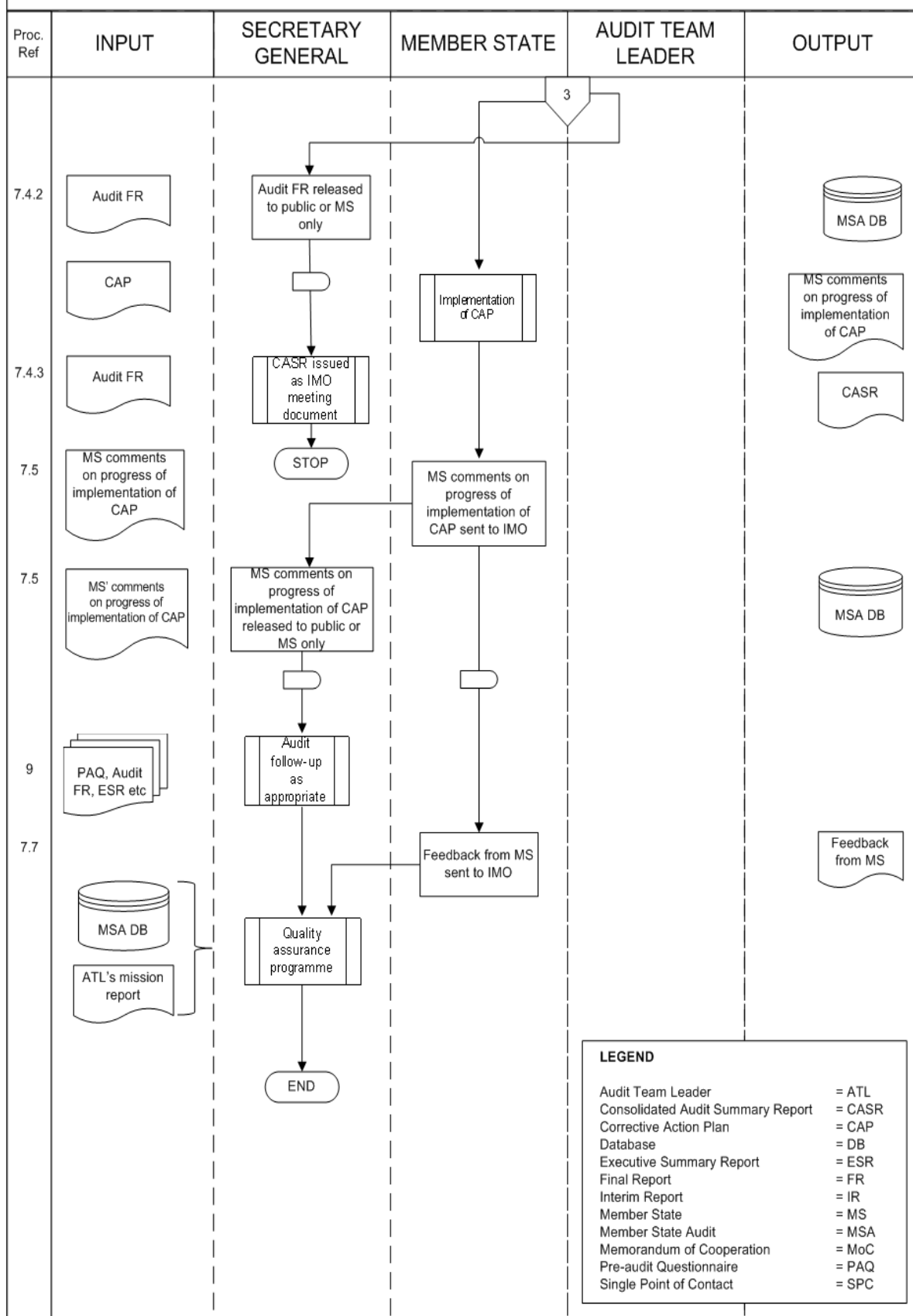
Appendix A: Flow Chart of Member State Audit Process








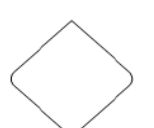









MEMBER STATE AUDIT PROCESS



MEMBER STATE AUDIT PROCESS

FLOW CHART SYMBOLS

	PROCESS
	DOCUMENT
	MULTIPLE DOCUMENTS
	DECISION
	PRE-DEFINED PROCESS
	TERMINATOR
	OFF PAGE REFERENCE
	PREPARATION
	DATABASE
	DELAY
	CONNECTOR

Note. From “Framework and Procedures for The IMO Member State Audit Scheme” by the International Maritime Organization, 2023, pp 41-45.

(<https://wwwcdn.imo.org/localresources/en/OurWork/TechnicalCooperation/Documents/A%2028-Res%201067.pdf>)

