

PARLIAMENT  
OF KENYA  
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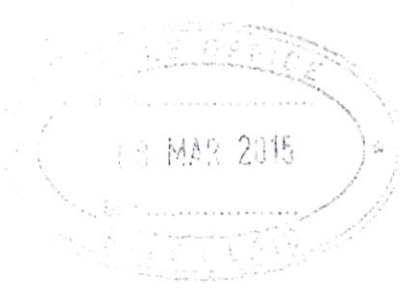


Approved for tabling.  
R. N. WA  
18/3/15

Laid in the Table of the House  
by the Hon. Maina Kamanda,  
Chair - DC on Transport,  
Public Works & Housing  
on 18/3/15  
Afternoon sitting.

J. G. G. G.

DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC  
WORKS AND HOUSING



REPORT ON THE PETITION REGARDING THE ERECTION  
OF BUMPS AND ROAD SIGNS ON MATE ROAD IN  
KATHUANA TOWN.





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## 1.0 EXECUTIVE SUMMARY

### 1.1 PREFACE

On Wednesday 29<sup>th</sup> October, 2014, a petition was tabled before the House pursuant to Standing Order No. 225 (2)(a) by the Hon. Onesmus Muthomi Njuki, MP, Chuka Igambang'ombe Constituency on behalf Residents of Chuka Igambang'ombe Constituency.

Pursuant to Standing Order 227 (1), the petition was referred to the Departmental Committee on Transport, Public Works and Housing for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227 (1) and (2).

### 1.2 MANDATE OF THE COMMITTEE

The Committee is established pursuant to the provisions of Standing Order No. 216, with the following terms of reference: -

- a) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b) to study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- c) to study and review all legislation referred to it;
- d) to study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- e) to investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House or a Minister;
- f) to vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and

- g) to make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee is mandated to consider matters of Transport, Roads, Public works, Construction, and Maintenance of roads, rails and buildings, air, seaports and housing and oversees the following Government Ministry and State Department, namely: -

- a) Ministry of Transport and Infrastructure;
- b) State Department for Housing
- c) Directorate of Public Works and Urban Development

### 1.3 COMMITTEE MEMBERSHIP

The Committee was constituted on May 20<sup>th</sup> 2013 and its membership is as follows:-

1. The Hon. Maina Kamanda, M.P. – (Chairperson)
2. The Hon. Eng. Mahamud M. Mohamed, M.P. – (Vice Chairperson)
3. The Hon. Eng. Stephen Ngare, M.P.
4. The Hon. Ali Wario, M.P.
5. The Hon. Arch. David Kiaraho, M.P.
6. The Hon. Cecily Mbarire, M.P.
7. The Hon. Capt. Clement Wambugu, M.P.
8. The Hon. Eng. John Kiragu, M.P.
9. The Hon. Gideon Konchella, M.P.
10. The Hon. Barchilei Kipruto, M.P.
11. The Hon. Mark Lomunokol, M.P.
12. The Hon. Grace Kipchoim, M.P.
13. The Hon. Mathias Robi, M.P.
14. The Hon. Joseph Lomwa, M.P.
15. The Hon. Peter Shehe, M.P.
16. The Hon. Stephen Manoti, M.P.
17. The Hon. Emmanuel Wangwe, M.P.
18. The Hon. K.K. Stephen Kinyanjui Mburu, M.P.

19. The Hon. Suleiman Dori, M.P.
20. The Hon. Edick Omondi Anyanga, M.P.
21. The Hon. Simon Nyaundi Ogari, M.P.
22. The Hon. Johnson Many Naicca, M.P.
23. The Hon. Mishi Juma, M.P.
24. The Hon. Aduma Owuor, M.P.
25. The Hon. Chachu Ganya, M.P.
26. The Hon. Omar Mwinyi, M.P.
27. The Hon. Ahmed Abbas Ibrahim, M.P.
28. The Hon. Omulele Christopher, M.P.
29. The Hon. Mukwe James Lusweti, M.P.

#### **1.4 CONSIDERATION OF THE PETITION**

The Committee proceeded with the consideration of the petition by holding meetings to set up terms of reference and scheduling meetings. On Wednesday 29<sup>th</sup> October, 2014, the Hon. Onesmus Muthomi Njuki, MP, presented a petition on behalf Residents of Chuka Igambang'ombe Constituency, pursuant to the provisions of Standing Orders 225(2)(a) and 225 (3).

The Committee invited the petitioner to shed light on the petition and on diverse dates the petitioner failed to appear before the Committee. The Committee held a meeting with Ministry of Transport and Infrastructure on Thursday, 5<sup>th</sup>, March 2015.

#### **1.5 COMMITTEE OBSERVATION**

Having considered the petition and submissions made by the Ministry, the Committee observed that the upgrading of Ena-Ishiara-Chiakariga (C92) Road to bitumen standards was completed in the year 2012. The Ministry undertook the replacement and installation of road signs, through KeNHA's maintenance programs, with a view to address the issues raised by the petitioners.



## 1.6 RESPONSE TO THE PRAYERS IN THE PETITION

The petitioners had prayed that the National Assembly through the Committee compels the contractor and the Kenya National Highways Authority (KeNHA) to erect bumps and road signs with immediate effect to avert continued losses of life and injuries.

As regard to the prayer, the Committee recommends that

- I. The Ministry of Transport and Infrastructure erects bumps and new road signs on the road.
- II. The National Transport and Safety Authority enforce observance of traffic regulations by drivers and pedestrians in order to avert occurrence of traffic accidents.





# THE NATIONAL ASSEMBLY

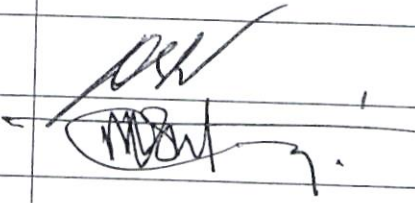
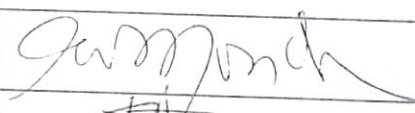
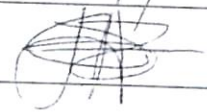
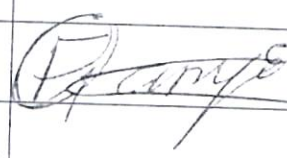
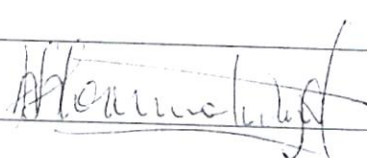


## ELEVENTH PARLIAMENT – 3<sup>RD</sup> SESSION

### DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS AND HOUSING

Adoption of the Report on the Petition by Hon. Onesmus Njuki regarding erection of bumps and road signs along Mate Road in Kathuana Town

NO.	MEMBER	SIGNATURE
1.	Hon. Maina Kamanda, MP (Chairperson)	
2.	Hon. (Eng.) Mohamed Maalim, MP (Vice Chairperson)	
3.	Hon. KK Stephen Kinyanjui Mburu, MP	
4.	Hon. Christopher Omulele, MP	
5.	Hon. (Eng.) Stephen Ngare, MP	
6.	Hon. Johnson M. Naicca, MP	
7.	Hon. (Eng.) John Kiragu, MP	
8.	Hon. Stephen K. Manoti, MP	
9.	Hon. Joseph Lomwa, MP	
10.	Hon. (Capt.) Clement M. Wambugu, MP	
11.	Hon. Emmanuel Wangwe, MP	
12.	Hon. Grace J. Kipchoim, MP	
13.	Hon. Cecily M. Mbarire, MP	

14	Hon. Mishi Juma Khamis, MP	
15	Hon. Peter Shehe, MP	
16	Hon. Omar Mwinyi, MP	
17	Hon. Suleiman Dori, MP	
18	Hon. Edick O. Anyanga, MP	
19	Hon. Aduma Owuor, MP	
20	Hon. Gideon Konchella, MP	
21	Hon. Abass Ahmed Ibrahim, MP	
22	Hon. Ali Wario, MP	
23	Hon. David Kiaraho, MP	
24	Hon. Barchilei Kipruto, MP	
25	Hon. Simon Nyaundi Ogari, MP	
26	Hon. Chachu Ganya, MP	
27	Hon. Mathias N. Robi, MP	
28	Hon. Mukwe James Lusweti, MP	
29	Hon. Mark Lomunokol, MP	

Mr. Samuel Kalama – First Clerk Assistant

For: CLERK OF THE NATIONAL ASSEMBLY

## 1.7 ACKNOWLEDGEMENT

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate.

I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete the tasks.

The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Transport, Public Works and Housing, to present this report to the House pursuant to the provisions of Standing Order 227 (2).

SIGNED:.....

