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**Office of the Auditor General**



# Special Audit Report

On the Purported Supply and Payment for Earthquake Data  
Measuring Equipments worth Kshs.31,245,700.00 during  
the *Financial Year 2009/2010*

**Ministry of Transport**

# Table of Contents

- Abbreviations..... 2
- 1. *Executive Summary* ..... 3
  - 1.1 Introduction ..... 3
  - 1.2 Background information..... 3
  - 1.3 Summary of our findings and conclusions..... 4
  - 1.4. Responsibility and culpability..... 6
- 2. *Objectives and scope of the audit*..... 8
  - 2.1 Work done and sources of audit evidence..... 8
- 3. *Findings of the audit*..... 9
  - 3.1. Irregular and invalid payments were made to four merchants for supply of earthquake measuring equipment ..... 9
  - 3.2. A Series of irregular transactions and preceded payments ..... 12
- 4. *Conclusions*..... 16

## ***Abbreviations***

- AO** -Accounting Officer
- AIA** -Appropriation in Aid
- CID** -Criminal Investigation Department
- EFT** - Electronic Funds Transfer
- KACC** -Kenya Anti Corruption Commission
- KFS** - Kenya Ferry Services
- KMD** - Kenya Meteorological Department
- LPO** - Local Purchase Order
- MOT** - Ministry of Transport
- OAG** - Office of the Auditor General
- PAC** -Public Accounts Committee
- PS** -Permanent Secretary
- VAT** - Value Added Tax

# ***1. Executive Summary***

## ***1.1 Introduction***

We have, following information received by the Office, conducted a special audit on two expenditures totaling Kshs.31,245,700.00 reflected in Development Appropriation Account of the Ministry of Transport (MOT) for the year ended 30 June 2010. The expenditure was shown in the Ministry's records as having been incurred on purchase of an earthquake data-measuring equipment for use by the Shipping and Maritime Affairs Department of the Ministry. The audit also examined several other transactions made by the Ministry between the 2006/2007 and the 2009/2010 financial years and which appeared to have laid the groundwork for the expenditures.

This report sets out the work done and key findings from the audit, and is aimed at assisting the Public Accounts Committee (PAC) in their review thereof. This Executive summary should be read in together with the full report:

## ***1.2 Background information***

The Ministry of Transport made payments totaling Kshs.31,245,700 to four firms purportedly contracted to supply the Ministry with earthquake data measuring equipment. The payments were preceded by a series of related transactions spanning three financial years from 2006/2007 to 2009/2010. The transactions related to budgeting, procurement, accounting and reporting and were all effected in the development appropriation vote and in the statement of assets & liabilities for deposits of the Ministry. The purpose of our audit investigation was to establish whether the payments were valid and whether transactions effected by the Ministry prior to and in relation to the payments were made with due regard to Government financial regulations and procedures.

### **1.3 Summary of our findings and conclusions**

We have through the audit found that the expenditures totaling to Kshs.31,245,700.00 reflected in the Ministry's development appropriation account financial statements for the year ended 30 June 2010 were fraudulent and that they were preceded by several transactions effected by the Ministry in an irregular and un-procedural manner as summarized below:

- i. In the financial year ended 30 June 2007, the Meteorological Department, which was, then under the Ministry of Transport, was allocated a sum of KShs.260,500,000.00 to procure various categories of specialized equipments. However, two merchants contracted to supply equipments valued at KShs.31,245,711.20 failed to supply equipments even though the Ministry had, contrary to government financial regulations, paid them in advance. Two years after the payments, the Kenya Anti-Corruption Commission compelled the suppliers to return the money to the Ministry but upon receiving the refunds on 24 March 2009, the Ministry did not credit the money to the development appropriation Account as Government financial regulations require. It instead put the funds in a suspense deposit account of statement of assets & liabilities for funds and deposits.
- ii. During the 2009/10 financial year, Treasury included a sum of KShs.31,245,700.00 in the Ministry's supplementary estimates (development expenditure) for the year published in March 2010. The sum, which was all but identical to the deposit suspense sum of Kshs.31,245,711.20 in the 2008/2009 statement of assets & liabilities for funds and deposits, was shown in the estimates, as a provision for purchase of earthquake data-measuring machines for use by the Shipping and Maritime Department of the Ministry. The purchase was classified as an Appropriations-in-Aid (AIA) item to be funded from a deposit held by the Ministry. The inclusion of the amount in the supplementary estimates cleared the way for the Ministry to transfer the refund from the funds and deposits account to the development vote cashbook.
- iii. We have also established that two months before the close of the financial year on 29 April 2010, the Ministry granted the Kenya Ferry Services Company (KFS) a grant of KShs.31,245,700.00, an amount similar to the deposited sum to buy five (5) new ferry engines that would replace the

existing ones which were reported to have become inefficient to run and costly to maintain due to old age. The sum was paid to the Company on 17 May 2010 as a normal grant item budgeted by the Ministry.

- iv. At the close of the financial year on 28 June 2010, the Ministry made payments totaling KShs.31,245,700.00 to four (4) suppliers purportedly for delivery of earthquake data measuring equipment to the Shipping and Maritime Department of the ministry. The payments were charged to the provision amounting to Kshs.31,245,700.00 made in the revised supplementary estimates for the year.

**the following conclusions follow from the observations that we made in the audit:**

- i. Payments totaling KShs.31,245,700.00 shown in the Ministry of Transport books as having been made to four merchants to supply of earthquake data measuring equipments were fraudulent. About one-half of the payments were not supported with any documentary evidence while proof provided for the balance was invalid as explained below.
  - Expenditures totaling to KShs.15,685,700.00 were not supported with any documentation.
  - Documentation provided by the Ministry in support of expenditures totaling KShs.15,560,000.00 were for equipments previously delivered to the Kenya Meteorological Department (KMD). In addition, the documentation showed that the goods paid for were delivered in June 2009. Further, the Ministerial Tender Committee Minutes shown to have deliberated and awarded the contract for supply of the equipments related to the award for supply of aviation equipments during the 2007/2008 financial year. In any case, it was irregular for Ministry of Transport to have procured equipments on behalf of a fully-fledged parastatal.
- ii. Payment to Kenya Ferry Services of grants totaling KShs.31,245,700.00 for the procurement of five (5) new ferry engines that would replace the existing ones was irregular, as the sum had not been included in the annual or revised estimates of the Ministry for the financial year 2009/10. It is evident that the payment was made to conceal the intention to misappropriate the returned cash.

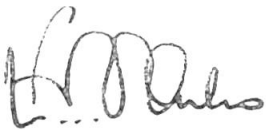
- iii. Payment to suppliers of goods worth KShs.31,245,711.20 not delivered in the financial year 2006/2007 was irregular and contravened Government financial regulations and procedures, which do not allow processing and payment of forged and invalid vouchers.
- iv. The action of the Ministry of Transport to deposit the sum of KShs.31,245,711.20 returned to the Ministry on 24 March 2009 in its statement of assets and liabilities for deposits account instead of a suspense account of the development appropriation account was irregular as Government financial regulations and procedures, stipulate that, such refunds be surrendered back to Treasury at the close of each financial year. Further, the inclusion of the sum of KShs.31,245,700.00 in the supplementary (development vote) estimates of the Ministry for year 2009/2010 was irregular as the Accounting Officer of Ministry did not formally include the sum in its request for additional funds when submitting its supplementary estimates proposals to Treasury. Available evidence suggests that there was collusion between some officers in the Ministry of Transport and Treasury on the matter.

#### **1.4. Responsibility and culpability**

We have established that the following individuals may have been compromised and/or participated in the potentially criminal activities, which have led to the loss of public funds totaling Kshs.31,245,700.00.

<b>Parties</b>	<b>Findings on wrongdoing and/or irregularities</b>	<b>Conclusion and next steps</b>
The Accounting officer, Dr Cyrus Njiru	For authorizing grants to Kenya Ferry Services totaling Kshs.31,245,700.00 to procure 5 new ferry engines that had not been provided for in the printed estimates.  For failure to put in place financial controls or otherwise to avert misappropriation of public funds totaling to KShs.31,245,700.00.	The AO should take personal responsibility for the actions of the Ministry of Transport staff involved.

<p>Mr. Jeremiah Matoke an Accounts Officer in MOT.</p>	<p>He acted contrary to instructions given by The Ag. Principal Accounts Controller by expensing Kshs.31,245,700.00 to normal grants a/c 0117-2220207 instead of Shipping &amp; Maritime head 572-000-311100.</p> <p>It's alleged that he approached the Treasury Desk officer, Mr. Onderi Ontweka and requested him to irregularly include the Kshs.31,245,700.00 in the supplementary estimates.</p>	<p>The Accounts Officer should be investigated by CID and the Ethics and Anti Corruption Commission on his role in the irregularity and various offences including abuse of office.</p>
<p>Treasury officials in the Budget Department and/or Mr. Onderi Ontweka,</p>	<p>The vouchers of KShs.31,245,700.00 were supported by an Authority Letter Ref: ES 3/14/01 (15) dated 29 March 2010 and signed by Mr. Onderi Ontweka, the Ministry's Desk Officer at Treasury, where it was indicated that Treasury had approved a request by the PS, MOT to revoke the amount that was returned by the suppliers.</p>	<p>Treasury staff should be investigated to assess whether there are grounds to bring charges in relation to negligence in the performance of official duties.</p> <p>Mr. Ontweka should be investigated and charged with various offences including abuse of office.</p>
<ol style="list-style-type: none"> <li>1. Interscope Tech &amp; Services</li> <li>2. Firstling Supplies Ltd,</li> <li>3. Flagstone Merchants</li> <li>4. Interpon</li> </ol>	<p>For illegally receiving public funds totaling Kshs.30,704,800.00</p>	<p>The Ethics and Anti Corruption Commission should liaise with CID to identify and freeze the assets the companies and their directors.</p>
<p>The then OAG Branch head-MOT</p>	<p>Did not respond/act to audit query raised on the accountability of Kshs.31,245,700.00 expenditure.</p>	<p>The Office has initiated disciplinary against the staff member.</p>



**Edward R.O. Ouko**  
**AUDITOR-GENERAL**

8 August 2012



# Main Report

## **2. Objectives and scope of the audit**

The objective of this engagement was to conduct an investigative audit on allegations of irregular financial management practices at the Ministry of Transport (MOT) headquarters in Nairobi. The purpose and focus of the audit was to establish;

- i. whether payments totaling to totaling Kshs.31,245,700.00 shown in the Ministry's 2009/2010 annual Development Vote (D-14) financial statements as having made to four merchants for supply of specialized earthquake data monitoring equipments were valid; and
- ii. whether several budgeting and accounting transactions effected by the Ministry prior to or in relation to the payments were in line with established government financial regulations.

The investigations were conducted between March 2012 and May 2012 and covered the period between the 2006/2007 and 2010/2011 financial years, which is the period during which the payments and transactions examined occurred.

### **2.1 Work done and sources of audit evidence**

We obtained audit evidence from various sources which including:

- i. Various individuals that we interviewed.
- ii. Reviews of documents obtained from the Ministry.
- iii. We obtained documentation from the following sources.
- iv. Tender committee minutes approving the contracts.
- v. Payment vouchers, accounting records including bank statements.
- vi. Review of the procurement process.
- vii. Printed estimates and correspondences.
- viii. Relevant legislation, regulations and circulars.
- ix. Meetings with various MOT officials including, the Permanent Secretary, Head of Accounting Unit and the Deputy Head of Procurement.
- x. We used the interviews and document reviews to obtain information about the transactions under examination, to understand the related allegations, and to verify facts.