Appendix B: Updated Audit Schedule

A 32/10
Annex, page 5

MEMBER STATES SCHEDULED TO BE AUDITED IN 2020 2021 2022¹

NO.	MEMBER STATE	Audit period	Remark
91	Saudi Arabia	January	Audit confirmed
101	Malawi	November	Audit not confirmed
102	Maldives	March	Audit confirmed
132	United States	March	Audit confirmed
103	Mauritius	February	Audited in 2020 /Reports completed
104	Benin	October	Audit not confirmed
105	Cameroon	November	Audit not confirmed
106	Pakistan	April	Audit confirmed
107	Republic of Moldova	October	Audit confirmed
108	Dominican Republic	October	Audit confirmed
109	Ethiopia	August	Audit confirmed
110	Namibia	April	Audit confirmed
127	Italy	May	Audit confirmed
136	Singapore	May	Audit confirmed
111	Democratic People's Republic of Korea	September	Audit confirmed (on-site audit requested)
112	Timor-Leste		Postponed based on decision of C 121
113	Denmark	October	Audit confirmed for 2021
114	Cyprus	June	Audit confirmed
115	United Kingdom	October	Audit confirmed for 2021
116	Spain	March	Audit confirmed
117	Marshall Islands	June	Audit confirmed
118	Sweden	June	Audit confirmed
119	Japan	September	Audit confirmed
120	Liberia		(Rescheduled for 2023)
121	Chile	September	Audit confirmed
122	Republic of Korea	November	Audit confirmed

¹ Following consultations, two Member States confirmed their readiness to proceed with remote audit in 2021, while the remaining audits scheduled for 2021 have been rescheduled for 2022, with four Member States who were originally scheduled for 2022 confirming their preference for keeping their audit period in 2022.

NO.	MEMBER STATE	Audit period	Remark
123	Greece	June	Audit confirmed
124	Canada	February	Audit confirmed
125	New Zealand	August	Audit confirmed
130	Germany	October	Audit confirmed

MEMBER STATES SCHEDULED TO BE AUDITED IN 2021 2022 2023²

NO.	MEMBER STATE	Audit period	Remark
120	Liberia	January	Audit confirmed
126	Netherlands	February	Audit confirmed
127	Italy		(Audit confirmed for 2022)
128	Thailand	February	Audit confirmed
129	Norway	February	Audit confirmed
130	Germany		(Audit confirmed for 2022)
131	South Africa	March	No response yet
132	United States		(Audit confirmed for 2022)
133	Uruguay	November	Audit confirmed
134	Australia	April	Audit confirmed
135	Luxembourg	April	Audit confirmed
136	Singapore		(Audit confirmed for 2022)
137	Bulgaria	May	Audit confirmed
138	Panama	October	Audit confirmed
139	Romania	June	Audit confirmed
140	Malaysia	June	Audit confirmed
141	Argentina	September	Audit confirmed
142	Brazil	July	Audit confirmed
143	Russian Federation	July	Audit confirmed
144	France	September	Audit confirmed
145	Ecuador	October	Audit confirmed
146	Philippines	October	Audit confirmed
147	China	October	No response yet
148	Hong Kong, China [±]	November	Audit confirmed
149	Poland	October	Audit confirmed
150	Ireland	November	Audit confirmed

² Following consultations, four Member States confirmed their preference to proceed with their audits as originally scheduled, in 2022, while the remaining audits scheduled for 2022 have been rescheduled for 2023.

MEMBER STATES SCHEDULED TO BE AUDITED IN 2022 2023 2024

NO.	MEMBER STATE	Audit period	Remark
151	India		-
152	Latvia		-
153	Estonia		-
154	Mexico		-
155	Bahamas		-
156	Jamaica		-
157	Lithuania		-
158	Iran (Islamic Republic of)		-
159	Malta		-
160	Faroes [±]		-
161	Finland		-
162	Honduras		-
163	Antigua and Barbuda		-
164	Israel		-
165	Peru		-
166	Switzerland		-
167	Slovenia		-
168	Morocco		-
169	Turkey		-
170	Belize		-
171	Tunisia		-
172	Saint Kitts and Nevis		-
173	Belgium		-
15	El Salvador**		-
61	Colombia**		-
84	Croatia**		-
13	Angola**		-
65	Indonesia**		-
8	Georgia**		-
60	Cook Islands**		-
89	Saint Vincent and the Grenadines**		-
174	Zambia		-
175	Belarus		-
176	Armenia		-
177	Nauru		-

Postponed audits

1	Guinea-Bissau ⁱ
4	Bosnia and Herzegovina ⁱ
9	Nepal ⁱ
21	Somalia ⁱ
39	Iraq ⁱ
23	Yemen ⁱ
66	Austria ⁱ
74	San Marino ⁱ
92	The former Yugoslav Republic of Macedonia ⁱ
97	Syrian Arab Republic ⁱ
83	Uganda ⁱ
85	Zimbabwe ⁱ
112	Timor-Leste ⁱ
90	Libya ⁱ
93	Mozambique ⁱ
99	Haiti ⁱ

-
- ⁱ No audit/postponed based on decisions of C 113, C 116, C 118, C 120 and C 121.
- ^{**} Voluntary audit carried out and moved.
- [±] Associate Member.

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Note. From “IMO Member State Audit Scheme - Report on the implementation of the Scheme” by the International Maritime Organization, 2021, 2021, pp 11-15
(<https://docs.imo.org/index.html?iframe=https%3A%2F%2Fdocs.imo.org%2FCategory.aspx%3Fcid%3D30>)

Appendix C

Summary Feedback from Pacific Island Member States On Capacities to Carry Out Audits During Pandemic

This summary is based on 7 responses to the questionnaire sent to 12 Small Island Developing Member States.