THE HON. MAINA KAMANDA, M.P, (CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS AND HOUSING

DATE:.....19/3/2015.....



## 2.0 BACKGROUND INFORMATION

- 2.1 The Petition by Residents of Chuka Igambang'ombe Constituency was presented to the House by the Hon. Onesmus Muthomi Njuki, MP, Chuka Igambang'ombe Constituency on Wednesday 29<sup>th</sup> October, 2014 pursuant to Standing Order No. 225 (2)(a).
- 2.2 Pursuant to Standing Order 227 (1), the petition was referred to the Departmental Committee on Transport, Public Works and Housing for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227 (1) and (2).
- 2.3 The petitioners wished to draw the attention of the House to the importance of Road transport which is the most popular mode of transport in Kenya contributing immensely to the economic development in both rural and urban centers ;
- 2.4 The Fourth Schedule of the Constitution classifies roads under the pundit of the National and the County Government;
- 2.5 The construction of Mate road, in Chuka Igambang'ombe Constituency has been ongoing for the last three years and no road signs and bumps have been erected either on permanent or temporary basis to control and regulate speed amongst the motorist and pedestrians;
- 2.6 The road passes through busy markets of Kathwana and Kaareni and residential areas, where many businesses transitions and human operations happen on a daily basis thereby attracting heavy human traffic;
- 2.7 A number of accidents have occurred on the said road leading to loss of lives and serious injuries, thus leading to demonstrations amongst the residents of the area;
- 2.8 The road is under the mandate of the Kenya National Highway Authority (KeNHA) and it has made no efforts to ensure that road bumps and road signs are erected to contain speed and regulate motorists despite the ongoing construction and further the constructor has made no efforts to ensure the same;
- 2.9 Whereas the road is still under construction, continued losses and injuries must be contained by providing the necessary facilities.

### **3.0 SUBMISSIONS AND EVIDENCE**

Having been seized of the Petition, the Committee commenced its investigations by inviting the Cabinet Secretary for Transport and Infrastructure for a meeting on **Thursday 5<sup>th</sup> March, 2015** to respond to the Petitioners' concerns.

### **3.1 MEETING WITH THE PETITIONER**

On Thursday 5<sup>th</sup> March, 2015 the Committee also invited the Hon. Onesmus Muthomi Njuki, MP, the Member of Parliament for Chuka Igambangombe Constituency who presented the petition on behalf of the residents, the Hon. Muthomi Njuki however, failed to appear before the Committee.

### **3.2 MEETING WITH THE PRINCIPAL SECRETARY FOR THE STATE DEPARTMENT OF INFRASTRUCTURE**

On Thursday 5<sup>th</sup> March, 2015, the Principal Secretary for the State Department of Infrastructure Eng. John Mosonik informed the Committee as follows, that:-

- a) The upgrading of Ena-Ishiara-Chiakariga (C92) Road to bitumen standard was completed in the year 2012. A Field inspection along Ishiara-Thuchi-Kathwana-Chiakariga road has shown that a number of road signs earlier installed have been vandalized. The Ministry undertook the replacement of the road signs and installation of new ones, through KeNHA's maintenance programs, with a view to address the issues raised by the Honorable Member.
- b) This road serves as the main link between Embu, Tharaka Nithi and Meru counties. The road has the additional function of providing greater mobility besides access.
- c) It is expected that the occurrence of traffic accidents will be averted with enhanced provision of road signs as well as observance of traffic regulations by drivers and pedestrians and also erection of road bumps.

## 4.0 FINDINGS, OBSERVATIONS AND RECOMMENDATIONS

### 4.1 FINDING

The Committee made the following finding, that:-

- I. The road serves as the main link between Embu, Tharaka Nithi and Meru counties.
- II. The road has the additional function of providing greater mobility besides access.
- III. It is expected that the occurrence of traffic accidents will be averted with enhanced provision of road signs as well as observance of traffic regulations by drivers and pedestrians.

### 4.2 OBSERVATION

The Committee made the following observation, that:-

- I. The upgrading of Ena-Ishiara-Chiakariga (C92) Road to bitumen standard was completed in the year 2012.
- II. The Ministry undertook the replacement and installation of new road signs through KeNHA's maintenance programs, with a view to address the issues raised by the petitioners

### 4.3 RECOMMENDATION

In response to the prayers of the petitioners, the Committee makes the following recommendation, that:-

- I. The Ministry of Transport and Infrastructure mounts road signs and bumps on the road.
- II. The National Transport and Safety Authority to enforce observance of traffic regulations by drivers and pedestrians in order to avert occurrence of traffic accidents.





## MINISTRY OF TRANSPORT & INFRASTRUCTURE

**The Speaker of the National Assembly**  
Parliament Building  
NAIROBI

### **PETITION REGARDING THE ERECTION OF BUMPS AND ROAD SIGNS ON MATE ROAD IN KATHUANA TOWN**

The Member of Parliament for Chuka Igambangombe Constituency, Hon. Onesmus Muthomi Njuki, MP, rose on the floor of the House and Petitioned the Speaker through the Chairperson of Departmental Committee on Transport, Public Works and Housing regarding the Erection of Bumps and Road Signs on mate road in Kathuana Town as follows:-

#### Question:-

1. The Parliamentary Committee of Transport, Public Works and Housing compels the contractor and the Kenya National Highways Authority (KeNHA) to erect Bumps and road signs with immediate effect to avert continued losses of life and injuries.?

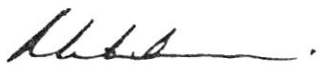
#### Answers:

**Mr. Speaker Sir, I beg to reply as follows:-**

1. The upgrading of Ena - Ishiara - Chiakariga (C92) Road to bitumen standard was completed in the year 2012. Field inspections along Ishiara - Thuchi - Kathwana - Chiakariga road has shown that a number of road

signs earlier installed have been vandalized. The Ministry undertook the replacement of the road signs and installation of new ones, through KeNHA's maintenance programs, with a view to address the issues raised by the Honorable Member.

This road serves as the main link between Embu, Tharaka Nithi and Meru counties. The road has the additional function of providing greater mobility besides access. It is expected that the occurrence of traffic accidents will be averted with enhanced provision of road signs as well as observance of traffic regulations by drivers and pedestrians.



Eng. M. S. M. Kamau, CBS  
CABINET SECRETARY

2<sup>nd</sup> March 2015

Petition  
Hon. Mutwami Njuki  
29/10/14 @ Nairobi

Family order 225 2 (4)

**PETITION**

**BY THE RESIDENTS CHUKA IGAMBANGOMBE CONSTITUENCY ON THE ERECTION OF BUMPS AND ROAD SIGNS ON MATE ROAD IN KATHUANA TOWN**

ONESMUS Mutwami Njuki, M.P. Chuka I, TNC, on behalf of WE, THE UNDERSIGNED are citizens of Kenya who are residents of Chuka Igambangombe Constituency.

DRAW the attention of the House to the following;

Noting; that the road transportation is the most popular mode of transport in Kenya and has contributed immensely to the economic development in both the rural and the urban centers.

Aware that that the Fourth schedule of the Constitution classifies roads under the purview of the National and the County Government.

Noting that the constructions of Mate road, in Chuka Igambangombe Constituency has been ongoing for the last 3 years and no road sign and bumps have been erected either on permanent or temporary basis to control and regulate speed amongst the motorist and pedestrians.

Further aware that the road passes through busy markets of Kathwana and Kaareni and residential areas, where many businesses transactions and human operations happen on a daily basis thereby attracting heavy human traffic.

Noting that a number of accidents have occurred on the said road leading to loss of lives and serious injuries, thus causing demonstrations amongst the residents of the area.

Cognizant to the fact that; the road in question is under the mandate of the Kenya National Highway Authority (KeNHA) and has made no efforts to ensure that bumps and road signs are erected to contain speed and regulate motorist despite the ongoing construction and further the constructor has made no efforts to ensure the same.

THAT WHEREAS the road is still under construction, continued losses and injuries must be contained by providing the necessary facilities.

THEREFORE your humble petitioners PRAY that;

The Parliamentary Committee on Transport, Public Works and Housing compels the contractor and the Kenya National Highways Authority (KeNHA) to erect Bumps and road signs with immediate effect to avert continued losses of life and injuries.

And your PETITIONERS will ever pray.

PRESENTED BY,

Hon. Onesmus M. Njuki  
M.P. Chuka Igambang'ombe  
njuki.m@gea.co.ke

HON. ONESMUS NJUKI, MP  
**CHUKA IGAMBANGOMBE CONSTITUENCY**

24<sup>TH</sup> OCTOBER 2014



Approved  
PARTY NA  
28/10/14



MINUTES OF THE 10<sup>TH</sup> SITTING OF THE TRANSPORT, PUBLIC WORKS AND HOUSING COMMITTEE HELD ON THURSDAY 5<sup>TH</sup> MARCH, 2015 IN THE PSC BOARDROOM ON 1<sup>ST</sup> FLOOR COUNTY HALL, AT 10:20 AM.