### 3. Findings of the audit

#### 3.1. Irregular and invalid payments were made to four merchants for supply of earthquake measuring equipment

3.1.1. We have established that on 28 June 2010, the accounts department of the Ministry of Transport transferred cash totaling to Kshs.31,245,700 from the statement of asset and liabilities and deposits account to development vote bank account no. 1-572-0000-1450101 through payment voucher No. 079 and receipt voucher No. 023 of 30-6-2010. A narration in the accounts of the Ministry explained the transfer as a “receipt of funds from the deposits account being funds returned by M/S Kenya Auto Electrical Ltd. after failing to deliver equipment to the Kenya Meteorological Department (KMD)”. The transfer of funds was supported by an authority letter Ref: ES 3/14/01 (15) dated 29 March 2010 signed by Mr. Onderi Ontweka, the Ministry’s Desk Officer at the Treasury.

3.1.2. Out of the total sum Kshs.31,245,700 transferred, payments totaling Kshs.30,704,800.00 were made to four suppliers through the Electronic Funds Transfer (EFT) system. The Ministry explained the payments as having been made on account of several equipments purchased on behalf of the KMD. About one half of the payments - Ksh.15,560,000.00- were supported with documentary evidence while the rest amounting to Kshs.15,144,800.00 were not supported with any proof at all as detailed below:

##### Payments Supported

PV #	Payee	Details	Kshs.
5514	Firstlings Supplies Ltd	Receiver & Radio Modem Link	5,988,000
5512	Interpon Kenya	Digital Thermohygograph	2,460,000
5511	InterScope Tech & services	Wind Speed Sensors	4,860,000
5513	Flagstone Merchants	Transmitter, receiver modem	2,252,000
			<u>15,560,000</u>

##### Payments Not Supported

140	Flagstone Merchants	Surge Arrestors	4,480,800
142	Firstlings Supplies Ltd	UTA Sonic Wind	2,868,000
141	InterScope Tech & services	Wind Direction sensors	2,936,000
143	InterScope Tech & services	Wind data	4,860,000
			<u>15,144,800</u>
<b>Total</b>			<u><b>30,704,800</b></u>

**3.1.3.** The documentary evidence presented by the Ministry to support the payments totaling to Ksh.15,560,000.00 made to the three merchants; M/S Flagstone Merchants, M/s Firstlings Supplies Ltd and M/s InterScope Tech & services Ltd had the following material discrepancies :

- i. All the Local Purchase Orders (LPO) related to one quotation No. 300/2007-08 of the year 2007/2008 and were not signed by the Accountant -In-Charge Vote Book Control (VBC).
- ii. All the invoices, delivery notes and counter receipt vouchers (S13) related to year 2008/2009 while the payments made related to financial year 2009/2010, an indication that they may have been used before.
- iii. The meeting of the Ministerial Tender Committee (MTC) No. 4/14/2007-2008 that discussed Quotation No. 300/2007-08 was held on 14 May 2008, i.e. during the 2007/2008 financial year. The Minutes of the meeting show the Committee discussed the supply of Aviation Control Instruments and not earthquake data equipment for the Shipping and Maritime Affairs Department of the Ministry. Further, all the equipments shown as having been purchased by the Ministry were to be delivered to the **Airport** while payments made were charged to the Shipping and Maritime Department's Account Number- 1-572-0000-3111117. Thus, the documents presented in support of the payments did not relate to the earthquake data measuring equipment budgeted for in the revised estimates for the 2009/2010 financial year.
- iv. All the invoices presented were hand written and reflected gross payments devoid of Value-Added-Tax( VAT) deductions required in tax legislation. Furthermore, no documentary evidence was presented for proof of the sum of Kshs.4,235,134.00 shown in the Ministry's records purported to have been paid to the Commissioner of Domestic Tax as VAT.
- v. The counter requisition and issue vouchers (S11) availed to support the receipt and issue from the stores of the supposedly procured equipments indicated that the equipments were issued to the KMD in August 2009, nine months before the payments were made.
- vi. There was no evidence of physical receipt of the equipment in question.

**3.1.4.** It is evident that the documentation presented by the Ministry to support the payments were for a different contract. The documents were fabricated to support the invalid payments totaling to Kshs.15,560,000.00.

**3.1.5.** We in addition noted that the un-supported payments totaling to Kshs.15,144,800.00 were recorded in the cashbook on 16 June 2010 while the payments totaling to Kshs.15,560,000 supported with fake documents had not been recorded in the cashbook as at 30 June 2010.

**3.1.6.** We further observed that the Department of the Registrar General's records show Mr. James Thuita Nderitu, as the majority shareholder of M/s Firstling Supplies Ltd (90% shares) and the sole proprietor of M/S Interscope Tech & Services. The registered office and location of these two companies are the same. The two companies were paid Kshs.18,644,000.00 out of the total payments totaling to Kshs.30,704,800.00 made by the Ministry.

**3.1.7.** The Ministry of Transport has not provided justification as to:

- i. the mandate or authority under which the MOT purchased equipment on behalf of KMD, a fully fledged department that had moved to Ministry of Environment & Mineral Resources;
- ii. why the above purported procurements do not relate to earthquake data measuring equipment indicated in the 2009/2010 revised estimates;
- iii. why equipments meant for Airports as shown in the Ministry Tender Committee minutes were charged to Shipping and Maritime Department and shown delivered to KMD; and;
- iv. why items invoiced and delivered in the year 2008/2009 were paid in 2009/2010 contrary to laid down Government financial regulations and procedures.

## ***A Series of irregular transactions and preceded payments***

The audit further revealed that before the payments totaling to Kshs.30,704,800.00 were made to the four merchants, the Ministry effected several transactions over a period of three financial years, which in our view laid the groundwork for the successful execution of the fraudulent payments. The transactions, which were all irregular, involved creating invalid deposits of funds, obtaining unauthorized supplementary funding and granting one of its corporations a development grant that had not been budgeted for in the Ministry's printed estimates as:

### **Irregular deposit created from refund received from a compulsory refund received from Merchants who failed to deliver goods**

During the 2006/2007 financial year, the Meteorological Department, which was, then under the MOT, was in the Appropriations Act of the year, allocated Kshs.260,500,000.00 under the development appropriation vote 14, Item 3111100-Purchases of specialized plant and equipment. Of the total allocation, a sum of Kshs.31,245,700.00 was to be used for purchase of earthquake data measuring equipment.

The entire sum of Kshs.31,245,700.00 was expensed in that financial year when two suppliers, M/S Kenya Auto Electrical Ltd and Electro Technologies Ltd were contracted to supply the department with the equipments. The Ministry paid the suppliers the aggregate sum of Kshs.31,245,711.00 before they delivered the equipments. However, the suppliers failed to deliver equipments worth Kshs.27,004,331.90 and Kshs.4,241,379.33 respectively, or Kshs.31,245,711.00 in aggregate. The firms were later on compelled by the Kenya Anti-Corruption Commission to return the money in after the matter was reported to the Commission.

On 11 March 2009, Dr. Joseph Mukabana, Director KMD Ministry of Environment and Mineral Resources vide letter ref: MET/2/11/2/62 forwarded two cheques namely No's 045614 and 045615 of Kshs.27,004,331.90 and 4,241,379.30 respectively, or Kshs.31,245,711.00 in total to the Permanent Secretary -Ministry of Transport. Upon receipt of the cheques at the Ministry on 27 March 2009, the funds were banked in the statement of assets and liabilities

for funds and deposits bank account No. 4.264.0000.7320201 and credited to a suspense account.

We observed the Financial Management Act, 2001 Sec 25 (1) (b) stipulates that any appropriated amounts that have been withdrawn from the Exchequer Account but not expended at the end of the financial year shall be paid into the Exchequer. In addition, Sec 5.4.29 of the regulations that prohibit a suspense account being used for carrying forward unspent balances of Parliamentary Grants from one year to the other was violated. Further Government Financial Management Act Sec 25(1) (b) that that stipulate appropriated amounts that have been withdrawn from the Exchequer Account but not expended at the end of the financial year be paid back to exchequer account was violated.

Article 5.5.13 of the regulations which stipulates that payments should be processed for settlement of goods and services which have been supplied/rendered to the Government in accordance with valid regulations, scales, tariffs, contracts or agreements and which are supported with Local Purchase and Service Orders (LPO/LSO), invoices, receipts, receipted bills dully confirmed by the receiving officers or Authority-to- Expenditure (AIE) holders was violated.

The Ministry has not explained why it paid the suppliers in contravention of the Government financial regulations and procedures, which lay down standard payment procedures that disallow pre-payments and require payment vouchers to be supported with valid and sufficient documentation.

Further, the Ministry has not explained:

- i. Why it took the KMD more than two years to have the money returned by the suppliers; and
- ii. Why the refunds were placed in a deposits suspense account in the statement of assets and liabilities for funds and deposits and not credited back to the suspense of the development appropriation account pending return to the Exchequer as required under Government financial regulations and procedures.

The returned cash in question therefore did not meet the basic principle of being applied as an Appropriation in Aid.

**2.2. Treasury made a provision of Kshs.31,245,700.00 in the Ministry's Supplementary estimates development expenditure for the Year 2009/2010 without the Accounting Officer's having requested for it:**

The revised supplementary estimates of the Ministry of Transport for the financial year 2009/2010 reflected a provision of Kshs.31,245,700.00 under Head 572 -0000-3111100 -Shipping and Maritime Department - expenditure of specialized plant and equipments for procurement of earthquake data measuring equipments. The purchase was to be financed through Appropriations-in-Aid, Head 572, Item 1450100, "Receipts not classified elsewhere". The funds were to be realized from the deposit account.

However, the Accounting Officer in his submission to Treasury for the Revised Estimates of 2009/2010 made vide letter Ref No. /FIN/2/3 (10) of 18 January 2010 did not request for the supplementary sum of Kshs.31,245,700.00. In spite of the Accounting Officer not having requested for the sum, Treasury included the figure in the revised estimates for the year 2009/2010.

Authority for MOT to incur expenditure on the re-voted amount is contained the letter Ref ES 3/14/(01/(15) titled -Supplementary Estimates 2009/2010- Kshs.31,245,711.10 from the PS, Office of the Deputy Prime Minister and Minister of Finance, signed by Mr. Onderi N. Ontweka on behalf of the Permanent Secretary.

*It reads; "Reference is made to your letter No: MOTC/ACCTS/9/6 Vol.XV/110) dated 18<sup>th</sup> March 2010 regarding the above mentioned. It is not clear to us why the suppliers was paid Kshs.31,245,711.10 before delivering the equipment required. Your request to revote the amount has been **approved**. However, we emphasize that your Ministry should adhere to the laid down financial regulations and Public Procurement law to avoid such a situation"*

The MOT quoted Reference letter MOTC/ACCTS/9/6 Vol.XV/110) was not availed for audit review.

Section 6.3 of the Government financial regulations and procedures is clear on the classes of revenue, which the Treasury has allowed Accounting Officers to use as Appropriations-in-Aid. The said sum did not fulfill the criteria since it was a refund of voted funds and not fees collected by the Ministry, which the regulations may have sanctioned as Appropriations-in-Aid.