*Member States labeled MS A-F respectively

			Remarks from the Member States
VIMSAS			
Did the administration undergo VIMSAS?	Yes (1)	No (6)	<ul style="list-style-type: none"> MS C – preparatory mock audit was done by the Pacific Community, formerly the South Pacific Commission (SPC) in 2016 MS A - 2013
For the VIMSAS audit, which area of the III Code had the most number of findings	Flag State: (2) followed by		Flag State area had the most number of findings and observations followed by Common Areas: (1), Port State: (1), and Coastal State. (1)
Were challenges encountered by the administration in preparation for VIMSAS?	Yes (2) MS C for preparatory mock audit		<ul style="list-style-type: none"> Maritime Policy not in line with the IMO Limited number of Maritime Staff especially the qualified Maritime Division Staff dealing with Surveyor and other technical areas Limited number of resources and budget allocated for development and operation of Maritime Division The barrier between the Ministry of Foreign Affair and the administration, Channel of Communication between Governments Ministries leads to delayed process. Eg.” Bottleneck” Updating the relevant information regarding the Audit process

IMSAS			Remarks from the Member States
Has the administration completed its IMO Member State Audit Scheme (IMSAS)?	Yes (6)	No (1)	MS A – 2018 MS B – 2019 MS C – 2018 MS D – scheduled for 2024 MS E – 2020 MS F – 2019 MS – G 2017
For the IMSAS audit, which area of the III Code had the most number of findings			Flag State <ul style="list-style-type: none"> • No overall strategy to meet obligation and responsibilities of relevant IMO instrument • Periodic evaluation of performance not undertaken to determine staffing resourcing and administration procedures were adequate to meet flag state obligation • Investigator(s) carrying out a marine safety investigation is impartial and objective, nor that the marine safety investigator(s) can report on the results of a marine safety investigation without direction or interference from any persons or organizations, who may be affected by its outcome. The Casualty Investigation Code is not incorporated into national legislation Common Area <ul style="list-style-type: none"> • Lack or no documented procedure for control of records • No overall strategy to meet obligations and responsibilities of relevant IMO instruments • No documented system of surveyors' qualifications Port State <ul style="list-style-type: none"> • No registration Guidance and procedures for consistent implementation of the States obligation and responsibilities as Port State particularly in respect of dangerous goods and competent authority for IMDG matters. • No established appropriate processes for a PSC programme or to carry PSC inspections by IMO resolution and procedures. • Port State Control inspections are not always done by properly

			<p>trained and qualified persons.</p> <p>Coastal State</p> <ul style="list-style-type: none"> • The State has no documented plan for search-and-rescue operations and for the use of life-saving signals when communicating with ships or persons in distress. • The State does not have suitable methods and means for radio communication, search and rescue, and communicating information on navigational and meteorological warnings, and other urgent messages related to shipping safety. • The State does not discharge its obligations as a Coastal State in providing AtoN effectively.
How was the audit conducted?	On-site audit (6)	Remote audit (1)	<ul style="list-style-type: none"> • Challenges in the remote audit were developing a methodology to undertake and execute the plan. This was a new way of doing audits as it became a trial and error process. It became apparent that there was a need for discussions with people who had undertaken remote audits and ascertain their lessons observed. • The difficulty in a remote setting was the technology to ensure good connections, and while the interviewee could describe things and take photos it was hard not to have physical eyes on it. • The audit took a lot longer than anticipated, which meant that there was a need to go back and forth on issues to ensure a correct understanding of the deficiencies. It also meant that the team was limited, as it was hard to get other people involved in a coordinated way, and not everyone is qualified to undertake audits.
Were challenges encountered by the administration in preparation for IMSAS?	Yes (6)		<ul style="list-style-type: none"> • Documentation and record keeping • Availability of different government agencies that are audited • Understanding of the areas to be audited and the responses and evidence expected by the auditors during and after the audit. The later review demonstrated that some findings made reference to

			<p>shortfalls and lack that did not exist and were due to the fact the auditees did not understand the evidence that should be provided and how to defend their evidence.</p> <ul style="list-style-type: none"> • It is essential for auditees to be trained on which evidence should be provided demonstrating the 'giving full effect to international conventions' behind IMSAS audit verifications. • Limited Maritime expertise especially technical Staff, Maritime Lawyers • No system in place like an electronic database • Regulatory framework of the Maritime Administration and its policies • Most of the Conventions are not included in national legalization nor reviewed. • Limited support from the Stakeholders
Were those challenges addressed?	Yes (7)		<ul style="list-style-type: none"> • Assistance from Pacific Community, formerly the South Pacific Commission (SPC) and IMO in providing regional IMSAS workshops and training • Working committee established with representatives from different agencies under the scope of the audit. • Maritime Consultants hired to assist • Created a legal Maritime Lawyer panel to deal with Maritime conventions
Impact of Covid-19			
Was the administration affected by Covid-19?	Yes (7)	No (0)	<ul style="list-style-type: none"> • Lack of resources to have an online or virtual platform for communication. • Staff were forced to work from home, office attendance, and face-to-face meetings only if required • Mandatory responsibilities such as Port State Control and to some extent flag state inspections were withheld due to the severe