**PRESENT**

1. Hon. Maina Kamanda, M.P. – **Chairperson**
2. Hon. (Eng.) Mahamud Maalim, M.P. – **Vice Chairman- Chairing**
3. Hon. Aduma Owuor, M.P.
4. Hon. Chachu Ganya, M.P.
5. Hon. Joseph Lomwa, M.P.
6. Hon. Mathias Robi, M.P.
7. Hon. Mukwe James Lusweti, M.P.
8. Hon. Ali Wario, M.P.
9. Hon. Omar Mwinyi, M.P.
10. Hon. Emmanuel Wangwe, M.P.
11. Hon. Omulele Christopher, M.P.
12. Hon. K.K. Stephen Kinyanjui Mburu, M.P.
13. Hon. (Eng.) Stephen Ngare, M.P.
14. Hon. Edick Omondi Anyanga, M.P.
15. Hon. Eng. John Kiragu, M.P.
16. Hon. Peter Shehe, M.P.
17. Hon. Stephen Manoti, M.P.
18. Hon. Ahmed Abbas Ibrahim, M.P.

**ABSENT WITH APOLOGY**

1. Hon. Simon Nyaundi Ogari, M.P.
2. Hon. (Arch.) David Kiaraho, M.P.
3. Hon. Mishi Juma, M.P.
4. Hon. Cecily Mbarire, M.P.
5. Hon. Suleiman Dori, M.P.
6. Hon. Barchilei Kipruto, M.P.
7. Hon. Grace Kipchoim, M.P.
8. Hon. (Capt.) Clement Wambugu, M.P.
9. Hon. Gideon Konchella, M.P.
10. Hon. Johnson Manya Naicca, M.P.
11. Hon. Mark Lomunokol, M.P.

### IN ATTENDANCE

1. Hon. Sunjeev Kaur Birdi,
2. Hon. Humphrey Kimani N.
3. Hon. James Kaguya
4. Hon. Irungu Kangata
5. Hon. Isaac Mwaura
6. Hon. David Pkosing

### NATIONAL ASSEMBLY

MP  
MP  
MP  
MP  
MP  
MP

### IN ATTENDANCE

1. Mr. Samuel Kalama
2. Mr. Abdifatah M. Bule
3. Ms. Nuri K. Nataan
4. Ms. Christine Odhiambo

### NATIONAL ASSEMBLY

First Clerk Assistant  
Third Clerk Assistant  
Third Clerk Assistant  
Legal Counsel

### IN ATTENDANCE

1. Eng. John Mosonik
2. Mr. Nicholas Bodo
3. Eng. F.D Karanja
4. Eng. David Mwangi.
5. Mr. Denis Onyango
6. Eng. Benjamin K. Mwangi
7. Ms. Catharine Butaki
8. Mr. Danish Onyango
9. Mr. M.Y Terus
10. Mr. Johnson Nakitari
11. Eng. M.Y Teleieny

### Ministry of Transport & Infrastructure

Principal Secretary  
Ministry of Transport & Infrastructure  
Ag. KERRA  
Ministry of Transport & Infrastructure  
Ministry of Transport & Infrastructure  
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Ministry of Transport & Infrastructure

### AGENDA

1. Prayer
2. Consideration of the following Petitions:-
  - I. Petition by the Hon. Humphrey Kimani Njuguna, MP, regarding the Tarmacking of the Gatiiguru-McVast-Matangini-Ithanga, Kiarathani, MiyuuyaNg'ang'a-Mukuyu Road
  - II. Petition by Hon. Isaac Mwaura, MP, on behalf of Persons with disabilities on the construction of a footbridge along Waiyaki Way to link ABC Place bus stage to the National Council for Persons with Disabilities Offices (NCPWD)

- III. Petition by the Hon. James Gakuya, MP, regarding the Re-carpeting of the Komarock Road, Nairobi County.
- IV. Petition by the Hon. Sunjeev Kaur Birdi, MP on behalf of business owners and residents operating and living along the Old Mombasa Road/Maasai Road A, B and C in Nairobi County for the upgrading of the Old Mombasa Road/Maasai Road A, B and C in Nairobi County
- V. Petition by the Hon. Onesmus Njuki, MP, regarding erection of bumps and road signs along Mate Road in Kathuana Town
- VI. Petition by the Hon. David Pkosing Losiakon, MP on behalf of residents of Pokot South Constituency, Chepareria Ward regarding the Northern Corridor Transport Improvement Project in particular Lesseru-Kitale-Marich Pass (A1).
- VII. Petition by the Hon. Irungu Kangata, MP on behalf of residents of Kiharu Constituency regarding the 40 Kms road traversing Mbiri, Mugoiri and Murarandia Wards.

### 3. Any Other Business

MIN/DC-L/2015/044

#### PRELIMINARIES

The Chair called the meeting to order at 10:20 am and opened it with a word of prayers. He asked all members in attendance to introduce themselves.

MIN/DC-L/2015/045 Consideration of the following Petitions:-

- I. Petition by the Hon. Humphrey Kimani Njuguna, MP, regarding the Tarmacking of the Gatiiguru-McVast-Matangini-Ithanga, Kiarathani, Miyuu ya Ng'ang'a-Mukuyu Road

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows:-

That:-

- a) The government has always maintained roads in Lower Gatanga since independence. The periodic maintenance activities undertaken have been grading, culvert installation and spot gravelling on several roads. In addition, the Authority has carried out construction works in the constituency which includes the construction of Rubiru Bridge at a cost of Kshs. 35 Million, and the ongoing MwanaWikio Bridge at a cost of Kshs. 50 Million.
- b) The Gatiiguru-Mcvast (U19)-Matangini-Huanga (E532)-Kirathani-Miyuuya Ng'ang'a -Mukuyu(D424) road is not currently tarmacked. However, the Authority has been carrying out routine maintenance to ensure it is in a



- motorable state. In the financial year 2013/2014 the Gatanga Constituency Roads Committee allocated Kshs. 3.5 Million for maintenance of this road.
- c) The Authority appreciates that this road is an important link within the constituency, and is doing all it can within its mandate to ensure that the livelihood of the residents is not interfered with in anyway.
  - d) The mandate of KeRRA is to construct, maintain, manage and rehabilitate all rural roads classified as D, E and others. Therefore, since this road falls in these classes, it is under the purview of this Authority.
  - e) KeRRA as an Authority constructs and maintains roads as guided by the provisions of the Finance Act 2009, which establishes Constituency Roads Committees (CRC) in each of the 290 constituencies' country wide. These CRC's generate priorities and work plans which are then funded through the Roads Maintenance Levy Fund.
  - f) The road will be considered in the Annuity Financing programme in phase II

#### Committee observations on the above petition

The Committee resolved to visit Gatanga Constituency during the short recess of April 2015 in order to assess the status of the Gatiiguru-McVast-Matangini-Ithanga, Kiarathani, MiyuuyaNg'ang'a-Mukuyu Road.

#### II. Petition by Hon. Isaac Mwaura, MP, on behalf of Persons with disabilities on the construction of a footbridge along Waiyaki Way to link ABC Place bus stage to the National Council for Persons with Disabilities Offices (NCPWD)

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows:-

**That:-**

The Ministry through Kenya National Highways Authority (KeNHA) is implementing an ongoing projects co- financed between the Government and the World Bank, known as the National Urban Transport Improvement Project. Under this project, a footbridge with either gentle ramps or escalators will be provided in the vicinity of ABC place. This footbridge will be harmonized with several other features such as a proposed Bus Rapid Transit System, Non-Motorised Traffic Facilities and a flyover complex involving Waiyaki Way and James Gichuru road.

However, because the procedures and processes leading to installation of the proposed footbridge and associated works will not be completed before expiry of the 2015-2016 financial year, short term interventions to ensure safety will be conducted as follows:

- A zebra crossing will be clearly marked at a suitable location convenient for persons wishing to access the National Council for Persons with disabilities (NCPD) offices.
- The 50 kilometres per hour speed limit will be stringently enforced in this area in liaison with the National Transport and Safety Authority Agency.

Installation of speed control bumps along the subject highways is considered in advisable due to disproportionate negative impacts on the traffic flow.