No explanation has been provided by the Ministry or Treasury as to why the sum of Kshs.31,245,700.00 was included in the revised estimates without the Accounting Officer having requested for it and failure by Treasury to comply with relevant legislation pertaining to government financial management

### **3.2.3. Grants of Kshs.31, 245,700.00 paid to Kenya Ferry Services**

According to a letter dated 29 April 2009, Ref No. MOT/C/SM/Vol.II (40) and titled 'Grant of Kshs.31,245,700.00 to Finance Procurement of New Engines for the Five Ferries' and signed by Mrs. P. B. Koech, (Mrs) EBS on behalf of the Permanent Secretary, the Managing Director of the Kenya Ferry Services, Mr. Musa Hassan Musa, was informed of the Ministry's intention to release to his Corporation a sum of Kshs.31,245,700 as Grant. Curiously, the sum was similar to the sum held in the Ministry's deposit account after merchants who failed to supply equipments were compelled by the KACC to return the money. The letter advised him to initiate the process of purchasing the five new engines that would replace the existing ones and in order to ensure standardization of vessels in the KFS establishment the replacement engines should be similar to those of the two new ferries being imported from Germany. *The Kshs.31,245,700.00 amounts was to be used to purchase equipments for the Shipping and Maritime Department as per the printed estimates.*

However, the Ministry eventually disbursed grants totaling to Kshs.98,246,700.00 to the KFS. The sum was accounted for in the books of the Ministry through payment voucher No. 127 dated 17 May 2010 and remitted through an Electronic Funds Transfer (EFT) transaction made on 4 June 2010. The disbursement amount was made up of a sum of Kshs.31,246,700 earmarked for procurement of the five (5) new ferry engines and Kshs.67,000,000 for purchase of ferries, construction of ramps and expansion of the existing jetties for use by new ferries procured by the KFS.

We have established that the revised(printed) estimates of the Ministry for the year 2009/2010 under the KFS provided for grants amounting to Kshs.490,000,000.00 to the Coporation. The grants were for the construction of ramps and expansion of the existing jetties for the new ferries (Kshs.242,000,000.00) and settlement of the final balance (Kshs.248,000,000.00) due on purchase of ferries.

The procurement of five new ferries as a grant payment was not included in the MOT 2009/2010 revised estimates for KFS. We therefore recommend that the Kenya Ferry Services be investigated by the Ethics and Anti-Corruption Commission and the CID on the receipt and accountability of these funds.

## ***Conclusions***

Arising from the findings of the audit, there is sufficient evidence to believe that fraud and irregularities were committed in relation to the sum of Kshs.31,245,700 ostensibly paid by the Ministry of Transport to the four merchants for purported supply of earthquake data measuring equipments. The evidence that we obtained during the audit indicates that the payments were not valid as they were either supported by fabricated documentation or none at all. Further, there is no evidence to show that the Ministry or the KMD received the equipments paid for. Therefore, we consider the payments to be nugatory expenditures that resulted in the theft of public funds.

The fraud was hatched between the 2006/07 – 2007/08 financial years, nurtured in 2008/09 – 2008/09 and finally executed in 2009/2010.

We have, in addition, confirmed that the sum of Kshs.31,245,700.00 returned to the Ministry of Transport by the two merchants whom the Ministry had paid in advance but who failed to deliver the goods due, and who were eventually compelled by the KACC to refund the money to the Ministry, was wrongfully accounted for in the books of the Ministry by being deposited in the statement of assets and deposits for funds and deposits instead of being surrendered to the Exchequer as Government financial regulations require. The sum was thereafter irregularly included in the Ministry's Supplementary Estimates for 2009/2010 and in the end fraudulently paid out to the four other merchants as highlighted above.

The audit has in addition confirmed that the sum of Kshs.31, 245,700 granted by the Ministry of Transport to the Kenya Ferry Services Company Limited to procure five (5) new ferry engines was irregularly paid from the MOT budget and misappropriated for the benefit of the company.

The KShs.31,245,700.00 expenditure reflected in the financial year 2009/2010-MOT Development Vote D14 audited financial statements is therefore questionable.



# SOLAS

## CONSOLIDATED EDITION 2014

Consolidated text of  
the International Convention for  
the Safety of Life at Sea, 1974,  
and its Protocol of 1988:  
articles, annexes and certificates

Incorporating all amendments  
in effect from 1 July 2014

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# Contents

Foreword .....	v
 <b>Part 1</b>	
Articles of the International Convention for the Safety of Life at Sea, 1974 .....	3
Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974 ...	11
<b>Consolidated text of the annex to the 1974 SOLAS Convention and the 1988 Protocol relating thereto</b>	
Chapter I      General provisions. ....	19
Chapter II-1    Construction – Structure, subdivision and stability, machinery and electrical installations .....	35
Chapter II-2    Construction – Fire protection, fire detection and fire extinction .....	117
Chapter III     Life-saving appliances and arrangements .....	227
Chapter IV     Radiocommunications .....	263
Chapter V      Safety of navigation .....	281
Chapter VI     Carriage of cargoes and oil fuels .....	317
Chapter VII    Carriage of dangerous goods .....	327
Chapter VIII   Nuclear ships. ....	341
Chapter IX     Management for the safe operation of ships .....	349
Chapter X      Safety measures for high-speed craft .....	355
Chapter XI-1   Special measures to enhance maritime safety .....	361
Chapter XI-2   Special measures to enhance maritime security .....	371
Chapter XII    Additional safety measures for bulk carriers .....	385
Appendix      Certificates .....	397
 <b>Part 2</b>	
Annex 1        Certificates and documents required to be carried on board ships .....	455
Annex 2        List of resolutions adopted by the SOLAS Conferences .....	473

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# Foreword

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## Introduction

1 The International Convention for the Safety of Life at Sea (SOLAS), 1974, currently in force, was adopted on 1 November 1974 by the International Conference on Safety of Life at Sea, which was convened by the International Maritime Organization (IMO), and entered into force on 25 May 1980. It has since been amended twice by means of protocols:

- .1 by the Protocol adopted on 17 February 1978 by the International Conference on Tanker Safety and Pollution Prevention (1978 SOLAS Protocol), which entered into force on 1 May 1981; and
- .2 by the Protocol adopted on 11 November 1988 by the International Conference on the Harmonized System of Survey and Certification (1988 SOLAS Protocol), which entered into force on 3 February 2000 and replaced and abrogated the 1978 Protocol, as between Parties to the 1988 Protocol.

2 In addition, the 1974 SOLAS Convention has been amended by means of resolutions adopted either by IMO's Maritime Safety Committee (MSC) in its expanded form specified in SOLAS article VIII or by Conferences of SOLAS Contracting Governments, also specified in article VIII, as follows:

- .1 by the 1981 amendments, which were adopted by resolution MSC.1(XLV) and entered into force on 1 September 1984;
- .2 by the 1983 amendments, which were adopted by resolution MSC.6(48) and entered into force on 1 July 1986;
- .3 by the April 1988 amendments, which were adopted by resolution MSC.11(55) and entered into force on 22 October 1989;
- .4 by the October 1988 amendments, which were adopted by resolution MSC.12(56) and entered into force on 29 April 1990;
- .5 by the November 1988 amendments, which were adopted by resolutions 1 and 2 of the Conference of Contracting Governments to SOLAS 1974 on the Global Maritime Distress and Safety System and entered into force on 1 February 1992;
- .6 by the 1989 amendments, which were adopted by resolution MSC.13(57) and entered into force on 1 February 1992;
- .7 by the 1990 amendments, which were adopted by resolution MSC.19(58) and entered into force on 1 February 1992;
- .8 by the 1991 amendments, which were adopted by resolution MSC.22(59) and entered into force on 1 January 1994;
- .9 by the April 1992 amendments, which were adopted by resolutions MSC.24(60) and MSC.26(60) and entered into force on 1 October 1994;
- .10 by the December 1992 amendments, which were adopted by resolution MSC.27(61) and entered into force on 1 October 1994;
- .11 by the May 1994 amendments, which were adopted by resolution MSC.31(63) and entered into force on 1 January 1996 (annex 1) and on 1 July 1998 (annex 2);



- .12 by the May 1994 amendments, which were adopted by resolution 1 of the Conference of Contracting Governments to SOLAS 1974 and entered into force on 1 January 1996 (annex 1) and on 1 July 1998 (annex 2);
- .13 by the December 1994 amendments, which were adopted by resolution MSC.42(64) and entered into force on 1 July 1996;
- .14 by the May 1995 amendments, which were adopted by resolution MSC.46(65) and entered into force on 1 January 1997;
- .15 by the November 1995 amendments, which were adopted by resolution 1 of the Conference of Contracting Governments to SOLAS 1974 and entered into force on 1 July 1997;
- .16 by the June 1996 amendments, which were adopted by resolution MSC.47(66) and entered into force on 1 July 1998;
- .17 by the December 1996 amendments, which were adopted by resolution MSC.57(67) and entered into force on 1 July 1998;
- .18 by the June 1997 amendments, which were adopted by resolution MSC.65(68) and entered into force on 1 July 1999;
- .19 by the November 1997 amendments which were adopted by resolution 1 of the Conference of Contracting Governments to SOLAS 1974 and entered into force on 1 July 1999;
- .20 by the May 1998 amendments, which were adopted by resolution MSC.69(69) and entered into force on 1 July 2002;
- .21 by the May 1999 amendments, which were adopted by resolution MSC.87(71) and entered into force on 1 January 2001;
- .22 by the May 2000 amendments, which were adopted by resolution MSC.91(72) and entered into force on 1 January 2002;
- .23 by the November 2000 amendments, which were adopted by resolution MSC.99(73) and entered into force on 1 July 2002;
- .24 by the June 2001 amendments, which were adopted by resolution MSC.117(74) and entered into force on 1 January 2003;
- .25 by the May 2002 amendments, which were adopted by resolution MSC.123(75) and entered into force on 1 January 2004;
- .26 by the December 2002 amendments, which were adopted by resolution MSC.134(76) and entered into force on 1 July 2004;
- .27 by the December 2002 amendments, which were adopted by resolution 1 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 and entered into force on 1 July 2004;
- .28 by the June 2003 amendments, which were adopted by resolution MSC.142(77) and entered into force on 1 July 2006;
- .29 by the May 2004 amendments, which were adopted by resolutions MSC.151(78), MSC.152(78) and MSC.153(78), and entered into force on 1 January 2006, 1 July 2006 and 1 July 2006, respectively;
- .30 by the December 2004 amendments, which were adopted by resolution MSC.170(79) and entered into force on 1 July 2006;
- .31 by the May 2005 amendments, which were adopted by resolution MSC.194(80) and entered into force on 1 January 2007 (annex 1) and 1 January 2009 (annex 2);