			<p>effects of COVID-19 as Health measures including the requirement that all vessel crew has at least 2 vaccinations and provide Negative PCR Test Results from the last Port before arriving.</p> <ul style="list-style-type: none"> • Administrations not familiarized with zoom or virtual meetings • The slowdown of maritime activities within the country by domestic shipping made shipping companies increase the cost of ship maintenance, crew salaries, and crew training. • The stop training and intervention of overseas experts in the county to assist with continued progress towards maritime functions of the administrations. • The activities of foreign vessels in countries with expired certificates and non-revalidated foreign seafarers. • External consultant unable to travel due to border closure • The pandemic brought about a significant reduction of funding which derailed the implementation of the corrective actions, specifically those requiring additional staffing and provision of training. • Not being able to have the US Coast Guard undertake their usual capacity-building building opportunities.
Did the administration adopt some strategies to overcome those challenges?	Yes (7)	No (0)	<ul style="list-style-type: none"> • A Covid-19 safety procedure was developed to observe all restrictions and to assist other administration roles. • Purchasing of laptops and Computer accessories was also increased to assist staff working from home as well as attending online meetings and training during odd hours in the morning. • Notices were disseminated to ship owners and the general public on updates on the change of schedules and operations and the extension of maritime documents. • Internal and on-the-job capacity development activities maximising any opportunity for training and meetings organized

			<p>on virtual platforms.</p> <ul style="list-style-type: none"> • Maintenance of ships and qualification of crews, the administration implemented a more favorable qualification dispensation regime and closer monitoring of vessels to allow operations against commitments from ship owners to do maintenance work. • Consults Bi-lateral Engagements of the Maritime Authority of Oversea Country expertise • Basic Training in remote or virtual meetings internally. • Upgrade the database systems and record keeping. • Develop a single Facilitation of International (FAL) system to cater to Maritime sectors. • Seek Consultants assistant from the IMO and the Pacific Region Countries
Should Covid -19 continues with some restrictions still in place, what approach would the administration undertake for the next IMSAS audit			<ul style="list-style-type: none"> • The Administration will carry out sufficient capacity building and training on designated officers assigned for IMSAS Audits before attending the audit schedule • Work on rectifying non-compliance matters raised in preparation for the next IMSAS Audit • Promote the continued delivery of capacity development activities online and adopt staff working time measures to allow facilitate training during working hours; also continue to develop IT systems to equip officers with laptops and access to the internet. • With regards to inspection of vessels, maintain procedures and equipment to board vessels in a safe manner and conduct remote vessel inspections, office work on seafarer certification, etc. • For IMSAS, it is essential to further familiarize the staff of the administration with meeting through a virtual platform, have all evidence in e-version, and develop the ability to be audited remotely providing evidence and response online. • The administration is working closely with the New Zealand

			Maritime Authority expertise and SPC with regards to the IMSAS Audit findings on virtual meetings and email. Also, the IMO consultants are assisting in reviewing Maritime Legislation and Administration work.
Does the administration lack resources for the next IMSAS audit	Yes (7)	No (0)	<ul style="list-style-type: none"> • Competent human resources • Additional funds • Legislation as per recommendation on the IMSAS Audit • further development of IT system and unlimited access to fast internet • Training of staff on IMSAS audit (auditee viewpoint) and virtual meeting • The administration prioritizes critical areas of Audit Findings such as the Shipping Act 1998 and other existing conventions to ensure the administration is on the same page with other Maritime Authorities in the Global to meet the standards and in line with the IMO requirements and retain its name in the "White List".

<p>IMO has endorsed the use of a remote audit mechanism during the pandemic. Would your administration agree to a remote audit?</p>	<p>Yes (2)</p>	<p>No (5)</p>	<ul style="list-style-type: none"> • Yes, as there is no other option for future development if we are still affected by the pandemic. • Yes, but there is a huge risk. The Administration had an external audit through the remote method and major challenges were encountered, including connectivity issues and power outages were one of them. Scanning of documents requested at the time of audit took a lot of time and delayed the audit. • Covid-19 has happened rapidly, thus no preparation for remote Audit or virtual communication is done as the administration has no resources or experience in the remote Audit process. • Even though the administration needs to prepare itself for a new pandemic or similarly reduced accessibility to the country in the future, the IMSAS audit must be conducted in-country to ensure a clear understanding of findings until the IMSAS audit report shows a mature maritime administration. • For IMO it would mean to focus its resources on a limited number of face-to-face audits with small islands developing states (SIDS) and least developed countries (LDCs). • The difficulty in a remote setting is the technology to ensure good connections, and while the interviewee could describe things and take photos it was hard not to have physical eyes on it. • Require technical assistance to guide the preparation work as most of the records are not yet in electronic format
<p>what would be some of the challenges your administration might be encountered during the remote audit</p>			<ul style="list-style-type: none"> • To be audited and provide the best picture organization to an auditor, understand the questions and auditors' expectations. This is to the benefit of both the auditee and the auditor as the audit must provide the true picture of the way a maritime administration gives full effect to maritime conventions. It is unlikely that remote audits in the future would help the auditors perceive this full picture.

			<ul style="list-style-type: none"> • There is no opportunity to get together with other Senior auditors and share experience, engage Ministers or political leaders and encourage maritime work for a faster approval process for legalization and budget allocation. • Time difference and lengthy audit • Access to records by the auditor, geographical and time issues as we work on both sides of the globe, and connectivity issues
How would the administration overcome those challenges?			<ul style="list-style-type: none"> • Maintain regular virtual meetings and communicate to other Maritime Authorities for assistance and collecting other information relevant to the Maritime Administration work. • Migrating to electronic systems which entails scanning all our records and developing an online database. established some capacity to do online meetings.
Moving forward, post-pandemic or should pandemic continue, which is the preferred method of the audit administration would opt for?	On-site audit (3) Remote audit (1) Hybrid audit (3)		<ul style="list-style-type: none"> • Face to Face – audit as such brings government agencies together and realizes the importance of Maritime instruments and their effective implementation. • Face to face to create more industry awareness and capitalized on workshops or training while senior auditors are in the country. • Remote would be the preferred choice as challenges would keep on changing if the pandemic continues and boarder are again closed for countries. • Onsite is also necessary if possible to provide a proper understanding of the audit process, auditor, and auditee to have a more detailed discussion for areas of concern and communication to IMO on corrective actions.
What would be your recommendation(s) in terms of Member State audits by IMO amidst the pandemic?			<ul style="list-style-type: none"> • IMSAS Audit should conduct as normal because shipping industries still operate during COVID, thus the IMSAS audit needs to be carried out in individual member states for safety reasons. • IMO should have methods in place to verify that the auditees proposed by the administration can be audited and to respond to