#### **Submission from the Hon. Isaac Mwaura, MP**

The Chairperson invited the Hon. Isaac Mwaura, MP to make his submission to the Committee on behalf of the petitioners. There upon, he informed the Committee that people with disability are facing challenges in crossing this section of the road. He further, informed the Committee that people with disability cannot get services from the very offices that are meant to help them because of lack of footbridges to cross the road

#### **Committee observations on the above petition**

- (a) The Committee requested from the ministry to involve disabled persons when designing roads.
- (b) The Committee having heard from the petitioner and the officials from the Ministry of Transport and Infrastructure, it observed that this section of the road along Waiyaki Way is very dangerous not only to the physically challenged persons but also to the normal pedestrians wishing to cross the road.
- (c) The Committee also observed that erecting road bumps on this section of the road will lead to heavy traffic jam.
- (d) It also observed that there is need to enforce the 50 kilometers speed limit from Kabete Police Station
- (e) A zebra crossing be clearly marked at a suitable location convenient for person wishing to access the National Council for Persons with Disabilities Offices.

### **III. Petition by the Hon. James Gakuya, MP, regarding the Re-carpeting of the Komarock Road, Nairobi County.**

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows, **that:-**

Komarock Road is approximately 4.7 KM long and starts at the junction of Juja Road and Outer Ring Road and terminates at Kangundo Road. It passes through Mowlem as shown in the attached map.

In particular a section of 1.2 Kilometer of the road from Juja/Outer Ring Road Roundabout to Mutarakwa Road is dilapidated requiring base reconstruction while the rest of the road is paved and in fair condition.

The Ministry is aware of the frequent traffic snarl-ups on the road arising from the slow flow of traffic on Outer Ring Road which is the main artery expected to evacuate traffic from the area. In the long term the Komarock road is ear marked for dualing under Lot 20 of the annuity program and the bids are scheduled to be opened on 20<sup>th</sup> March, 2015.

In the medium term the Ministry recently launched improvement of the Outer Ring Road as a medium-term measure to decongestion the East. The design of this road includes a grade separated junction at Komarock/Juja Road junction which once completed will greatly improve traffic flow on Komarock Road through elimination of traffic conflicts at the junction. The works under the contract include improvement of 0.7Kilometer of Komarock road from Juja/Outer Ring Junction. In addition during construction part of the Komarock Road will be improved to serve as a diversion.

As short term measures the Ministry through the Kenya Urban Roads Authority (KURA) in the last four years and including the current financial year has been undertaking maintenance of roads within Nairobi City County through the Fuel Levy fund.

For example in the 2013/2014 FY 2.0 Kilometer of the Komarock Road (Komarock - Kangundo Road - Bus Route) was placed under periodic maintenance at a cost of Kshs.50, 721,052.20. The road which was in poor condition has been improved and currently provides a safe connectivity between Kangundo road and Kayole Spine road.

In the current financial year (FY 2014/2015) the Ministry through Kenya Urban Roads Authority (KURA) has awarded a contract of sh. 24,539,568.00 to M/s NdumberiGeneral Merchants Limited for performance based maintenance of roads within Fedha/Komarock Area .

The works under this contract commenced on 7<sup>th</sup> January, 2015 and are expected to be completed on 6<sup>th</sup> October, 2015.

**Submission from the Petitioner**



The Chairperson invited the Hon. James Gakuya, MP, to make his submission to the Committee. There upon, he briefed the Committee on the state of Komarock road. He informed the Committee that the said road is part of the Nairobi Road Network within the Nairobi City County and links the Constituency to the rest of the County including Industrial Area and that the road is a living example of neglect by the concerned authorities.

### **Committee observations**

The Committee observed that the Ministry is aware of the frequent traffic congestion on the road arising from the slow flow of traffic on Outer Ring Road which is the main artery expected to evacuate traffic from the area. In the long term the Komarock road is earmarked for dualing under Lot 20 of the annuity program and the bids are scheduled to be opened on 20<sup>th</sup> March, 2015

The Committee also observed that in the current financial year (FY 2014/2015) the Ministry through Kenya Urban Roads Authority (KURA) has awarded a contract of Kshs. 24,539,568.00 to M/s Ndumberi General Merchants Limited for performance based maintenance of roads within Fedha/Komarock Area.

#### **IV. Petition by the Hon. Sunjeev Kaur Birdi, MP on behalf of business owners and residents operating and living along the Old Mombasa Road/Maasai Road A, B and C in Nairobi County for the upgrading of the Old Mombasa Road/Maasai Road A, B and C in Nairobi County**

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows:-

#### **That:-**

The Ministry is aware that the Old Mombasa Road/ Maasai Road is an important link for the commercial, industrial and residential areas around the Old Mombasa Road. We are also aware that the current condition of the roads is not good.

#### **Interventions**

The Ministry recently improved some of the roads around the area under the City Cabanas Interchange. However, the contract did not include all the adjacent roads. For example the Access to Excel Industries joining the interchange is currently in deplorable condition. This link was not developed under the interchange project due to land acquisition issues.

The Ministry through Kenya Urban Roads Authority (KURA) has engaged a contractor, MS Saxon Investments Ltd, to improve to bitumen standards the link road between the interchange at the Airport North Road and the access to Excell Industries at a cost of Kshs. 35,866,388. Work is expected to commence on the section of the road by 3<sup>rd</sup> March, 2015.

There are no immediate plans to upgrade all the roads to bitumen standards. However, the Ministry through Kenya Urban Roads Authority (KURA) in the FY 2015/2016 will carry out routine maintenance of the roads to restore them to motorable conditions for ease of access.

#### **Allocation of sh. 100 million**

Kenya Urban Roads Authority (KURA) was not in operation in 2008 when Kshs.100 Million was allocated by Kenya Roads Board (KRB) for upgrading of some roads within Nairobi. Kenya Urban Roads Authority (KURA) is therefore not aware of the said allocation.

#### **SITE VISIT BY THE COMMITTEE**

The Committee visited the site on Wednesday 4<sup>th</sup> March, 2015 and met with the petitioners where they observed that Road A was already constructed to bitumen standard by KURA. However the link of Road A and city Cabanas interchange was not accessible and required urgent construction to enable the industrialists to access their plots.

It was noted that the Ministry through Kenya Urban Roads Authority (KURA) has engaged a contractor, MS Saxon Investments Ltd, to construct the link road to bitumen standards at a cost of Kshs. 35,866,388. The works are on-going.

The residents/petitioners thanked the committee for visiting the said roads and hoped that the committee would address their concerns.

V.

**Petition by the Hon. Onesmus Njuki, MP, regarding erection of bumps and road signs along Mate Road in Kathuana Town**

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows:-

That:-



The upgrading of Ena – Ishiara – Chiakariga (C92) Road to bitumen standard was completed in the year 2012. Field inspections along Ishiara – Thuchi – Kathwana – Chiakariga road has shown that a number of road signs earlier installed have been vandalized. The Ministry undertook the replacement of the road signs and installation of new ones, through KeNHA's maintenance programs, with a view to address the issues raised by the Honorable Member.

The ministry will consider erecting bumps on the said road.

This road serves as the main link between Embu, TharakaNithi and Meru counties. The road has the additional function of providing greater mobility besides access. It is expected that the occurrence of traffic accidents will be averted with enhanced provision of road signs as well as observance of traffic regulations by drivers and pedestrians.

VI.

**Petition by the Hon. Irungu Kangata, MP on behalf of residents of Kiharu Constituency regarding the 40 Kms road traversing Mbiri, Mugoiri and Murarandia Wards.**

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows:-

**That:-**

- a) The Ministry can confirm that this road classified as (D440) is 39 Kilometers and traverses the mentioned markets within Kiharu Constituency as stated above.
- b) The contractor on this road was Intex Construction Ltd, who was able to complete 30 Kilometers out of the total length of 39 Kilometers, with the 9 Kilometers between Murarandia – Githambo pending, awaiting budgetary provisions.
- c) The contractor did not abandon the road project. The project was wound up with mutual consent between the contractor and the employer, due to insufficient budgetary provisions in the financial year 2013/2014.

- d) There is indeed a Tea Factory (Githambo Tea Factory Limited) along the 9 Kilometers stretch that the contractor was unable to do. However, the Ministry has prepared bid documents for the outstanding scope of works.
- e) The Ministry will start constructing the remaining 9 Kilometers section using Low Volume Seal Technology at an approximate budget of Kshs. 200 Million in the coming financial year 2015/2016.

#### **Submission from the Petitioner**

The Chairperson invited the Hon. Irungu Kang'ata, M.P. to make his submission to the Committee. He registered frustrations with the Committee on the dilapidated status of the road between Murarandia and Githambo shopping centers, which is a key road that leads Githambo Tea Factory Limited. He informed the Committee that as a result of the poor status of the road, economic activities like transportation of green leaves to the factory and processed tea from the factory remain hindered.

#### **Committee Observations**

The Committee observed that the Ministry has prepared bid documents for the outstanding scope of works and new contractor will be tendered from July 2015 to finish the remaining nine kilometers road between Murarandia and Githambo shopping Centers.