- .32 by the May 2006 amendments, which were adopted by resolutions MSC.201(81) and MSC.202(81) and entered into force on 1 July 2010 and 1 January 2008, respectively;
  - .33 by the December 2006 amendments, which were adopted by resolution MSC.216(82) and entered into force on 1 July 2008 (annex 1), 1 January 2009 (annex 2), and 1 July 2010 (annex 3);
  - .34 by the October 2007 amendments, which were adopted by resolution MSC.239(83) and entered into force on 1 July 2009;
  - .35 by the May 2008 amendments, which were adopted by resolutions MSC.256(84) and MSC.257(84) and entered into force on 1 January 2010;
  - .36 by the December 2008 amendments, which were adopted by resolution MSC.269(85) and entered into force on 1 July 2010 (annex 1) and 1 January 2011 (annex 2);
  - .37 by the June 2009 amendments, which were adopted by resolution MSC.282(86) and entered into force on 1 January 2011;
  - .38 by the May 2010 amendments, which were adopted by resolutions MSC.290(87) and MSC.291(87) and entered into force on 1 January 2012;
  - .39 by the December 2010 amendments, which were adopted by resolution MSC.308(88) and entered into force on 1 July 2012;
  - .40 by the May 2011 amendments, which were adopted by resolution MSC.317(89) and entered into force on 1 January 2013;
  - .41 by the May 2012 amendments, which were adopted by resolution MSC.325(90) and entered into force on 1 January 2014; and
  - .42 by the November 2012 amendments, which were adopted by resolution MSC.338(91) and entered into force on 1 July 2014.
- 3 Furthermore, the 1974 SOLAS Convention has recently been amended by resolutions MSC.350(92), MSC.365(93) and MSC.366(93) which would enter into force on 1 January 2015, 1 January 2016 and 1 January 2016, respectively, subject to their acceptance in accordance with article VIII(b)(vi)(2)(bb) of the Convention.\*
- 4 In addition to the above-mentioned amendments, the 1978 SOLAS Protocol has been amended, as follows:
- .1 by the 1981 amendments, which were adopted by resolution MSC.2(XLV) and entered into force on 1 September 1984;
  - .2 by the 1988 amendments, which were adopted by resolution 1 of the Conference of Contracting Governments to SOLAS 1974 on the Global Maritime Distress and Safety System and entered into force on 1 February 1992; and
  - .3 by the 2012 amendments, which were adopted by resolution MSC.343(91) and entered into force on 1 July 2014.
- 5 The 1988 SOLAS Protocol has also been amended, as follows:
- .1 by the May 2000 amendments, which were adopted by resolution MSC.92(72) and entered into force on 1 January 2002;
  - .2 by the December 2000 amendments, which were adopted by resolution MSC.100(73) and entered into force on 1 July 2002;
  - .3 by the May 2002 amendments, which were adopted by resolution MSC.124(75) and entered into force on 1 January 2004;

\* A full list of IMO resolutions can be found at <http://www.imo.org/KnowledgeCentre/IndexofIMOResolutions>.

- .4 by the May 2004 amendments, which were adopted by resolution MSC.154(78) and entered into force on 1 July 2006;
- .5 by the December 2004 amendments, which were adopted by resolution MSC.171(79) and entered into force on 1 July 2006;
- .6 by the May 2006 amendments, which were adopted by resolution MSC.204(81) and shall be deemed to have been accepted on the date on which they are accepted by two thirds of the Parties to the Protocol and shall enter into force six months after that date;
- .7 by the December 2006 amendments, which were adopted by resolution MSC.227(82) and entered into force on 1 July 2008;
- .8 by the October 2007 amendments, which were adopted by resolution MSC.240(83) and entered into force on 1 July 2009;
- .9 by the May 2008 amendments, which were adopted by resolution MSC.258(84) and entered into force on 1 January 2010;
- .10 by the June 2009 amendments, which were adopted by resolution MSC.283(86) and entered into force on 1 January 2011;
- .11 by the December 2010 amendments, which were adopted by resolution MSC.309(88) and entered into force on 1 July 2012; and
- .12 by the November 2012 amendments, which were adopted by resolution MSC.344(91) and entered into force on 1 July 2014.


#### Content of the consolidated text

6 This publication, compiled by the Secretariat to provide an easy reference to SOLAS requirements, contains a consolidated text of the 1974 SOLAS Convention, the 1988 SOLAS Protocol, and all subsequent amendments thereto in force as on 1 July 2014.

7 The publication has been arranged in two parts:

- .1 part 1, which contains the 1974 SOLAS Convention and 1988 SOLAS Protocol articles, requirements and certificates; and
- .2 part 2, which contains a list of certificates and documents\* to be carried on board ships and a list of resolutions adopted by the aforementioned SOLAS Conferences.

8 The operational requirements contained in this consolidated text are, in general, applicable to all ships, whilst the requirements for ship construction and equipment apply to ships constructed on or after the dates specified in the various regulations. To identify construction and equipment requirements applicable to ships constructed before 2014, previous texts of the 1974 SOLAS Convention, the 1988 SOLAS Protocol and the amendments to the Convention should be consulted.

9 Those requirements of chapter I and of the appendix to the annex to the 1974 SOLAS Convention which have been modified by the 1988 SOLAS Protocol are indicated by the symbol . No similar symbol is shown for requirements of the 1974 SOLAS Convention which were modified by the 1978 SOLAS Protocol because, whilst, in respect of chapter I of the Convention, the requirements thereof have been replaced and abrogated by the 1988 SOLAS Protocol, as between Parties to the Protocol, for requirements in other chapters of the Convention, they have been superseded by SOLAS amendments subsequently adopted.

10 In general, this publication reproduces the text of the 1974 SOLAS Convention and the 1988 SOLAS Protocol and includes the modifications and amendments thereto given in their authentic texts. In addition, it

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\* The list only includes the certificates and documents that are required under IMO instruments and it does not include certificates or documents required by other international organizations or governmental authorities. It should not be used in the context of port State control inspections for which convention requirements should be referred to.

includes some minor editorial changes, which, while not altering the substance, aim at achieving a degree of consistency between the texts of the 1974 SOLAS Convention and the 1988 SOLAS Protocol and the various amendments. In particular:

- .1 while the decimal numbering system is used for paragraphs and subparagraphs of regulations in chapters II-1, II-2, III, IV, V, VI and VII, which were completely rewritten in the respective amendments, the original numbering system is retained in chapters I and VIII;
- .2 the references to regulations, paragraphs and chapters in the texts adopted in the 1981 and subsequent amendments use an abbreviated form (e.g. "regulation II-2/55.5"), whereas the original reference system is retained in unamended regulations (e.g. "regulation 5 of this chapter", "paragraph (a) of this regulation", etc.);
- .3 the term *tons gross tonnage* has been replaced by the term *gross tonnage* in view of the Assembly's decision (resolution A.493(XII)) that the term *tons gross tonnage* used in IMO instruments should be considered as having the same meaning as *gross tonnage* as determined under the 1969 Tonnage Convention; and
- .4 metric values of the SI system have been used in accordance with resolution A.351(IX).

### Status of footnotes

11 Some of the footnotes contained in this publication are not part of the authentic text of the Convention. They were inserted or updated at the time of publication by the Secretariat, taking into account the provisions of the uniform wording for referencing IMO instruments (resolution A.911(22)). Footnotes inserted or updated refer to codes, guidelines, recommendations, explanatory notes or decisions of the MSC relating to a particular text. The reader must make use of the latest versions of the referenced texts, bearing in mind that such texts may have been revised or superseded by updated material since publication of this consolidated edition of the 1974 SOLAS Convention, as amended. However, this does not apply to footnotes containing references to specific editions of industry standards, such as their number or effective date, which should only be amended after approval of the relevant revised edition of the industry standard by the IMO.

# Part 1

Articles of the International  
Convention for the Safety  
of Life at Sea, 1974

# Articles of the International Convention for the Safety of Life at Sea, 1974

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## THE CONTRACTING GOVERNMENTS

BEING DESIROUS of promoting safety of life at sea by establishing in a common agreement uniform principles and rules directed thereto,

CONSIDERING that this end may best be achieved by the conclusion of a Convention to replace the International Convention for the Safety of Life at Sea, 1960, taking account of developments since that Convention was concluded,

HAVE AGREED as follows:

## Article I

### *General obligations under the Convention*

- (a) The Contracting Governments undertake to give effect to the provisions of the present Convention and the annex thereto, which shall constitute an integral part of the present Convention. Every reference to the present Convention constitutes at the same time a reference to the annex.
- (b) The Contracting Governments undertake to promulgate all laws, decrees, orders and regulations and to take all other steps which may be necessary to give the present Convention full and complete effect, so as to ensure that, from the point of view of safety of life, a ship is fit for the service for which it is intended.

## Article II

### *Application\**

The present Convention shall apply to ships entitled to fly the flag of States the Governments of which are Contracting Governments.

## Article III

### *Laws, regulations†*

The Contracting Governments undertake to communicate to and deposit with the Secretary-General of the Inter-Governmental Maritime Consultative Organization‡ (hereinafter referred to as "the Organization"):

- (a) a list of non-governmental agencies which are authorized to act in their behalf in the administration of measures for safety of life at sea for circulation to the Contracting Governments for the information of their officers;

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\* Refer to Transfer of ships between States (MSC/Circ.1140-MEPC/Circ.424).

† Refer to Notification and circulation through the Global Integrated Shipping Information System (GISIS) (resolution A.1074(28)).

‡ The name of the Organization was changed to "International Maritime Organization" (IMO) by virtue of amendments to the Organization's Convention which entered into force on 22 May 1982.

- (b) the text of laws, decrees, orders and regulations which shall have been promulgated on the various matters within the scope of the present Convention;
- (c) a sufficient number of specimens of their certificates issued under the provisions of the present Convention for circulation to the Contracting Governments for the information of their officers.

#### Article IV

##### *Cases of force majeure*

- (a) A ship, which is not subject to the provisions of the present Convention at the time of its departure on any voyage, shall not become subject to the provisions of the present Convention on account of any deviation from its intended voyage due to stress of weather or any other case of *force majeure*.
- (b) Persons who are on board a ship by reason of *force majeure* or in consequence of the obligation laid upon the master to carry shipwrecked or other persons shall not be taken into account for the purpose of ascertaining the application to a ship of any provisions of the present Convention.

#### Article V

##### *Carriage of persons in emergencies*

- (a) For the purpose of evacuating persons in order to avoid a threat to the security of their lives a Contracting Government may permit the carriage of a larger number of persons in its ships than is otherwise permissible under the present Convention.
- (b) Such permission shall not deprive other Contracting Governments of any right of control under the present Convention over such ships which come within their ports.
- (c) Notice of any such permission, together with a statement of the circumstances, shall be sent to the Secretary-General of the Organization by the Contracting Government granting such permission.

#### Article VI

##### *Prior treaties and conventions*

- (a) As between the Contracting Governments, the present Convention replaces and abrogates the International Convention for the Safety of Life at Sea which was signed in London on 17 June 1960.
- (b) All other treaties, conventions and arrangements relating to safety of life at sea, or matters appertaining thereto, at present in force between Governments parties to the present Convention shall continue to have full and complete effect during the terms thereof as regards:
  - (i) ships to which the present Convention does not apply;
  - (ii) ships to which the present Convention applies, in respect of matters for which it has not expressly provided.
- (c) To the extent, however, that such treaties, conventions or arrangements conflict with the provisions of the present Convention, the provisions of the present Convention shall prevail.
- (d) All matters which are not expressly provided for in the present Convention remain subject to the legislation of the Contracting Governments.



## Article VII

### *Special rules drawn up by agreement*

When in accordance with the present Convention special rules are drawn up by agreement between all or some of the Contracting Governments, such rules shall be communicated to the Secretary-General of the Organization for circulation to all Contracting Governments.