			<p>questions of auditors.</p> <ul style="list-style-type: none"> • IMO should promote guidelines to the intention of auditees on the evidence that are expected in response to audits and provide assistance to develop IMSAS auditee capacity in SIDS and LDCs maritime administrations. • Technical assistance be provided to help small administrations migrate to a digital platform to enable auditors to do a complete and thorough audit
Other comments on IMSAS			<ul style="list-style-type: none"> • Having other IMO Member States in the Pacific Region that has completed IMSAS to share experiences and share lessons learned so. Sharing the regional expertise in conducting IMSAS. • IMO to send lesson learned report as soon as practicable for administration to take note and prepare accordingly. • IMSAS is flawed as the auditors hold the III Code to be an audit criterion rather than only as a guide. There is nothing in the IMO instruments that call for system improvements, apart from the STCW requirement of the Administration having a QMS in place.

Summary Feedback from IMO Auditors On Capacities to Carry Out Audits During Pandemic

This summary is based on 5 responses to the questionnaire sent to IMO auditors

			Remarks from the Member States
Was the introduction of IMSAS an effective method by IMO to assist Member States in improving their capabilities and overall performance for them to fully comply with the IMO instruments to which they are Parties?	Yes (5)	No (0)	<ul style="list-style-type: none"> • IMSAS is a long-term solution to Member States' implementation problems. Have yet to see the potential benefits of IMSAS for most IMO members. • As learned from the IMO secretariat, the rectification rate for findings and observations revealed in IMSAS audits is about 3-4%, which is very low. • Definitely, it was an opportunity for Member State to comply with the requirements of IMO Conventions they have ratified • Yes, it is an effective method, especially if the Member State can introduce an internal audit programme of the Member State regularly to verify the III Code. We must remember that the IMSAS 7-year cycle and therefore it is important for the Member State to ensure the implementation with e.g. yearly internal audits. • The III Code could be a "Standard" incorporated in the Quality Management System of the Member State together with other standards like ISO etc.
From VIMSAS to IMSAS, Are there any changes or what or some observations made in terms of the performance of the Member State to discharge their obligations as flag, port, and/or coastal States emanating from applicable international law	Yes (5)	No (0)	<ul style="list-style-type: none"> • There is a slight positive change for Member States who participated in VIMSAS, but for 115+ others, which did not participate, IMSAS was their first experience. We still need time to see any increase in performance. • IMSAS audits were new to States and many struggled to understand the process of the audits. Without previous experience, performance desired uplifting,

			<p>however, each of the Member States audited had put in their absolute best to satisfy the audit team members and to comply with III Code and the framework.</p> <ul style="list-style-type: none"> • The Member States in general are very positive about the Audit. However, many found out that either they were not complying as required by the Conventions due to many reasons such as lack of Human Resources, capacity building, financial reasons, or political issues • the performance of Member States has for sure improved since the introduction of VIMSAS
For the IMSAS audit, which area(s) (Common, Flag, Port, or Coastal State) usually has the most findings and observations?	<p>Common areas: Overall Strategy Promulgation of IMO instruments into national legislation reporting to the IMO</p> <p>Flag State: Flag State legislation and instructions Flag State enforcement (penal issues)</p> <p>Coastal State: Coastal State legislation Coastal State performance evaluation</p> <p>Port State: Port State legislation (PRF, Dangerous Goods)</p>		<ul style="list-style-type: none"> • missing legislation, instructions, guidance, development of strategies • lack of Improvement - the promulgation of national legislation, • No roadmap and action plan (strategy) • Lack of Coordination with all involved agencies • Flag State requirements consist of the bulk of auditing matters and hence findings are often greater in this area than others. In the common area, most States fail to comprehend fully the requirement of the State's Strategy (item 2). Most Pacific Island States need to improve on their Coastal State responsibilities; this may be due to a lack of resources in their respective States. • It is the Common Area and the Flag state area • timely and full implementation of the obligations in the IMO instruments is a challenge for all Member States. • a fully operational and implemented Quality Management System in the Member State with a clear reference to eg. ISO 9001 supplemented with the III Code requirements to be in place.