There is need for the Ministry of Transport and Infrastructure to ensure that money for the said road in the Financial Year 2015/2016. The allocation should be captured in the itemized budget of the Ministry.

VII.

Petition by the Hon. David Pkosing Losiakon, MP on behalf of residents of Pokot South Constituency, Chepareria Ward regarding the Northern Corridor Transport Improvement Project in particular Lesseru-Kitale-Marich Pass (A1).

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows:-

That:-

- 1) The Ministry through Kenya National Highways Authority (KeNHA) procured the services of a consultant to conduct Feasibility Studies, Details and Tender Documentation of Leseru – Kltale – Marich Pass section of Sudan Link Road. The Consultant has completed the services and has submitted the Final Design Report to the Client. The procurement of works is expected to proceed subject to confirmation of funding arrangements.
- 2) The existing longitudinal slope of Kamatira Hills is about 10-11% including sharp bends. The S- type curve at the lower section of Kamatira Hill is recognized as prone to accidents and therefore attracted special attention in the design.

To improve the situation especially in view of the anticipated high future truck volumes the following improvements are incorporated in the design.

- i. The sharp hairpin curve on the top of Kaamatira Hills has been realigned and the radius of the curve has been widened from 100m to 200m. Further this realignment ensures that surrounding settlement needs not to be relocated.
- ii. The s-curve on the bottom of Kamatira Hills has been realigned and the radiuses have been widened from 135m to 215m and 140m to 220m respectively.
- iii. The longitudinal slope has been reduced to a maximum of 7.8% for a length of approx. 4.3 km.

To achieve the longitudinal grades, it became necessary to design deep cuts and high fills. The average cut in this section is about 15m with a maximum of 30m in short sections and the average fill is 20m with a maximum of 28m in short sections.

However, the ministry undertook to hold consultative meetings with all the local leadership and locals with a view to redesign the road and come up with a consensus solution.

To ensure slope protection of the embankment, the following measures have been incorporated in the design; top soiling, Hydro seeding, Planting Rock or gravel protection and Berms.

**Submission by Hon. David Pkosing Losiakon,MP on the petition.**

The member appreciated the efforts taken by the ministry to address the concerns of the public. However, he drew the attention of the Committee on the concerns raised by the petitioners. The petitioners hold consultative meetings and resolved to have the corridor of the said road changed. To this end, the community has agreed to donate land for the change of the corridor. He further informed the Committee that members of the public will not co-operate with the ministry when the corridor is not changed during the implementation of the project.

**Committee observations**

The Committee agreed with the ministry that they should rethink the design in consultation with the residents so as to accommodate the views of the elected leaders and members of the public.

MIN/DC-L/2015/046

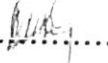
**ANY OTHER BUSINESS**

The Committee resolved to proceed with report writing retreat from 12<sup>th</sup> to 15<sup>th</sup> March 2015. In the retreat the Committee will adopt the reports on petitions.

MIN/DC-L/2015/047

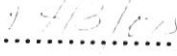
**ADJOURNMENT**

And there being no other business, the Chair adjourned the meeting at 12.10 pm.

SIGNED.....

HON MAINA KAMANDA, M.P

(Chairperson)

DATE.....



MINUTES OF THE 9<sup>TH</sup> SITTING OF THE TRANSPORT, PUBLIC WORKS AND HOUSING  
COMMITTEE HELD ON TUESDAY 3<sup>RD</sup> MARCH, 2015 IN THE COMMITTEE ROOM,  
CONTINENTAL HOUSE, AT 10:30AM

PRESENT:

1. Hon. Maina Kamanda, M.P - Chairperson
2. Hon. (Eng.) Mahamud M. Mohamed, M.P - Vice-Chairperson
3. Hon. Omulele Christopher, M.P
4. Hon. Emmanuel Wangwe, M.P
5. Hon. Ahmed Abbas Ibrahim, M.P
6. Hon. Johnson Many Naicca, M.P
7. Hon. ChachuGanya, M.P
8. Hon. Omar Mwinyi, M.P
9. Hon. Peter Shehe, M.P.
10. Hon. (Eng.) Stephen Ngare, M.P
11. Hon. Ali Wario, M.P
12. Hon. EdickOmondiAnyanga, M.P
13. Hon. Mukwe James Lusweti, M.P
14. Hon. AdumaOwuor, M.P
15. Hon. (Capt.) Clement Wambugu, M.P
16. Hon. Mathias Robi, M.P

APOLOGY

1. Hon. Eng. John Kiragu, M.P
2. Hon. (Arch.) David Kiaraho, M.P
3. Hon. Cecily Mbarire, M.P
4. Hon. K.K. Stephen Kinyanjui Mburu, M.P
5. Hon. Mishi Juma, M.P
6. Hon. Joseph Lomwa, M.P
7. Hon. Suleiman Dori, M.P
8. Hon. Mark Lomunokol, M.P
9. Hon. Grace Kipchoim, M.P
10. Hon. Simon Nyaundi Ogari, M.P
11. Hon. Barchilei Kipruto, M.P
12. Hon. Stephen Manoti, M.P
13. Hon. Gideon Konchella, M.P

## IN ATTENDANCE

1. Mr. Samuel Kalama
2. Mr. Abdifatah Bule
3. Ms. Nuri Nataan

## NATIONAL ASSEMBLY

- Clerk Assistant  
Clerk Assistant  
Clerk Assistant

MIN/DC-L/2015/039 Preliminaries

The Chair called the meeting to order at 10.30am and opened it with a word of prayer.

Min/DC-L/2015/040 Adoption of the Agenda

The Chair presented the agenda as follows;

1. Prayer
2. Adoption of the Agenda
3. Consideration of the following Petitions:-
  - i. Petition by the Hon. Humphrey Kimani Njuguna, MP, regarding the Tarmacking of the Gatiiguru-McVast-Matangini-Ithanga, Kiarathani, MiyuuyaNg'ang'a-Mukuyu Road
  - ii. Petition by Hon. Isaac Mwaura, MP, on behalf of Persons with disabilities on the construction of a footbridge along Waiyaki Way to link ABC Place bus stage to the National Council for Persons with Disabilities Offices (NCPWD)
  - iii. Petition by the Hon. James Gakuya, MP, regarding the Re-carpeting of the Komarock Road, Nairobi County.
  - iv. Petition by the Hon. David Kangogo Bowen, MP, regarding the Stoppage of KQ's operations on Nairobi-Eldoret route and the inconveniences caused by Jambo Jet
  - v. Petition by the Hon. Sunjeev Kaur Birdi, MP on behalf of business owners and residents operating and living along the Old Mombasa Road/Maasai Road A, B and C in Nairobi County for the upgrading of the Old Mombasa Road/Maasai Road A, B and C in Nairobi County
  - vi. Petition by the Hon. OnesmusNjuki, MP, regarding erection of bumps and road signs along Mate Road in Kathuana Town
4. Any Other Business
5. Adjournment

The agenda was adopted as proposed by Hon. Eng. Stephen Ngare, MP and seconded by Hon. Emmanuel Wangwe, MP.

a) Petition by the Hon. David Kangogo Bowen, MP, regarding the Stoppage of KQ's operations on Nairobi-Eldoret route and the inconveniences caused by Jambo Jet  
The Principal Secretary responded as follows, that:-

- i) Initially, and in agreement with the Kenya Airways, Jambojets's network strategy was to serve the four main airports in Kenya i.e. Nairobi, Mombasa, Kisumu and Eldoret.

The initial months of network implementation has also provided the management of both Kenya Airways and Jambojet with an opportunity to receive and evaluate feedback from regular travelers on all the routes, including on the Nairobi-Eldoret route. Based, on the market data currently available and on the size of aircraft currently operated by both carriers, only one of the two carriers can serve this route on a commercially viable bases with double daily frequency. Responding to travelers' feedback, the scheduling team of both airlines recently reviewed the pattern of flights and from July 2014, to meet the requirement of regular travelers, Jambojet is offering both morning and evening flights on the Nairobi-Eldoret route.

- ii) Both airlines will continues to monitor demand for scheduled airline services on the route to decide if a further scheduling adjustment is required

#### Committee Recommendations

The Principal Secretary for the State Department of Transport was requested to facilitate a meeting between the Hon. David Kangogo and Kenya Airways Flight scheduling team to see if a compromise can be struck since the Member was not satisfied with the answer. The meeting was scheduled for Monday 9<sup>th</sup> March, 2015.

b) Petition by the Hon. Sunjeev Kaur Birdi, MPon behalf of business owners and residents operating and living along the Old Mombasa Road/Maasai Road A, B and C in Nairobi County for the upgrading of the Old Mombasa Road/Maasai Road A, B and C in Nairobi County

The Principal Secretary responded as follows, that:-

- i) Interventions

The Ministry recently improved some of the roads around the area under the City Cabanas Interchange. However, the contract did not include all the adjacent



roads. For example the Access to Excel Industries joining the interchange is currently in deplorable condition. This link was not developed under the interchange project due to land acquisition issues.