## Article VIII

### *Amendments\**

- (a) The present Convention may be amended by either of the procedures specified in the following paragraphs.
- (b) Amendments after consideration within the Organization:
- (i) Any amendment proposed by a Contracting Government shall be submitted to the Secretary-General of the Organization, who shall then circulate it to all Members of the Organization and all Contracting Governments at least six months prior to its consideration.
  - (ii) Any amendment proposed and circulated as above shall be referred to the Maritime Safety Committee of the Organization for consideration.
  - (iii) Contracting Governments of States, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Maritime Safety Committee for the consideration and adoption of amendments.
  - (iv) Amendments shall be adopted by a two-thirds majority of the Contracting Governments present and voting in the Maritime Safety Committee expanded as provided for in subparagraph (iii) of this paragraph (hereinafter referred to as "the expanded Maritime Safety Committee") on condition that at least one third of the Contracting Governments shall be present at the time of voting.
  - (v) Amendments adopted in accordance with subparagraph (iv) of this paragraph shall be communicated by the Secretary-General of the Organization to all Contracting Governments for acceptance.
  - (vi) (1) An amendment to an article of the Convention or to chapter I of the annex shall be deemed to have been accepted on the date on which it is accepted by two thirds of the Contracting Governments.  
(2) An amendment to the annex other than chapter I shall be deemed to have been accepted
    - (aa) at the end of two years from the date on which it is communicated to Contracting Governments for acceptance; or
    - (bb) at the end of a different period, which shall not be less than one year, if so determined at the time of its adoption by a two-thirds majority of the Contracting Governments present and voting in the expanded Maritime Safety Committee.However, if within the specified period either more than one third of Contracting Governments, or Contracting Governments the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, notify the Secretary-General of the Organization that they object to the amendment, it shall be deemed not to have been accepted.
  - (vii) (1) An amendment to an article of the Convention or to chapter I of the annex shall enter into force with respect to those Contracting Governments which have accepted it, six months after the date on which it is deemed to have been accepted, and with respect to each Contracting Government which accepts it after that date, six months after the date of that Contracting Government's acceptance.

\* Refer to Guidance on entry into force of amendments to the 1974 SOLAS Convention and related mandatory instruments (MSC.1/Circ.1481) and Interim guidance on drafting of amendments to the 1974 SOLAS Convention and related mandatory instruments (MSC.1/Circ.1483).

- (2) An amendment to the annex other than chapter I shall enter into force with respect to all Contracting Governments, except those which have objected to the amendment under subparagraph (vi)(2) of this paragraph and which have not withdrawn such objections, six months after the date on which it is deemed to have been accepted. However, before the date set for entry into force, any Contracting Government may give notice to the Secretary-General of the Organization that it exempts itself from giving effect to that amendment for a period not longer than one year from the date of its entry into force, or for such longer period as may be determined by a two-thirds majority of the Contracting Governments present and voting in the expanded Maritime Safety Committee at the time of the adoption of the amendment.
- (c) Amendment by a Conference:
- (i) Upon the request of a Contracting Government concurred in by at least one third of the Contracting Governments, the Organization shall convene a Conference of Contracting Governments to consider amendments to the present Convention.
  - (ii) Every amendment adopted by such a Conference by a two-thirds majority of the Contracting Governments present and voting shall be communicated by the Secretary-General of the Organization to all Contracting Governments for acceptance.
  - (iii) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in subparagraphs (b)(vi) and (b)(vii) respectively of this article, provided that references in these paragraphs to the expanded Maritime Safety Committee shall be taken to mean references to the Conference.
- (d) (i) A Contracting Government which has accepted an amendment to the annex which has entered into force shall not be obliged to extend the benefit of the present Convention in respect of the certificates issued to a ship entitled to fly the flag of a State the Government of which, pursuant to the provisions of subparagraph (b)(vi)(2) of this article, has objected to the amendment and has not withdrawn such an objection, but only to the extent that such certificates relate to matters covered by the amendment in question.
- (ii) A Contracting Government which has accepted an amendment to the annex which has entered into force shall extend the benefit of the present Convention in respect of the certificates issued to a ship entitled to fly the flag of a State the Government of which, pursuant to the provisions of subparagraph (b)(vii)(2) of this article, has notified the Secretary-General of the Organization that it exempts itself from giving effect to the amendment.
- (e) Unless expressly provided otherwise, any amendment to the present Convention made under this article, which relates to the structure of a ship, shall apply only to ships the keels of which are laid or which are at a similar stage of construction, on or after the date on which the amendment enters into force.
- (f) Any declaration of acceptance of, or objection to, an amendment or any notice given under subparagraph (b)(vii)(2) of this article shall be submitted in writing to the Secretary-General of the Organization, who shall inform all Contracting Governments of any such submission and the date of its receipt.
- (g) The Secretary-General of the Organization shall inform all Contracting Governments of any amendments which enter into force under this article, together with the date on which each such amendment enters into force.

## **Article IX**

### *Signature, ratification, acceptance, approval and accession*

- (a) The present Convention shall remain open for signature at the Headquarters of the Organization from 1 November 1974 until 1 July 1975 and shall thereafter remain open for accession. States may become parties to the present Convention by:
- (i) signature without reservation as to ratification, acceptance or approval; or

- (ii) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (iii) accession.

(b) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

(c) The Secretary-General of the Organization shall inform the Governments of all States which have signed the present Convention or acceded to it of any signature or of the deposit of any instrument of ratification, acceptance, approval or accession and the date of its deposit.

## **Article X**

### *Entry into force*

(a) The present Convention shall enter into force twelve months after the date on which not less than twenty-five States, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant shipping, have become parties to it in accordance with article IX.

(b) Any instrument of ratification, acceptance, approval or accession deposited after the date on which the present Convention enters into force shall take effect three months after the date of deposit.

(c) After the date on which an amendment to the present Convention is deemed to have been accepted under article VIII, any instrument of ratification, acceptance, approval or accession deposited shall apply to the Convention as amended.

## **Article XI**

### *Denunciation*

(a) The present Convention may be denounced by any Contracting Government at any time after the expiry of five years from the date on which the Convention enters into force for that Government.

(b) Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General of the Organization who shall notify all the other Contracting Governments of any instrument of denunciation received and of the date of its receipt as well as the date on which such denunciation takes effect.

(c) A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its receipt by the Secretary-General of the Organization.

## **Article XII**

### *Deposit and registration*

(a) The present Convention shall be deposited with the Secretary-General of the Organization who shall transmit certified true copies thereof to the Governments of all States which have signed the present Convention or acceded to it.

(b) As soon as the present Convention enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

**Article XIII**  
*Languages*

The present Convention is established in a single copy in the Chinese, English, French, Russian and Spanish languages, each text being equally authentic. Official translations in the Arabic, German and Italian languages shall be prepared and deposited with the signed original.

IN WITNESS WHEREOF the undersigned,\* being duly authorized by their respective Governments for that purpose, have signed the present Convention.

DONE AT LONDON this first day of November one thousand nine hundred and seventy-four.

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\* Signatures omitted.

Protocol of 1988 relating  
to the International  
Convention for the Safety  
of Life at Sea, 1974

# Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974

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THE PARTIES TO THE PRESENT PROTOCOL,

BEING PARTIES to the International Convention for the Safety of Life at Sea, done at London on 1 November 1974,

RECOGNIZING the need for the introduction into the above-mentioned Convention of provisions for survey and certification harmonized with corresponding provisions in other international instruments,

CONSIDERING that this need may best be met by the conclusion of a Protocol relating to the International Convention for the Safety of Life at Sea, 1974,

HAVE AGREED as follows:

## **Article I**

### *General obligations*

- 1 The Parties to the present Protocol undertake to give effect to the provisions of the present Protocol and the annex hereto, which shall constitute an integral part of the present Protocol. Every reference to the present Protocol constitutes at the same time a reference to the annex hereto.
- 2 As between the Parties to the present Protocol, the provisions of the International Convention for the Safety of Life at Sea, 1974, as amended, (hereinafter referred to as "the Convention") shall apply subject to the modifications and additions set out in the present Protocol.
- 3 With respect to ships entitled to fly the flag of a State which is not a Party to the Convention and the present Protocol, the Parties to the present Protocol shall apply the requirements of the Convention and the present Protocol as may be necessary to ensure that no more favourable treatment is given to such ships.

## **Article II**

### *Prior treaties*

- 1 As between the Parties to the present Protocol, the present Protocol replaces and abrogates the Protocol of 1978 relating to the Convention.
- 2 Notwithstanding any other provisions of the present Protocol, any certificate issued under, and in accordance with, the provisions of the Convention and any supplement to such certificate issued under, and in accordance with, the provisions of the Protocol of 1978 relating to the Convention which is current when the present Protocol enters into force in respect of the Party by which the certificate or supplement was issued, shall remain valid until it expires under the terms of the Convention or the Protocol of 1978 relating to the Convention, as the case may be.
- 3 A Party to the present Protocol shall not issue certificates under, and in accordance with, the provisions of the International Convention for the Safety of Life at Sea, 1974, as adopted on 1 November 1974.

### Article III *Communication of information\**

The Parties to the present Protocol undertake to communicate to, and deposit with, the Secretary-General of the International Maritime Organization (hereinafter referred to as "the Organization"):

- (a) the text of laws, decrees, orders and regulations and other instruments which have been promulgated on the various matters within the scope of the present Protocol;
- (b) a list of nominated surveyors or recognized organizations which are authorized to act on their behalf in the administration of measures for safety of life at sea for circulation to the Parties for information of their officers, and a notification of the specific responsibilities and conditions of the authority delegated to those nominated surveyors or recognized organizations; and
- (c) a sufficient number of specimens of their certificates issued under the provision of the present Protocol.

### Article IV *Signature, ratification, acceptance, approval and accession*

1 The present Protocol shall be open for signature at the Headquarters of the Organization from 1 March 1989 to 28 February 1990 and shall thereafter remain open for accession. Subject to the provisions of paragraph 3, States may express their consent to be bound by the present Protocol by:

- (a) signature without reservation as to ratification, acceptance or approval; or
- (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (c) accession.

2 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

3 The present Protocol may be signed without reservation, ratified, accepted, approved or acceded to only by States which have signed without reservation, ratified, accepted, approved or acceded to the Convention.

### Article V *Entry into force*

1 The present Protocol shall enter into force twelve months after the date on which both the following conditions have been met:

- (a) not less than fifteen States, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant shipping, have expressed their consent to be bound by it in accordance with article IV, and
- (b) the conditions for the entry into force of the Protocol of 1988 relating to the International Convention on Load Lines, 1966, have been met,

provided that the present Protocol shall not enter into force before 1 February 1992.

2 For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of the present Protocol after the conditions for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of the present Protocol or three months after the date of deposit of the instrument, whichever is the later date.

\* Refer to Notification and circulation through the Global Integrated Shipping Information System (GISIS) (resolution A.1074(28)).

3 Any instrument of ratification, acceptance, approval or accession deposited after the date on which the present Protocol enters into force shall take effect three months after the date of deposit.

4 After the date on which an amendment to the present Protocol is deemed to have been accepted under article VI, any instrument of ratification, acceptance, approval or accession deposited shall apply to the present Protocol as amended.