	Evaluation of performance		
Impact of Covid 19			
What are some impacts of Covid -19 on the performance of Member States?			<ul style="list-style-type: none"> • for some work from home was introduced for continuity of business. • B- unable to comment as no virtual audit conducted • Many of the Audits could not be performed in 2020. With the closure of Offices, many Member States had their businesses interrupted and had to re-adjust for online/hybrid types of Audits.
Some practical examples of the <u>challenges</u> faced by Member State for IMSAS audit due to Covid – 19?			<ul style="list-style-type: none"> • Online IMSAS audits became a necessity. Technical (internet -computer) challenges are there for some Member States. • Member States face several challenges when required to be audited under IMSAS, in particular, due to the ongoing effect of Covid 19. IMO Member State audits are moving away from the traditional in-person audits and going either remote and/or in certain cases a hybrid audit. The Member States, particularly those with limited resources or capabilities would find it difficult to be audited remotely whereby the State(s) would have to provide evidence and proofs of activities using audio-visual technology (for example – proof of a well-organized lifeboat or EMS drill). • Other difficulties may include the continued use of the internet and or wi-fi due to power failures. • No physical Audits were performed, Member States had to involve more persons to draft documents, and improve IT facilities so that Online Audits could be conducted which last longer in terms of contact hours with the Auditors, Time adjustments because the

		<p>Auditors were from different zone times.</p> <ul style="list-style-type: none"> • For Hybrid Audits, Member States had to adapt to Covid-19 Protocols in their respective countries. • The face-to-face audits have been replaced by remote audits. Especially during the internal audits and also the IMO audit. • Lack of cooperation including physical meetings between the involved Government entities. • Physical cooperation and work between the staff in the entities. • Documentation, recording, and regular review and verification of records. • To regularly review and ensure the implementation of the IMO instruments. The daily work in the entity. • The time zone problems will be a great challenge if we continue with remote IMSAS audits.
With travel restrictions in your opinion, what would be the preferred method/ approach for Member State audits?		<ul style="list-style-type: none"> • on-site audits give the best results for the IMO and the Member State. Online audits have some advantages but also several challenges. • To be fair to all auditees (Member States), some 'in-person' audit is necessary. For example, a technologically developed State may be able to use audio-visual technology to present evidence and proof, whilst a not-so-advanced State would be unable to present the good work that it has been doing due to restrained technology availability. Hence, my preferred approach would be to conduct audits remotely on the documentary part of the audit and at least one auditor does a country visit to check activity-related work. • The online method is already being implemented but it

			<p>takes longer and has many constraints including Time zone differences. A physical Audit is better.</p> <ul style="list-style-type: none"> • With the present travel restrictions, the remote audit mechanism has to be used, but the need to follow up with onsite visits and audits as soon as it will be possible again. • need to consider world time zone issues, otherwise, we will see e.g. European audit teams auditing the European Member States, and that was not the idea with the worldwide IMO audit scheme.
What would be some of the advantages and disadvantages of that approach?			<ul style="list-style-type: none"> • Same as IMO document C 127/12/1 • The advantage of the approach is that audits would be fair and equitable for all Member States – developing or otherwise. • Advantages: No need for travel, safer, pre-arranged timings • Disadvantages: Availability of Auditors as they are all working in different time zones, Verifications are better conducted physically, Internet availability, submission of documents which could be of huge volumes, cannot verify for sure facilities in place, takes much longer. • Saving on the travel expenses and this might be a future issue to discuss between the Member States. • disadvantage - that remote audits with video interviews are NOT the same as face-to-face audits where the experienced auditor will directly observe the auditee and thereby somehow feel/observe that we might have a finding or observation. • The review of records and documents is NOT the same on a remote basis, as the auditors cannot approach the

			<p>documentation remotely.</p> <ul style="list-style-type: none"> • The verification and review of sites and equipment especially of port and coastal State activities CAN NOT be carried out effectively remotely by the use of remote meetings including videos or photos. • The time for the remote IMSAS (preparation, more than 2 weeks of audit and follow-up) to be used by the audit team and especially the Audit team leader and Single Point Contact will be discussed in the Member States.
As an auditor, what would be some of your challenges for the next Member State audit should Covid -19 continue?			<ul style="list-style-type: none"> • For online audits, time difference, loss of personal observations and contact, technical (connection) issues • Covid 19 is a challenge to all; audit team members are no exception. The world is moving forward, the general public is taking all the health and safety matters as directed by respective governments. We need to practice good hygiene and obey guidance and instructions from relevant authorities. Over time, this will be the norm. • It will for sure be the remote audit mechanism and the audit process as a combination of interviews and review of documents/records on a remote basis. But the verification of sites and equipment will also be a challenge. • The time will not be a challenge.
IMO has endorsed the use of a remote audit mechanism during the pandemic. What is your thought on this?	Yes (2)	No (3)	<ul style="list-style-type: none"> • Not positive, but it was necessary. It should be ended ASAP. • Only remote audits will not be fair to all Member States. IMO requires to at least conduct hybrid audits in most cases and where possible go back to 'on-site' in the country) audits.

			<ul style="list-style-type: none"> • We need to accept it as the world is not yet open because of travel and quarantine restrictions. But we might soon consider a combination with more hybrid audits or even full on-site travel. • Onsite is the preferred method due to the scope of the audit that has to be covered.
What would be some of the challenges which might be encountered during the remote audit?			<ul style="list-style-type: none"> • Agree with Council document C 127/12/1 • Challenges during a remote audit would include a poor understanding of the documentary evidence, proof of compliance, and substandard auditor-auditee communication, particularly when the Member State does not communicate in any one of the 6 IMO languages. • Availability of Auditors as they are all working in different time zones, • Verifications are better conducted physically, Internet availability, submission of documents which could be of huge volumes, cannot verify for sure facilities in place, takes much longer.
How would those challenges be overcome?			<ul style="list-style-type: none"> • There are some remedies as detailed in the IMO paper, But most can't. We should turn back to normal • The challenges expressed can be overcome by using translators and interpreters, however, this may be the last approach to achieving a fair and equitable outcome • IT Facilities to be sharp, Auditors must be free from day-to-day commitments (duties at the Office) • We all (IMO MSA, auditors, ATs, SPCs, member states) need to learn about the advantages and disadvantages of the previous remote IMSAS audits but also consider when to begin on hybrid maybe regional