The Ministry through Kenya Urban Roads Authority (KURA) has engaged a contractor, MS Saxon Investments Ltd, to improve to bitumen standards the link road between the interchange at the Airport North Road and the access to Excell Industries at a cost of sh. 35,866,388. Work is expected to commence on the section of the road by 3<sup>rd</sup> March, 2015.

There are no immediate plans to upgrade all the roads to bitumen standards. However, the Ministry through Kenya Urban Roads Authority (KURA) in the FY 2015/2016 will carry out routine maintenance of the roads to restore them to motorable conditions for ease of access.

ii) Allocation of sh. 100 million

Kenya Urban Roads Authority (KURA) was not in operation in 2008 when Kshs.100 Million was allocated by Kenya Roads Board (KRB) for upgrading of some roads within Nairobi. Kenya Urban Roads Authority (KURA) is therefore not aware of the said allocation.

Committee Recommendations

The Principal Secretary for the State Department of Infrastructure was requested to facilitate a site visit of the said road. The Hon. Sunjeev Birdi and Hon. Mathias Robi to accompany the Ministry Officials visit the road since the Member felt that the road she is talking about is different from what the Ministry has provided answer for. The visit was scheduled for Wednesday 4<sup>th</sup> March, 2015.

- c) Petition by the Hon. Humphrey Kimani Njuguna, MP, regarding the Tarmacking of the Gatiiguru-McVast-Matangini-Ithanga, Kiarathani, MiyuuyaNg'ang'a-Mukuyu Road

The Principal Secretary informed the Committee that the response for the petition was not ready and the Committee deferred the petition to Thursday 5<sup>th</sup> March, 2015.

- d) Petition by Hon. Isaac Mwaura, MP, on behalf of Persons with disabilities on the construction of a footbridge along Waiyaki Way to link ABC Place bus stage to the National Council for Persons with Disabilities Offices (NCPWD)



The Principal Secretary informed the Committee that the response for the petition was not ready and the Committee deferred the petition to Thursday 5<sup>th</sup> March, 2015.

- e) Petition by the Hon. James Gakuya, MP, regarding the Re-carpeting of the Komarock Road, Nairobi County.

The Principal Secretary informed the Committee that the response for the petition was not ready and the Committee deferred the petition to Thursday 5<sup>th</sup> March, 2015.

- f) Petition by the Hon. Onesmus Njuki, MP, regarding erection of bumps and road signs along Mate Road in Kathuana Town

The Principal Secretary informed the Committee that the response for the petition was not ready and the Committee deferred the petition to Thursday 5<sup>th</sup> March, 2015.

MIN/DC-L/2015/042      Any Other Business

The following issues were raised in the meeting:-

The Chair urged the Ministry to speed up processing of responses to petitions in order to avoid accumulation of petitions committed to the Committee.

MIN/DC-L/2015/043      Adjournment

And the time being 11.30am, the Chairperson adjourned the Meeting to Thursday, 5<sup>th</sup> March, 2015 at 10:00am.

Signed:

Date:.....



10/3/15

Hon. Maina Kamanda, M.P., Chairperson



*Approved for tabling*

*NA  
18/3/15*

*Laid in the table of the House  
by the Hon. Maina  
Kamanda, Chair-DC on  
Transport, Public  
Works & Housing on  
18/3/15: Afternoon sitting*

THE NATIONAL ASSEMBLY  
ELEVENTH PARLIAMENT- THIRD SESSION

DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC

WORKS AND HOUSING



REPORT ON THE PETITION REGARDING THE  
CONSTRUCTION OF A FOOTBRIDGE ON WAIYAKI WAY  
TO LINK ABC PLACE BUS STOP AND THE NATIONAL  
COUNCIL FOR PERSONS WITH DISABILITIES OFFICE,  
WESTLANDS, NAIROBI

Report of the Departmental Committee on Transport, Public Works & Housing on the Petition regarding Construction of a footbridge on Waiyaki Way to link ABC Place Bus Stop and the National Council for Persons with Disabilities Office, Westlands, Nairobi

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## 1.0 PREFACE

On Tuesday February 17<sup>th</sup>, 2015, a petition was tabled before the House pursuant to Standing Order 225 (2)(a) by the Hon. Isaac Mwaura, MP, nominated Member of Parliament, on behalf of Persons with disabilities on the construction of a footbridge along Waiyaki Way to link ABC Place bus stage to the National Council for Persons with Disabilities Offices (NCPWD).

Pursuant to Standing Order 227 (1), the petition was referred to the Departmental Committee on Transport, Public Works and Housing for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227 (2).

### 1.1 Mandate of the Committee

The Committee is established pursuant to the provisions of Standing Order No. 216, with the following terms of reference: -

- a) to investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b) to study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- c) to study and review all legislation referred to it;
- d) to study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- e) to investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to



them by the House or a Minister;

- f) to vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and
- g) to make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

The Committee is mandated to consider matters of Transport, Roads, Public works, Construction , Maintenance of roads, rails and buildings, air, seaports and housing and oversees the following Government Ministry and State Department, namely: -

- a) Ministry of Transport and Infrastructure;
- b) State Department for Housing
- c) Directorate of Public Works and Urban Development

### 1.3 Committee Membership

The Committee was constituted on May 20<sup>th</sup> 2013 and its membership is as follows:-

1. The Hon. Maina Kamanda, M.P. – **(Chairperson)**
2. The Hon. Eng. Mahamud Maalim, M.P. – **(ViceChairperson)**
3. The Hon. Eng. Stephen Ngare, M.P.
4. The Hon. Ali Wario, M.P.
5. The Hon. Arch. David Kiaraho, M.P.
6. The Hon. Cecily Mbarire, M.P.
7. The Hon. Capt. Clement Wambugu, M.P.
8. The Hon. Eng. John Kiragu, M.P.
9. The Hon. Gideon Konchella, M.P.
10. The Hon. Barchilei Kipruto, M.P.
11. The Hon. Mark Lomunokol, M.P.
12. The Hon. Grace Kipchoim, M.P.
13. The Hon. Mathias Robi, M.P.

14. The Hon. Joseph Lomwa, M.P.
15. The Hon. Peter Shehe, M.P.
16. The Hon. Stephen Manoti, M.P.
17. The Hon. Emmanuel Wangwe, M.P.
18. The Hon. K.K. Stephen Kinyanjui Mburu, M.P.
19. The Hon. Suleiman Dori, M.P.
20. The Hon. Edick Omondi Anyanga, M.P.
21. The Hon. Simon Nyaundi Ogari, M.P.
22. The Hon. Johnson Many Naicca, M.P.
23. The Hon. Mishi Juma, M.P.
24. The Hon. Aduma Owuor, M.P.
25. The Hon. Chachu Ganya, M.P.
26. The Hon. Omar Mwinyi, M.P.
27. The Hon. Ahmed Abbas Ibrahim, M.P.
28. The Hon. Omulele Christopher, M.P.
29. The Hon. Mukwe James Lusweti, M.P.

#### 1.4. CONSIDERATION OF THE PETITION

The Committee proceeded with the consideration of the petition by holding meetings to set up terms of reference and scheduling meetings.

In considering the petition, the Committee invited and held meetings with the hon. Isaac Mwaura, MP and officials from the Ministry of Transport and Infrastructure on 5<sup>th</sup> March, 2015.

#### 1.5 Committee Observation

Having held meetings and considered the submissions presented on the petition, the Committee observed that the Ministry through Kenya National Highways Authority (KeNHA) is implementing the National Urban Transport Improvement Project, which is an ongoing project, co- financed by the Government of Kenya and the World Bank.

The Committee further observed that under this project, a footbridge with either gentle ramps or escalators will be provided in the vicinity of ABC place. This footbridge will be harmonized with several other features such as a proposed Bus Rapid Transit System, Non-Motorised Traffic Facilities and a flyover complex involving Waiyaki Way and James Gichuru road.

#### 1.6 Response to the prayers in the petition

The petitioners **prayed that the National Assembly through the Committee:-**

- (i) Recommend that the Ministry of Transport and Infrastructure urgently fast tracks the erection of speed bumps as temporary measure to slow down the traffic and mitigate loss of life along that stretch of the road.
- (ii) Intervenes to ensure that the petitioners' plight is addressed by ensuring that money is budgeted for and allocated in the next financial year towards the construction of a disability-friendly foot bridge to ease access to the institution and address the danger that this predicament poses to the lives of the Kenyan road users along that area.