## **Article VI**

### *Amendments\**

The procedures set out in article VIII of the Convention shall apply to amendments to the present Protocol, provided that:

- (a) references in that article to the Convention and to Contracting Governments shall be taken to mean references to the present Protocol and to the Parties to the present Protocol respectively;
- (b) amendments to the articles of the present Protocol and to the annex thereto shall be adopted and brought into force in accordance with the procedure applicable to amendments to the articles of the Convention or to chapter I of the annex thereto; and
- (c) amendments to the appendix to the annex to the present Protocol may be adopted and brought into force in accordance with the procedure applicable to amendments to the annex to the Convention other than chapter I.

## **Article VII**

### *Denunciation*

1 The present Protocol may be denounced by any Party at any time after the expiry of five years from the date on which the present Protocol enters into force for that Party.

2 Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General of the Organization.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its receipt by the Secretary-General of the Organization.

4 A denunciation of the Convention by a Party shall be deemed to be a denunciation of the present Protocol by that Party. Such denunciation shall take effect on the same date as denunciation of the Convention takes effect according to paragraph (c) of article XI of the Convention.

## **Article VIII**

### *Depositary*

1 The present Protocol shall be deposited with the Secretary-General of the Organization (hereinafter referred to as "the depositary").

2 The depositary shall:

- (a) inform the Governments of all States which have signed the present Protocol or acceded thereto of:
  - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

\* Refer to Guidance on entry into force of amendments to the 1974 SOLAS Convention and related mandatory instruments (MSC.1/Circ.1481) and Interim guidance on drafting of amendments to the 1974 SOLAS Convention and related mandatory instruments (MSC.1/Circ.1483).



- (ii) the date of entry into force of the present Protocol;
  - (iii) the deposit of any instrument of denunciation of the present Protocol together with the date on which it was received and the date on which the denunciation takes effect;
- (b) transmit certified true copies of the present Protocol to the Governments of all States which have signed the present Protocol or acceded thereto.
- 3 As soon as the present Protocol enters into force, a certified true copy thereof shall be transmitted by the depositary to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

### **Article IX**

#### *Languages*

The present Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic. An official translation into the Italian language shall be prepared and deposited with the signed original.

DONE AT LONDON this eleventh day of November one thousand nine hundred and eighty-eight.

IN WITNESS WHEREOF the undersigned,\* being duly authorized by their respective Governments for that purpose, have signed the present Protocol.

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\* Signatures omitted.

Consolidated text of the  
annex to the 1974 SOLAS  
Convention and the 1988  
Protocol relating thereto

# Chapter I

## General provisions



# Chapter 1

## General provisions

		<i>Page</i>
<b>Part A</b>	<b>Application, definitions, etc.</b>	
Regulation 1	Application .....	23
Regulation 2	Definitions .....	23
Regulation 3	Exceptions .....	24
Regulation 4	Exemptions .....	24
Regulation 5	Equivalents .....	24
<b>Part B</b>	<b>Surveys and certificates</b>	
<small>PRR</small> Regulation 6	Inspection and survey .....	25
<small>PRR</small> Regulation 7	Surveys of passenger ships .....	25
<small>PRR</small> Regulation 8	Surveys of life-saving appliances and other equipment of cargo ships .....	26
<small>PRR</small> Regulation 9	Surveys of radio installations of cargo ships .....	27
<small>PRR</small> Regulation 10	Surveys of structure, machinery and equipment of cargo ships .....	28
<small>PRR</small> Regulation 11	Maintenance of conditions after survey .....	29
<small>PRR</small> Regulation 12	Issue or endorsement of certificates .....	29
<small>PRR</small> Regulation 13	Issue or endorsement of certificates by another Government .....	30
<small>PRR</small> Regulation 14	Duration and validity of certificates .....	30
<small>PRR</small> Regulation 15	Forms of certificates and records of equipment .....	32
<small>PRR</small> Regulation 16	Availability of certificates .....	32
Regulation 17	Acceptance of certificates .....	32
Regulation 18	Qualification of certificates .....	32
<small>PRR</small> Regulation 19	Control .....	32
Regulation 20	Privileges .....	33
<b>Part C</b>	<b>Casualties</b>	
Regulation 21	Casualties .....	34

## Part A

### Application, definitions, etc.

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#### Regulation 1

##### *Application\**

- (a) Unless expressly provided otherwise, the present regulations apply only to ships engaged on international voyages.
- (b) The classes of ships to which each chapter applies are more precisely defined, and the extent of the application is shown, in each chapter.

#### Regulation 2

##### *Definitions*

For the purpose of the present regulations, unless expressly provided otherwise:

- (a) *Regulations* means the regulations contained in the annex to the present Convention.
- (b) *Administration* means the Government of the State whose flag the ship is entitled to fly.
- (c) *Approved* means approved by the Administration.
- (d) *International voyage* means a voyage from a country to which the present Convention applies to a port outside such country, or conversely.
- (e) A *passenger* is every person other than:
  - (i) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; and
  - (ii) a child under one year of age.
- (f) A *passenger ship* is a ship which carries more than twelve passengers.
- (g) A *cargo ship* is any ship which is not a passenger ship.
- (h) A *tanker* is a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of an inflammable<sup>†</sup> nature.
- (i) A *fishing vessel* is a vessel used for catching fish, whales, seals, walrus or other living resources of the sea.
- (j) A *nuclear ship* is a ship provided with a nuclear power plant.
- <sup>P80</sup>(k) *New ship* means a ship the keel of which is laid or which is at a similar stage of construction on or after 25 May 1980.
- (l) *Existing ship* means a ship which is not a new ship.
- (m) A *mile* is 1,852 m or 6,080 ft.
- <sup>P80</sup>(n) *Anniversary date* means the day and the month of each year which will correspond to the date of expiry of the relevant certificate.

\* Refer to Unified interpretation of the application of regulations governed by the building contract date, the keel laying date and the delivery date for the requirements of the SOLAS and MARPOL Conventions (MSC-MEPC.5/Circ.8).

<sup>†</sup> "Inflammable" has the same meaning as "flammable".

### Regulation 3 Exceptions

(a) The present regulations, unless expressly provided otherwise, do not apply to:

- (i) Ships of war and troopships.
- (ii) Cargo ships of less than 500 gross tonnage.
- (iii) Ships not propelled by mechanical means.
- (iv) Wooden ships of primitive build.
- (v) Pleasure yachts not engaged in trade.
- (vi) Fishing vessels.

(b) Except as expressly provided in chapter V, nothing herein shall apply to ships solely navigating the Great Lakes of North America and the River St Lawrence as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd meridian.

### Regulation 4 Exemptions\*

(a) A ship which is not normally engaged on international voyages but which, in exceptional circumstances, is required to undertake a single international voyage may be exempted by the Administration from any of the requirements of the present regulations provided that it complies with safety requirements which are adequate in the opinion of the Administration for the voyage which is to be undertaken by the ship.

(b) The Administration may exempt any ship which embodies features of a novel kind from any of the provisions of chapters II-1, II-2, III and IV of these regulations the application of which might seriously impede research into the development of such features and their incorporation in ships engaged on international voyages. Any such ship shall, however, comply with safety requirements which, in the opinion of that Administration, are adequate for the service for which it is intended and are such as to ensure the overall safety of the ship and which are acceptable to the Governments of the States to be visited by the ship. The Administration which allows any such exemption shall communicate to the Organization particulars of same and the reasons therefor which the Organization shall circulate to the Contracting Governments for their information.

### Regulation 5 Equivalents

(a) Where the present regulations require that a particular fitting, material, appliance or apparatus, or type thereof, shall be fitted or carried in a ship, or that any particular provision shall be made, the Administration may allow any other fitting, material, appliance or apparatus, or type thereof, to be fitted or carried, or any other provision to be made in that ship, if it is satisfied by trial thereof or otherwise that such fitting, material, appliance or apparatus, or type thereof, or provision, is at least as effective as that required by the present regulations.

(b) Any Administration which so allows, in substitution, a fitting, material, appliance or apparatus, or type thereof, or provision, shall communicate to the Organization particulars thereof together with a report on any trials made and the Organization shall circulate such particulars to other Contracting Governments for the information of their officers.

\* Refer to Issue of exemption certificates under the 1974 SOLAS Convention and amendments thereto, as amended (SLS.14/Circ.115) and Port State concurrence with SOLAS exemptions (MSC/Circ.606).

## Part B

### Surveys and certificates\*

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#### **Regulation 6**

##### *Inspection and survey*

(a) The inspection and survey of ships, so far as regards the enforcement of the provisions of the present regulations and the granting of exemptions therefrom, shall be carried out by officers of the Administration. The Administration may, however, entrust the inspections and surveys either to surveyors nominated for the purpose or to organizations recognized by it.

(b) An Administration nominating surveyors or recognizing organizations to conduct inspections and surveys as set forth in paragraph (a) shall as a minimum empower any nominated surveyor or recognized organization to:

- (i) require repairs to a ship;
- (ii) carry out inspections and surveys if requested by the appropriate authorities of a port State.

The Administration shall notify the Organization of the specific responsibilities and conditions of the authority delegated to nominated surveyors or recognized organizations.<sup>†</sup>

(c) When a nominated surveyor or recognized organization determines that the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate or is such that the ship is not fit to proceed to sea without danger to the ship, or persons on board, such surveyor or organization shall immediately ensure that corrective action is taken and shall in due course notify the Administration. If such corrective action is not taken the relevant certificate should be withdrawn and the Administration shall be notified immediately; and, if the ship is in the port of another Party, the appropriate authorities of the port State shall also be notified immediately. When an officer of the Administration, a nominated surveyor or a recognized organization has notified the appropriate authorities of the port State, the Government of the port State concerned shall give such officer, surveyor or organization any necessary assistance to carry out their obligations under this regulation. When applicable, the Government of the port State concerned shall ensure that the ship shall not sail until it can proceed to sea, or leave port for the purpose of proceeding to the appropriate repair yard, without danger to the ship or persons on board.

(d) In every case, the Administration shall fully guarantee the completeness and efficiency of the inspection and survey, and shall undertake to ensure the necessary arrangements to satisfy this obligation.

#### **Regulation 7**

##### *Surveys of passenger ships<sup>‡</sup>*

(a) A passenger ship shall be subject to the surveys specified below:

- (i) an initial survey before the ship is put in service;

\* Refer to Global and uniform implementation of the harmonized system of survey and certification (HSSC) (resolution A.883(21)), Survey guidelines under the harmonized system of survey and certification (HSSC), 2011 (resolution A.1053(27), as may be amended), Guidelines for pre-planning of surveys in dry docks of ships which are not subject to the enhanced programme of inspections (MSC.1/Circ.1223), Unified interpretation of the term "first survey" referred to in SOLAS regulations (MSC.1/Circ.1290) and Guidelines for Administrations to ensure the adequacy of transfer of class-related matters between recognized organizations (ROs) (MSC-MEPC.5/Circ.2).

<sup>†</sup> Refer to Communication of information on the authorization of recognized organizations (ROs) (MSC/Circ.1010-MEPC/Circ.382) and the information collected via the Global Integrated Shipping Information System (GISIS).

<sup>‡</sup> Refer to Surveys and inspections of ro-ro passenger ships (resolution A.794(19)), Guidelines for unscheduled inspections of ro-ro passenger ships by flag States (MSC/Circ.956) and Guidelines for the assessment of technical provisions for the performance of an in-water survey in lieu of bottom inspection in dry-dock to permit one dry-dock examination in any five-year period for passenger ships other than ro-ro passenger ships (MSC.1/Circ.1348).