			<p>on-site audits.</p> <ul style="list-style-type: none"> • Learn from the experience and how to improve the remote audit program and consider amending the audit scheme.
Moving forward, post-pandemic or should pandemic continue, which is the preferred method of the audit?	<p>On-site audit (3) Remote audit (1) Hybrid (1)</p>		<ul style="list-style-type: none"> • On-site audits for the same reason as stated by IMO. • Post-Covid, IMSAS audits should resort to the original method with the audit team visiting the Member State being audited. This approach would make the audits fair and equitable to all • The Hybrid System (remote & physical) could be the best method/system because the Auditors can verify on-site any system in place and prior to traveling to the MS can conduct interviews with Officers of the MS online. • We should as soon as possible come back on track with the original on-site audit scheme, but we might consider if it will be more efficient and time-saving to use some of the remote audit mechanisms in a restricted way. This could be for example during an audit in a large Member State covering a great area with some remote interviews of staff far away etc.
Other Comments on IMSAS			<ul style="list-style-type: none"> • Benefits of IMSAS will be seen in the long term for many States. They need to change their traditional way of work and start working with a “system” (strategies, policies, transparency, legislation etc.) This will take time but maybe in 10-20 years, the results will be very visible. • If the Member State understands how to use the III Code requirements to improve the performance of the Member State, it will show that the implementation of

			<p>the international obligations and requirements will be much more effective. But the Member state must understand the difference between some sort of a “certified III Code system” (like ISO 9001 or ISM Code) and a real-life III Code full implementation focused to improve the performance of the Member State.</p> <ul style="list-style-type: none"> • Some Member States still believe that the III Code should be compared with some sort of an ISO 9001 certification to show the inside and outside world “customers” like “a clean certificate” instead of a system assisting to improve the State business and performance. • Some States are even surprised when they realize that if they do not care about the corrective action plan after the IMSAS • the member states must continually improve themselves in or drove to a Quality Register and attract quality shipping.
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Appendix D: Feedback from Member State – Indicative for Conduct of Remote Audit

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ANNEX 5

INDICATIVE SCHEDULE FOR THE CONDUCT OF REMOTE AUDITS OF MEMBER STATES SCHEDULED TO BE AUDITED IN 2021

NO.	MEMBER STATE	Audit period	Remark	Feedback received	Possible period for remote audit (tbc)
91	Saudi Arabia	April	Postponed	Ready for remote audit	September 2021
101	Malawi	June	Postponed	No feedback provided	-
102	Maldives	March	Postponed	Ready for remote audit	January/February 2022
103	Mauritius	February	Audited/Reports being finalized	-	-
104	Benin	March	Postponed	No feedback provided	-
105	Cameroon	March	Postponed	Ready for remote audit	February/March 2022
106	Pakistan	March	Postponed	No feedback provided	-
107	Republic of Moldova	October	Postponed	Ready for remote audit	October/November 2021
108	Dominican Republic	April	Postponed	Ready for remote audit (for those aspects where remote view of facilities is not required)	January 2022
109	Ethiopia	December	Postponed	No feedback provided	-
110	Namibia	April	Postponed	Ready for remote audit (no electronic access to records)	April/May 2022
111	Democratic People's Republic of Korea	May	Postponed	Does not accept remote audit	-
112	Timor-Leste		Postponed based on decision of C 121	-	-
113	Denmark	September	Postponed	Ready for remote audit	October/November 2021
114	Cyprus	October	Postponed	Ready for remote audit	January 2022

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115	United Kingdom	September	Postponed	Ready for remote audit	September 2021
116	Spain	August	Postponed	Ready for remote audit	September 2021
117	Marshall Islands	August	Postponed	Ready for remote audit	January 2022
118	Sweden	June	Postponed	Ready for remote audit	September/October 2021
119	Japan	September	Postponed	Ready for remote audit (but strongly prefers on-site audit)	March/April 2022
120	Liberia	November	Postponed	Ready for remote audit (with requested adjustment of scope due to availability of ICT)	February/March 2022
121	Chile	November	Postponed	Ready for remote audit (with specific preferences for the audit process)	February/March 2022
122	Republic of Korea	July	Postponed	Ready for remote audit	September 2021
123	Greece	December	Postponed	Ready for remote audit (with practical arrangements to be made well in advance)	March/April 2022
124	Canada	June	Postponed	Ready for remote audit	October/November 2021
125	New Zealand	October	Postponed	Ready for remote audit	October/November 2021

Note. From “IMO Member State Audit Scheme Consideration of a remote audit mechanism” by the International Maritime Organization, 2021, pp 79-80

(<https://docs.imo.org/index.html?iframe=https%3A%2F%2Fdocs.imo.org%2FCategory.aspx%3Fcid%3D3>)

Appendix E: Summary Feedback by IMO from the Member States On Capacities to Carry Out Remote Audit Under IMSAS

This summary is based on 20 responses to the questionnaire sent to 25 Member States.