**In response to the prayers in the petition, the Committee recommends that:-**

1. The Ministry Marks clearly Zebra crossing at a suitable location convenient for persons wishing to access the offices of the National Council for Persons with disabilities (NCPD).
2. The National Transport and Safety Authority Agency enforces the 50 kilometres per hour speed limit in this area to reduce cases of road accidents.
3. The Ministry of Transport and Infrastructure fast track the process of harmonizing the construction of a footbridge with other features such as the Bus Rapid Transit System and the non motorized Traffic facilities and a disability friendly flyover complex in the vicinity of the ABC place.

# THE NATIONAL ASSEMBLY



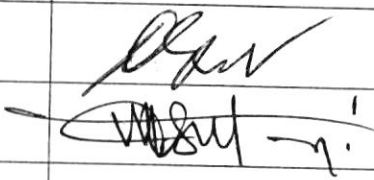
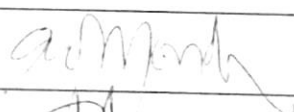

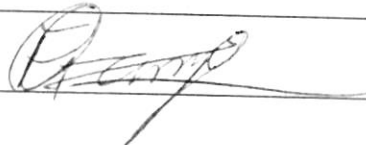
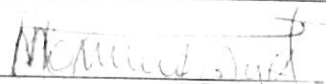
## ELEVENTH PARLIAMENT – 3<sup>RD</sup> SESSION

### DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS AND HOUSING

Adoption of the Report on the Petition by Hon. Isaac Mwaura regarding construction of a footbridge along Waiyaki Way

NO.	MEMBER	SIGNATURE
1.	Hon. Maina Kamanda, MP (Chairperson)	
2.	Hon. (Eng.) Mohamed Maalim, MP (Vice Chairperson)	
3.	Hon. KK Stephen Kinyanjui Mburu, MP	
4.	Hon. Christopher Omulele, MP	
5.	Hon. (Eng.) Stephen Ngare, MP	
6.	Hon. Johnson M. Naicca, MP	
7.	Hon. (Eng.) John Kiragu, MP	
8.	Hon. Stephen K. Manoti, MP	
9.	Hon. Joseph Lomwa, MP	
10.	Hon. (Capt.) Clement M. Wambugu, MP	
11.	Hon. Emmanuel Wangwe, MP	
12.	Hon. Grace J. Kipchoim, MP	
13.	Hon. Cecily M. Mbarire, MP	



14	Hon. Mishi Juma Khamis, MP	
15	Hon. Peter Shehe, MP	
16	Hon. Omar Mwinyi, MP	
17	Hon. Suleiman Dori, MP	
18	Hon. Edick O. Anyanga, MP	
19	Hon. Aduma Owuor, MP	
20	Hon. Gideon Konchella, MP	
21	Hon. Abass Ahmed Ibrahim, MP	
22	Hon. Ali Wario, MP	
23	Hon. David Kiaraho, MP	
24	Hon. Barchilei Kipruto, MP	
25	Hon. Simon Nyaundi Ogari, MP	
26	Hon. Chachu Ganya, MP	
27	Hon. Mathias N. Robi, MP	
28	Hon. Mukwe James Lusweti, MP	
29	Hon. Mark Lomunokol, MP	

Mr. Samuel Kalama – First Clerk Assistant

For: CLERK OF THE NATIONAL ASSEMBLY

1.7. Acknowledgment

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate.

I take this opportunity to thank all the Members of the Committee for their patience, sacrifice, endurance and hard work during the long sitting hours under tight schedules which enabled us to complete consideration of the petition.

The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this Report possible.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Transport, Public Works and Housing, to present this report to the House pursuant to the provisions of Standing Order 227 (2).

SIGNED:



THE HON. MAINA KAMANDA, M.P.  
(CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS AND HOUSING

DATE:.....14/3/2015.....

## 2.0 BACKGROUND INFORMATION

The Petition by **Persons with disabilities** was presented to the House by the **Hon. Isaac Mwaura, MP, on Tuesday February 17<sup>th</sup>, 2015** pursuant to Standing Order No. 225 (2)(a). The petition was signed by 20 persons.

Pursuant to Standing Order 227(1) the petition was referred to the Departmental Committee on Transport, Public Works and Housing for consideration and preparation of a report within 60 days. The Committee considered the petition pursuant to the provisions of Standing Order 227(1) and (2).

The petitioners wished to **draw the attention of the House to the NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES (NCPWD)** which promotes the rights of persons with disability in Kenya and mainstreams disability issues into all aspects of national development is located along the busy Waiyaki Way.

The NCPWD offices are located across the ABC place main stage along Waiyaki Way, making the organization inaccessible when one is arriving from the city. The persons with disabilities encounter challenges, and in particular those who are physically challenged and the visually impaired who use assistive devices such as wheel chairs, crutches and the white cane, while crossing over to and from the Council as well as other disability-affiliated organizations operating in the vicinity.

The predicament poses a great risk to the lives of not only these persons with disabilities but also to other pedestrians in the area, who have to cross over four lanes against on-coming traffic which is usually comprised of speeding motorized.

There is no other accessible and safe means that one can use to reach the Council

and other establishments in the area

### 3.0 SUBMISSIONS AND EVIDENCE

Having been seized of the Petition, the Committee commenced its investigations by inviting the petitioner and the Cabinet Secretary for Transport and Infrastructure for meetings. The meetings were held on **Thursday 5<sup>th</sup> March, 2015** with the aim of addressing the Petitioners' concerns.

#### 3.1 Meeting with the Petitioner

On Thursday 5<sup>th</sup> March, 2015 the Committee met with Hon. Isaack Mwaura, MP on behalf of the petitioners. He explained the challenges that people with disability faced in this section of the road. He further, informed the Committee that people with disability cannot get services from the very offices that are meant to help them because of lack of footbridges to cross the road.

#### 3.2 Meeting with the Principal Secretary for the State Department of Infrastructure

The Principal Secretary for the Ministry of Transport and Infrastructure was ably represented by the Principal Secretary, who informed the Committee as follows, that:-

- (i) The Ministry through Kenya National Highways Authority (KeNHA) is implementing the National Urban Transport Improvement Project, which is an ongoing project, co- financed by the Government of Kenya and the World Bank.
- (ii) Under this project, a footbridge with either gentle ramps or escalators will be provided in the vicinity of ABC place. This footbridge will be harmonized with several other features such as a proposed Bus Rapid Transit System, Non-Motorised Traffic Facilities and a flyover complex involving Waiyaki Way and James Gichuru road.
- (iii) However, because the procedures and processes leading to installation of the proposed footbridge and associated works will not be completed



before expiry of the 2015-2016 financial year, short term interventions to ensure safety will be conducted as follows:-

- a) A zebra crossing will be clearly marked at a suitable location convenient for persons wishing to access the offices of the National Council for Persons with disabilities (NCPD).
- b) The 50 kilometres per hour speed limit will be stringently enforced in this area in liaison with the National Transport and Safety Authority Agency.
- (iv) Installation of speed control bumps along the subject highways is considered in advisable due to disproportionate negative impacts on the traffic flow.

#### 4.0 FINDINGS, OBSERVATIONS AND RECOMMENDATION

##### 4.1. Findings

The Committee made the following findings, that:-

- (i) The Ministry through Kenya National Highways Authority (KeNHA) is implementing the National Urban Transport Improvement Project, which is an ongoing project co- financed by the Government of Kenya and the World Bank, known as. Under this project, a footbridge with either gentle ramps or escalators will be provided in the vicinity of ABC place.
- (ii) The footbridge will be harmonized with several other features such as a proposed Bus Rapid Transit System, Non-Motorised Traffic Facilities and a flyover complex involving Waiyaki Way and James Gichuru road.

##### 4.2. Committee Observation

**The Committee having heard from the petitioner and the officials of the Ministry of Transport and Infrastructure observes that this section of the road along Waiyaki Way is very dangerous not only to the physically challenged persons but also to the normal pedestrians wishing to cross the road.**

#### 4.3. Recommendation

In response to the prayers by the petitioners, the Committee makes the following recommendations, that:-

1. The Ministry of Transport and Infrastructure urgently implements the following short term interventions to ensure safety in the said stretch of the road, (Waiyaki Way):-
  - (i) Mark clearly a Zebra crossing at a suitable location convenient for persons wishing to access the offices of the National Council for Persons with disabilities (NCPD).
  - (ii) The National Transport and Safety Authority Agency enforce the 50 kilometres per hour speed limit in this area. The enforcement of the speed limit should commence from Kabete Police Station with clear marking of the sign posts indicating the speed limit.
2. The Ministry of Transport and infrastructure fast tracks the process of harmonizing the construction of a footbridge with other features such as the Bus Rapid Transit System and the non motorized Traffic facilities and flyover complex in the vicinity of the ABC place.