- (ii) a renewal survey once every 12 months, except where regulation 14(b), (e), (f) and (g) is applicable;
  - (iii) additional surveys, as occasion arises.
- (b) The surveys referred to above shall be carried out as follows:
- (i) the initial survey shall include a complete inspection of the ship's structure, machinery and equipment, including the outside of the ship's bottom and the inside and outside of the boilers. This survey shall be such as to ensure that the arrangements, materials and scantlings of the structure, boilers and other pressure vessels and their appurtenances, main and auxiliary machinery, electrical installation, radio installations including those used in life-saving appliances, fire protection, fire safety systems and appliances, life-saving appliances and arrangements, shipborne navigational equipment, nautical publications, means of embarkation for pilots and other equipment fully comply with the requirements of the present regulations, and of the laws, decrees, orders and regulations promulgated as a result thereof by the Administration for ships of the service for which it is intended. The survey shall also be such as to ensure that the workmanship of all parts of the ship and its equipment is in all respects satisfactory, and that the ship is provided with the lights, shapes, means of making sound signals and distress signals as required by the provisions of the present regulations and the International Regulations for Preventing Collisions at Sea in force;
  - (ii) the renewal survey shall include an inspection of the structure, boilers and other pressure vessels, machinery and equipment, including the outside of the ship's bottom. The survey shall be such as to ensure that the ship, as regards the structure, boilers and other pressure vessels and their appurtenances, main and auxiliary machinery, electrical installation, radio installations including those used in life-saving appliances, fire protection, fire safety systems and appliances, life-saving appliances and arrangements, shipborne navigational equipment, nautical publications, means of embarkation for pilots and other equipment is in satisfactory condition and is fit for the service for which it is intended, and that it complies with the requirements of the present regulations and of the laws, decrees, orders and regulations promulgated as a result thereof by the Administration. The lights, shapes, means of making sound signals and distress signals carried by the ship shall also be subject to the above-mentioned survey for the purpose of ensuring that they comply with the requirements of the present regulations and of the International Regulations for Preventing Collisions at Sea in force;
  - (iii) an additional survey either general or partial, according to the circumstances, shall be made after a repair resulting from investigations prescribed in regulation 11, or whenever any important repairs or renewals are made. The survey shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory, and that the ship complies in all respects with the provisions of the present regulations and of the International Regulations for Preventing Collisions at Sea in force, and of the laws, decrees, orders and regulations promulgated as a result thereof by the Administration;
- (c)
- (i) the laws, decrees, orders and regulations referred to in paragraph (b) of this regulation shall be in all respects such as to ensure that, from the point of view of safety of life, the ship is fit for the service for which it is intended;
  - (ii) they shall among other things prescribe the requirements to be observed as to the initial and subsequent hydraulic or other acceptable alternative tests to which the main and auxiliary boilers, connections, steam pipes, high pressure receivers and fuel tanks for internal combustion engines are to be submitted including the test procedures to be followed and the intervals between two consecutive tests.

**Regulation 8**

*Surveys of life-saving appliances and other equipment of cargo ships*

- (a) The life-saving appliances and other equipment of cargo ships of 500 gross tonnage and upwards as referred to in paragraph (b)(i) shall be subject to the surveys specified below:
- (i) an initial survey before the ship is put in service;



- (ii) a renewal survey at intervals specified by the Administration but not exceeding 5 years, except where regulation 14(b), (e), (f) and (g) is applicable;
  - (iii) a periodical survey within three months before or after the second anniversary date or within three months before or after the third anniversary date of the Cargo Ship Safety Equipment Certificate which shall take the place of one of the annual surveys specified in paragraph (a)(iv);
  - (iv) an annual survey within 3 months before or after each anniversary date of the Cargo Ship Safety Equipment Certificate;
  - (v) an additional survey as prescribed for passenger ships in regulation 7(b)(iii).
- (b) The surveys referred to in paragraph (a) shall be carried out as follows:
- (i) the initial survey shall include a complete inspection of the fire safety systems and appliances, life-saving appliances and arrangements except radio installations, the shipborne navigational equipment, means of embarkation for pilots and other equipment to which chapters II-1, II-2, III and V apply to ensure that they comply with the requirements of the present regulations, are in satisfactory condition and are fit for the service for which the ship is intended. The fire control plans, nautical publications, lights, shapes, means of making sound signals and distress signals shall also be subject to the above-mentioned survey for the purpose of ensuring that they comply with the requirements of the present regulations and, where applicable, the International Regulations for Preventing Collisions at Sea in force;
  - (ii) the renewal and periodical surveys shall include an inspection of the equipment referred to in paragraph (b)(i) to ensure that it complies with the relevant requirements of the present regulations and the International Regulations for Preventing Collisions at Sea in force, is in satisfactory condition and is fit for the service for which the ship is intended;
  - (iii) the annual survey shall include a general inspection of the equipment referred to in paragraph (b)(i) to ensure that it has been maintained in accordance with regulation 11(a) and that it remains satisfactory for the service for which the ship is intended.
- (c) The periodical and annual surveys referred to in paragraphs (a)(iii) and (a)(iv) shall be endorsed on the Cargo Ship Safety Equipment Certificate.

**Regulation 9**

*Surveys of radio installations of cargo ships*

- (a) The radio installations, including those used in life-saving appliances, of cargo ships to which chapters III and IV apply shall be subject to the surveys specified below:
- (i) an initial survey before the ship is put in service;
  - (ii) a renewal survey at intervals specified by the Administration but not exceeding five years, except where regulation 14(b), (e), (f) and (g) is applicable;
  - (iii) a periodical survey within three months before or after each anniversary date of the Cargo Ship Safety Radio Certificate;
  - (iv) an additional survey as prescribed for passenger ships in regulation 7(b)(iii).
- (b) The surveys referred to in paragraph (a) shall be carried out as follows:
- (i) the initial survey shall include a complete inspection of the radio installations of cargo ships, including those used in life-saving appliances, to ensure that they comply with the requirements of the present regulations;
  - (ii) the renewal and periodical surveys shall include an inspection of the radio installations of cargo ships, including those used in life-saving appliances, to ensure that they comply with the requirements of the present regulations.
- (c) The periodical surveys referred to in paragraph (a)(iii) shall be endorsed on the Cargo Ship Safety Radio Certificate.



**Regulation 10**  
*Surveys of structure, machinery and equipment of cargo ships\**

(a) The structure, machinery and equipment (other than items in respect of which a Cargo Ship Safety Equipment Certificate and a Cargo Ship Safety Radio Certificate are issued) of a cargo ship as referred to in paragraph (b)(i) shall be subject to the surveys and inspections specified below:

- (i) an initial survey including an inspection of the outside of the ship's bottom before the ship is put in service;
- (ii) a renewal survey at intervals specified by the Administration but not exceeding 5 years, except where regulation 14(b), (e), (f) and (g) is applicable;
- (iii) an intermediate survey within three months before or after the second anniversary date or within three months before or after the third anniversary date of the Cargo Ship Safety Construction Certificate, which shall take the place of one of the annual surveys specified in paragraph (a)(iv);
- (iv) an annual survey within 3 months before or after each anniversary date of the Cargo Ship Safety Construction Certificate;
- (v) a minimum of two inspections of the outside of the ship's bottom during any five year period, except where regulation 14(e) or (f) is applicable. Where regulation 14(e) or (f) is applicable, this five-year period may be extended to coincide with the extended period of validity of the certificate. In all cases the interval between any two such inspections shall not exceed 36 months;
- (vi) an additional survey as prescribed for passenger ships in regulation 7(b)(iii).

(b) The surveys and inspections referred to in paragraph (a) shall be carried out as follows:

- (i) the initial survey shall include a complete inspection of the structure, machinery and equipment. This survey shall be such as to ensure that the arrangements, materials, scantlings and workmanship of the structure, boilers and other pressure vessels, their appurtenances, main and auxiliary machinery including steering gear and associated control systems, electrical installation and other equipment comply with the requirements of the present regulations, are in satisfactory condition and are fit for the service for which the ship is intended and that the required stability information is provided. In the case of tankers such a survey shall also include an inspection of the pump-rooms, cargo, bunker and ventilation piping systems and associated safety devices;
- (ii) the renewal survey shall include an inspection of the structure, machinery and equipment as referred to in paragraph (b)(i) to ensure that they comply with the requirements of the present regulations, are in satisfactory condition and are fit for the service for which the ship is intended;
- (iii) the intermediate survey shall include an inspection of the structure, boilers and other pressure vessels, machinery and equipment, the steering gear and the associated control systems and electrical installations to ensure that they remain satisfactory for the service for which the ship is intended. In the case of tankers, the survey shall also include an inspection of the pump-rooms, cargo, bunker and ventilation piping systems and associated safety devices and the testing of insulation resistance of electrical installations in dangerous zones;
- (iv) the annual survey shall include a general inspection of the structure, machinery and equipment referred to in paragraph (b)(i), to ensure that they have been maintained in accordance with regulation 11(a) and that they remain satisfactory for the service for which the ship is intended;
- (v) the inspection of the outside of the ship's bottom and the survey of related items inspected at the same time shall be such as to ensure that they remain satisfactory for the service for which the ship is intended.

(c) The intermediate and annual surveys and the inspections of the outside of the ship's bottom referred to in paragraphs (a)(iii), (a)(iv) and (a)(v) shall be endorsed on the Cargo Ship Safety Construction Certificate.

\* Refer to Guidelines for bulk carrier hatch cover surveys and owners' inspections and maintenance (MSC/Circ.1071).

**Regulation 11***Maintenance of conditions after survey\**

- (a) The condition of the ship and its equipment shall be maintained to conform with the provisions of the present regulations to ensure that the ship in all respects will remain fit to proceed to sea without danger to the ship or persons on board.
- (b) After any survey of the ship under regulations 7, 8, 9 or 10 has been completed, no change shall be made in the structural arrangements, machinery, equipment and other items covered by the survey, without the sanction of the Administration.
- (c) Whenever an accident occurs to a ship or a defect is discovered, either of which affects the safety of the ship or the efficiency or completeness of its life-saving appliances or other equipment, the master or owner of the ship shall report at the earliest opportunity to the Administration, the nominated surveyor or recognized organization responsible for issuing the relevant certificate, who shall cause investigations to be initiated to determine whether a survey, as required by regulations 7, 8, 9 or 10, is necessary. If the ship is in a port of another Contracting Government, the master or owner shall also report immediately to the appropriate authorities of the port State and the nominated surveyor or recognized organization shall ascertain that such a report has been made.