ICT (information and communication technologies)			Remarks/Comments from Member States
Do you have stable internet connection/good online connection quality in the nodal entity of the State responsible for the implementation and enforcement of requirements stemming from the mandatory IMO instruments?	Yes (19)	No (1)	<ul style="list-style-type: none">▪ Documentation can only be accessed through authorized personnel, and secure email access (three Member States).▪ Documentation available in the national language (three Member States).▪ Access to certain facilities by video is not permitted (one Member State).▪ There may be a compatibility issue with different platforms used by the various entities of the State (one Member State).▪ There may be problems with firewalls, security measures, access to the system only through authorized personnel, and secure email access among entities of the State (three Member States)
Do you have stable internet connection/good online connection quality in all entities of the State participating in the implementation and enforcement of requirements stemming from the mandatory IMO instruments?	Yes (18)	No (2)	
Specify your videoconferencing facilities and platform (Microsoft Teams, Zoom, Skype, other).	MS Teams, Zoom, Skype for Business, Google Meet		
Specify if videoconferencing facilities and platforms are the same and compatible within all entities of the State participating in the audit.	Yes (18)	No (2)	
Specify if existing ICT capabilities allow access to relevant documented information including software, databases, records, etc.	Yes (17)	No (3)	
Specify if it is possible to observe the facilities, activities, etc., by video (if necessary).	Yes (19)	No (1)	

Maritime Administration (facilities/personnel)			Remarks/Comments from Member States
Do you have a suitable office/area to conduct a remote audit within the nodal entity of the State responsible for the implementation and enforcement requirements stemming from the mandatory IMO instruments?	Yes (19)	No (1)	<ul style="list-style-type: none"> Confidential documents can only be accessed from the office. Connectivity issues if working from home (one Member State). Different time zones of the Member State with the location of the appointed audit team (three Member States). Not all personnel from entities of the State will be able to work outside the regular working hours (four Member States)
Do all participating entities of the State have suitable offices/areas to conduct remote audits?	Yes (19)	No (1)	
Are all the relevant personnel from all participating entities of the State able to attend remote audits from their office/respective household?	Yes (18)	No (2)	
Are all the relevant personnel from all participating entities of the State able to attend the remote audit from their office/household outside their regular working hours?	Yes (16)	No (4)	
Maritime administration (administrative/operational issues)			Remarks/Comments from Member States
Is the nodal entity of the State responsible for the implementation and enforcement of requirements stemming from the mandatory IMO instruments performing all the regular activities?	Yes (16)	No (4)	<ul style="list-style-type: none"> None
Is it feasible to carry out an opening/closing meeting with all participating entities of the State responsible for the implementation of the mandatory IMO instruments?	Yes (19)	No (1)	
Is it feasible to deliver a presentation regarding the organization of the maritime administration (workflows/organograms) after the opening meeting?	Yes (19)	No (1)	
Are representatives of all participating entities of the State included in the overall strategy can attend remote audit sessions from office/households?	Yes (19)	No (1)	

Are all the participating entities of the State responsible for drafting/ensuring the final promulgation of national legislation through the existing legal process, able to attend remote audit sessions from their office/household?	Yes (19)	No (1)	
Maritime Administration (evidence and records)			Remarks/Comments from Member States
Can access to electronic records be made available, including records of an existing management system/respective documentation and assessments/analyses?	Yes (15)	No (5)	<ul style="list-style-type: none"> ▪ Legislation is available only in the national language (five Member States). ▪ Certain activities cannot be accessed by video (four Member States). ▪ Access to records available through secure email transfer (four Member States). ▪ Access to records permitted through authorized personnel (two Member States).
Do you have primary and subsidiary national legislation, including administrative instructions, digitalized? Or can you ensure ready and easy access to the text?	Yes (19)	No (1)	
Do you have processes/procedures and working instructions digitalized? Or can you ensure ready and easy access to respective documents??	Yes (18)	No (2)	
Can you ensure ready and easy access to technical records of ships/all types of certificates, documents of compliance, ROs' related documentation including oversight or other related records?	Yes (17)	No (3)	
Can you ensure ready and easy access to documents/records related to flag State surveyors/inspectors/auditors, including their training?	Yes (18)	No (2)	
Can you ensure ready and easy access to documents related to flag State investigators?	Yes (18)	No (2)	
Do you have online training or webinars?	Yes (18)	No (2)	
Is it possible to observe remotely guided site visits and/or witness running processes or operations?	Yes (17)	No (3)	
Is it possible to observe activities that are not ongoing at the time of the audit through the provision of related videos?	Yes (16)	No (4)	

Maritime Administration (willingness to proceed with remote audit)			Remarks/Comments from the Member States
A revised audit plan will be required to focus on elements that can be undertaken remotely, are you ok with this?	Yes (19)	No (1)	<ul style="list-style-type: none"> ▪ Request for IMO representative to be present to facilitate certain administrative and coordination aspects (two Member States). ▪ Absence of ICT communication capabilities in some entities for remote audits (one Member State). ▪ Preference for onsite audit, although willing to accept remote audit under the circumstances (four Member States). ▪ Suggestion to have an onsite verification by the audit team leader (ATL) after the remote part of the audit, if possible (two Member States).
Are you happy to proceed with a remote audit?	Yes (19)	No (1)	

Note. From “IMO Member State Audit Scheme Consideration of a remote audit mechanism” by the International Maritime Organization, 2021, pp 19-22 (<https://docs.imo.org/index.html?iframe=https%3A%2F%2Fdocs.imo.org%2FCategory.aspx%3Fcid%3D3>)