**Regulation 12***Issue or endorsement of certificates†*

- (a) (i) a certificate called a Passenger Ship Safety Certificate shall be issued after an initial or renewal survey to a passenger ship which complies with the relevant requirements of chapters II-1, II-2, III, IV and V and any other relevant requirements of the present regulations;
- (ii) a certificate called a Cargo Ship Safety Construction Certificate shall be issued after an initial or renewal survey to a cargo ship which complies with the relevant requirements of chapters II-1 and II-2 (other than those relating to fire safety systems and appliances and fire control plans) and any other relevant requirements of the present regulations;
- (iii) a certificate called a Cargo Ship Safety Equipment Certificate shall be issued after an initial or renewal survey to a cargo ship which complies with the relevant requirements of chapters II-1, II-2, III and V and any other relevant requirements of the present regulations;
- (iv) a certificate called a Cargo Ship Safety Radio Certificate shall be issued after an initial or renewal survey to a cargo ship which complies with the relevant requirements of chapter IV and any other relevant requirements of the present regulations;
- (v) (1) a certificate called a Cargo Ship Safety Certificate may be issued after an initial or renewal survey to a cargo ship which complies with the relevant requirements of chapters II-1, II-2, III, IV and V and any other relevant requirements of the present regulations, as an alternative to the certificates referred to in paragraph (a)(ii), (a)(iii) and (a)(iv);
- (2) whenever in this chapter reference is made to a Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate or Cargo Ship Safety Radio Certificate, it shall apply to a Cargo Ship Safety Certificate, if it is used as an alternative to these certificates.
- (vi) the Passenger Ship Safety Certificate, the Cargo Ship Safety Equipment Certificate, the Cargo Ship Safety Radio Certificate and the Cargo Ship Safety Certificate, referred to in subparagraphs (i), (iii), (iv) and (v), shall be supplemented by a Record of Equipment;

\* Refer to Ship design, construction, repair and maintenance (MSC/Circ.1070) and Shipboard technical operating and maintenance manuals (MSC.1/Circ.1253).

† Refer to Recommendation on the use of national tonnage in applying international conventions (resolution A.1073(28)).

- (vii) when an exemption is granted to a ship under and in accordance with the provisions of the present regulations, a certificate called an Exemption Certificate shall be issued in addition to the certificates prescribed in this paragraph;
  - (viii) the certificates referred to in this regulation shall be issued or endorsed either by the Administration or by any person or organization authorized by it. In every case, that Administration assumes full responsibility for the certificates.
- (b) A Contracting Government shall not issue certificates under, and in accordance with, the provisions of the International Convention for the Safety of Life at Sea, 1960, 1948 or 1929, after the date on which acceptance of the present Convention by the Government takes effect.

### **Regulation 13**

#### *Issue or endorsement of certificates by another Government*

A Contracting Government may, at the request of the Administration, cause a ship to be surveyed and, if satisfied that the requirements of the present regulations are complied with, shall issue or authorize the issue of certificates to the ship and, where appropriate, endorse or authorize the endorsement of certificates on the ship in accordance with the present regulations. Any certificate so issued shall contain a statement to the effect that it has been issued at the request of the Government of the State the flag of which the ship is entitled to fly, and it shall have the same force and receive the same recognition as a certificate issued under regulation 12.

### **Regulation 14**

#### *Duration and validity of certificates\**

- (a) A Passenger Ship Safety Certificate shall be issued for a period not exceeding 12 months. A Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate and Cargo Ship Safety Radio Certificate shall be issued for a period specified by the Administration which shall not exceed five years. An Exemption Certificate shall not be valid for longer than the period of the certificate to which it refers.
- (b) (i) notwithstanding the requirements of paragraph (a), when the renewal survey is completed within three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to:
- (1) for a passenger ship, a date not exceeding 12 months from the date of expiry of the existing certificate;
  - (2) for a cargo ship, a date not exceeding five years from the date of expiry of the existing certificate;
- (ii) when the renewal survey is completed after the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to:
- (1) for a passenger ship, a date not exceeding 12 months from the date of expiry of the existing certificate;
  - (2) for a cargo ship, a date not exceeding five years from the date of expiry of the existing certificate;
- (iii) when the renewal survey is completed more than three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to:
- (1) for a passenger ship, a date not exceeding 12 months from the date of completion of the renewal survey;
  - (2) for a cargo ship, a date not exceeding five years from the date of completion of the renewal survey.

\* Refer to Recommended conditions for extending the period of validity of a certificate (MSC-MEPC.5/Circ.1) and Unified interpretation of the date of completion of the survey and verification on which the certificates are based (MSC-MEPC.5/Circ.3).

- (c) If a certificate other than a Passenger Ship Safety Certificate is issued for a period of less than five years, the Administration may extend the validity of the certificate beyond the expiry date to the maximum period specified in paragraph (a), provided that the surveys referred to in regulations 8, 9 and 10 applicable when a certificate is issued for a period of 5 years are carried out as appropriate.
- (d) If a renewal survey has been completed and a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the person or organization authorized by the Administration may endorse the existing certificate and such a certificate shall be accepted as valid for a further period which shall not exceed 5 months from the expiry date.
- (e) If a ship at the time when a certificate expires is not in a port in which it is to be surveyed, the Administration may extend the period of validity of the certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so. No certificate shall be extended for a period longer than three months, and a ship to which an extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new certificate. When the renewal survey is completed, the new certificate shall be valid to:
- (i) for a passenger ship, a date not exceeding 12 months from the date of expiry of the existing certificate before the extension was granted;
  - (ii) for a cargo ship, a date not exceeding 5 years from the date of expiry of the existing certificate before the extension was granted.
- (f) A certificate issued to a ship engaged on short voyages which has not been extended under the foregoing provisions of this regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it. When the renewal survey is completed, the new certificate shall be valid to:
- (i) for a passenger ship, a date not exceeding 12 months from the date of expiry of the existing certificate before the extension was granted;
  - (ii) for a cargo ship, a date not exceeding 5 years from the date of expiry of the existing certificate before the extension was granted.
- (g) In special circumstances, as determined by the Administration, a new certificate need not be dated from the date of expiry of the existing certificate as required by paragraphs (b)(ii), (e) or (f). In these special circumstances, the new certificate shall be valid to:
- (i) for a passenger ship, a date not exceeding 12 months from the date of completion of the renewal survey;
  - (ii) for a cargo ship, a date not exceeding five years from the date of completion of the renewal survey.
- (h) If an annual, intermediate or periodical survey is completed before the period specified in the relevant regulations then:
- (i) the anniversary date shown on the relevant certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed;
  - (ii) the subsequent annual, intermediate or periodical survey required by the relevant regulations shall be completed at the intervals prescribed by these regulations using the new anniversary date;
  - (iii) the expiry date may remain unchanged provided one or more annual, intermediate or periodical surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by the relevant regulations are not exceeded.
- (i) A certificate issued under regulation 12 or 13 shall cease to be valid in any of the following cases:
- (i) if the relevant surveys and inspections are not completed within the periods specified under regulations 7(a), 8(a), 9(a) and 10(a);

- (ii) if the certificate is not endorsed in accordance with the present regulations;
- (iii) upon transfer of the ship to the flag of another State. A new certificate shall only be issued when the Government issuing the new certificate is fully satisfied that the ship is in compliance with the requirements of regulation 11(a) and (b). In the case of a transfer between Contracting Governments, if requested within three months after the transfer has taken place, the Government of the State whose flag the ship was formerly entitled to fly shall, as soon as possible, transmit to the Administration copies of the certificates carried by the ship before a transfer and, if available, copies of the relevant survey reports.

**Regulation 15**  
*Forms of certificates and records of equipment\**

The certificates and records of equipment shall be drawn up in the form corresponding to the models given in the appendix to the annex to the present Convention. If the language used is neither English nor French, the text shall include a translation into one of these languages.†

**Regulation 16**  
*Availability of certificates‡*

The certificates issued under regulations 12 and 13 shall be readily available on board for examination at all times.

**Regulation 17**  
*Acceptance of certificates*

Certificates issued under the authority of a Contracting Government shall be accepted by the other Contracting Governments for all purposes covered by the present Convention. They shall be regarded by the other Contracting Governments as having the same force as certificates issued by them.

**Regulation 18**  
*Qualification of certificates*

(a) If in the course of a particular voyage a ship has on board a number of persons less than the total number stated in the Passenger Ship Safety Certificate and is in consequence, in accordance with the provisions of the present regulations, free to carry a smaller number of lifeboats and other life-saving appliances than that stated in the certificate, an annex may be issued by the Government, person or organization referred to in regulation 12 or 13 of this chapter.

(b) This annex shall state that in the circumstances there is no infringement of the provisions of the present regulations. It shall be annexed to the certificate and shall be substituted for it in so far as the life-saving appliances are concerned. It shall be valid only for the particular voyage for which it is issued.

\* Refer to Guidance on the timing of replacement of existing certificates by the certificates issued after the entry into force of amendments to certificates in IMO instruments (MSC-MEPC.5/Circ.6).

† Refer to Translation of the text of certificates (resolution A.561(14)).

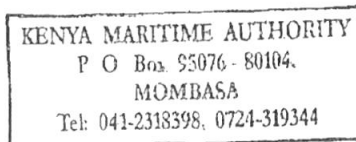
‡ Refer to Retention of original records/documents on board ships (MSC-MEPC.4/Circ.1) and Guidance on the timing of replacement of existing certificates by the certificates issued after the entry into force of amendments to certificates in IMO instruments (MSC-MEPC.5/Circ.6).

**Regulation 19**  
*Control\**

- (a) Every ship when in a port of another Contracting Government is subject to control by officers duly authorized by such Government in so far as this control is directed towards verifying that the certificates issued under regulation 12 or regulation 13 are valid.
- (b) Such certificates, if valid, shall be accepted unless there are clear grounds for believing that the condition of the ship or of its equipment does not correspond substantially with the particulars of any of the certificates or that the ship and its equipment are not in compliance with the provisions of regulation 11(a) and (b).
- (c) In the circumstances given in paragraph (b) or where a certificate has expired or ceased to be valid, the officer carrying out the control shall take steps to ensure that the ship shall not sail until it can proceed to sea or leave the port for the purpose of proceeding to the appropriate repair yard without danger to the ship or persons on board.
- (d) In the event of this control giving rise to an intervention of any kind, the officer carrying out the control shall forthwith inform, in writing, the Consul or, in his absence, the nearest diplomatic representative of the State whose flag the ship is entitled to fly<sup>1</sup> of all the circumstances in which intervention was deemed necessary. In addition, nominated surveyors or recognized organizations responsible for the issue of the certificates shall also be notified. The facts concerning the intervention shall be reported to the Organization.
- (e) The port State authority concerned shall notify all relevant information about the ship to the authorities of the next port of call, in addition to parties mentioned in paragraph (d), if it is unable to take action as specified in paragraphs (c) and (d) or if the ship has been allowed to proceed to the next port of call.
- (f) When exercising control under this regulation all possible efforts shall be made to avoid a ship being unduly detained or delayed. If a ship is thereby unduly detained or delayed it shall be entitled to compensation for any loss or damage suffered.

**Regulation 20**  
*Privileges*

The privileges of the present Convention may not be claimed in favour of any ship unless it holds appropriate valid certificates.



\* Refer to Procedures for port State control, 2011 (resolution A.1052(27)) and Code of good practice for port State control officers (MSC-MEPC.4/Circ.2).

<sup>1</sup> Refer to Measures to improve port State control procedures (MSC/Circ.1011-MEPC/Circ.383), to the MSC-MEPC.6 circular series, and to the information collected via the Global Integrated Shipping Information System (GISIS).

## Part C Casualties

### **Regulation 21** *Casualties\**

- (a) Each Administration undertakes to conduct an investigation of any casualty occurring to any of its ships subject to the provisions of the present Convention when it judges that such an investigation may assist in determining what changes in the present regulations might be desirable.
- (b) Each Contracting Government undertakes to supply the Organization with pertinent information concerning the findings of such investigations. No reports or recommendations of the Organization based upon such information shall disclose the identity or nationality of the ships concerned or in any manner fix or imply responsibility upon any ship or person.

\* See additional requirements for the investigation of marine casualties and incidents in regulation XI-1/6.