MINUTES OF THE 10<sup>TH</sup> SITTING OF THE TRANSPORT, PUBLIC WORKS AND HOUSING COMMITTEE HELD ON THURSDAY 5<sup>TH</sup> MARCH, 2015 IN THE PSC BOARDROOM ON 1<sup>ST</sup> FLOOR COUNTY HALL, AT 10:20 AM.

**PRESENT**

1. Hon. Maina Kamanda, M.P. – **Chairperson**
2. Hon. (Eng.) Mahamud Maalim, M.P. –**Vice Chairman- Chairing**
3. Hon. Aduma Owuor, M.P.
4. Hon. Chachu Ganya, M.P.
5. Hon. Joseph Lomwa, M.P.
6. Hon. Mathias Robi, M.P.
7. Hon. Mukwe James Lusweti, M.P.
8. Hon. Ali Wario, M.P.
9. Hon. Omar Mwinyi, M.P.
10. Hon. Emmanuel Wangwe, M.P.
11. Hon. Omulele Christopher, M.P.
12. Hon. K.K. Stephen Kinyanjui Mburu, M.P.
13. Hon. (Eng.) Stephen Ngare, M.P.
14. Hon. Edick Omondi Anyanga, M.P.
15. Hon. Eng. John Kiragu, M.P.
16. Hon. Peter Shehe, M.P.
17. Hon. Stephen Manoti, M.P.
18. Hon. Ahmed Abbas Ibrahim, M.P.

**ABSENT WITH APOLOGY**

1. Hon. Simon Nyaundi Ogari, M.P.
2. Hon. (Arch.) David Kiaraho, M.P.
3. Hon. Mishi Juma, M.P.
4. Hon. Cecily Mbarire, M.P.
5. Hon. Suleiman Dori, M.P.
6. Hon. Barchilei Kipruto, M.P.
7. Hon. Grace Kipchoim, M.P.
8. Hon. (Capt.) Clement Wambugu, M.P.
9. Hon. Gideon Konchella, M.P.
10. Hon. Johnson Many Naicca, M.P.
11. Hon. Mark Lomunokol, M.P.

### IN ATTENDANCE

1. Hon. Sunjeev Kaur Birdi,
2. Hon. Humphrey Kimani N.
3. Hon. James Kaguya
4. Hon. Irungu Kangata
5. Hon. Isaac Mwaura
6. Hon. David Pkosing

### - NATIONAL ASSEMBLY

MP  
MP  
MP  
MP  
MP  
MP

### IN ATTENDANCE

1. Mr. Samuel Kalama
2. Mr. Abdifatah M. Bule
3. Ms. Nuri K. Nataan
4. Ms. Christine Odhiambo

### - NATIONAL ASSEMBLY

First Clerk Assistant  
Third Clerk Assistant  
Third Clerk Assistant  
Legal Counsel

### IN ATTENDANCE

1. Eng. John Mosonik
2. Mr. Nicholas Bodo
3. Eng. F.D Karanja
4. Eng. David Mwangi.
5. Mr. Denis Onyango
6. Eng. Benjamin K. Mwangi
7. Ms. Catharine Butaki
8. Mr. Danish Onyango
9. Mr. M.Y Terus
10. Mr. Johnson Nakitari
11. Eng. M.Y Teleieny

### - Ministry of Transport & Infrastructure

Principal Secretary  
Ministry of Transport & Infrastructure  
Ag. KERRA  
Ministry of Transport & Infrastructure  
Ministry of Transport & Infrastructure  
Ministry of Transport & Infrastructure  
Ministry of Transport & Infrastructure  
Ministry of Transport & Infrastructure  
Ministry of Transport & Infrastructure  
Ministry of Transport & Infrastructure

### AGENDA

1. Prayer
2. Consideration of the following Petitions:-
  - I. Petition by the Hon. Humphrey Kimani Njuguna, MP, regarding the Tarmacking of the Gatiiguru-McVast-Matangini-Ithanga, Kiarathani, MiyuuyaNg'ang'a-Mukuyu Road
  - II. Petition by Hon. Isaac Mwaura, MP, on behalf of Persons with disabilities on the construction of a footbridge along Waiyaki Way to link ABC Place bus stage to the National Council for Persons with Disabilities Offices (NCPWD)



- III. Petition by the Hon. James Gakuya, MP, regarding the Re-carpeting of the Komarock Road, Nairobi County.
- IV. Petition by the Hon. Sunjeev Kaur Birdi, MP on behalf of business owners and residents operating and living along the Old Mombasa Road/Maasai Road A, B and C in Nairobi County for the upgrading of the Old Mombasa Road/Maasai Road A, B and C in Nairobi County
- V. Petition by the Hon. Onesmus Njuki, MP, regarding erection of bumps and road signs along Mate Road in Kathuana Town
- VI. Petition by the Hon. David Pkosing Losiakon, MP on behalf of residents of Pokot South Constituency, Chepareria Ward regarding the Northern Corridor Transport Improvement Project in particular Lesseru-Kitale-Marich Pass (A1).
- VII. Petition by the Hon. Irungu Kangata, MP on behalf of residents of Kiharu Constituency regarding the 40 Kms road traversing Mbiri, Mugoiri and Murarandia Wards.

### 3. Any Other Business

**MIN/DC-L/2015/044**

#### **PRELIMINARIES**

The Chair called the meeting to order at 10:20 am and opened it with a word of prayers. He asked all members in attendance to introduce themselves.

#### **MIN/DC-L/2015/045 Consideration of the following Petitions:-**

- I. **Petition by the Hon. Humphrey Kimani Njuguna, MP, regarding the Tarmacking of the Gatiiguru-McVast-Matangini-lthanga, Kiarathani, Miyuu ya Ng'ang'a-Mukuyu Road**

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows:-

**That:-**

- a) The government has always maintained roads in Lower Gatanga since independence. The periodic maintenance activities undertaken have been grading, culvert installation and spot gravelling on several roads. In addition, the Authority has carried out construction works in the constituency which includes the construction of Rubiru Bridge at a cost of Kshs. 35 Million, and the ongoing MwanaWikio Bridge at a cost of Kshs. 50Million.
- b) The Gatiiguru-Mcvast (U19)-Matangini-Huanga (E532)-Kirathani-Miyuuya Ng'ang'a -Mukuyu(D424) road is not currently tarmacked. However, the Authority has been carrying out routine maintenance to ensure it is in a

- motorable state. In the financial year 2013/2014 the Gatanga Constituency Roads Committee allocated Kshs. 3.5 Million for maintenance of this road.
- c) The Authority appreciates that this road is an important link within the constituency, and is doing all it can within its mandate to ensure that the livelihood of the residents is not interfered with in anyway.
  - d) The mandate of KeRRA is to construct, maintain, manage and rehabilitate all rural roads classified as D, E and others. Therefore, since this road falls in these classes, it is under the purview of this Authority.
  - e) KeRRA as an Authority constructs and maintains roads as guided by the provisions of the Finance Act 2009, which establishes Constituency Roads Committees (CRC) in each of the 290 constituencies' country wide. These CRC's generate priorities and work plans which are then funded through the Roads Maintenance Levy Fund.
  - f) The road will be considered in the Annuity Financing programme in phase II

#### **Committee observations on the above petition**

The Committee resolved to visit Gatanga Constituency during the short recess of April 2015 in order to assess the status of the Gatiiguru-McVast-Matangini-Ithanga, Kiarathani, MiyuuyaNg'ang'a-Mukuyu Road.

#### **II. Petition by Hon. Isaac Mwaura, MP, on behalf of Persons with disabilities on the construction of a footbridge along Waiyaki Way to link ABC Place bus stage to the National Council for Persons with Disabilities Offices (NCPWD)**

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows:-

#### **That:-**

The Ministry through Kenya National Highways Authority (KeNHA) is implementing an ongoing projects co- financed between the Government and the World Bank, known as the National Urban Transport Improvement Project. Under this project, a footbridge with either gentle ramps or escalators will be provided in the vicinity of ABC place. This footbridge will be harmonized with several other features such as a proposed Bus Rapid Transit System, Non-Motorised Traffic Facilities and a flyover complex involving Waiyaki Way and James Gichuru road.

However, because the procedures and processes leading to installation of the proposed footbridge and associated works will not be completed before expiry of the 2015-2016 financial year, short term interventions to ensure safety will be conducted as follows:

- A zebra crossing will be clearly marked at a suitable location convenient for persons wishing to access the National Council for Persons with disabilities (NCPD) offices.
- The 50 kilometres per hour speed limit will be stringently enforced in this area in liaison with the National Transport and Safety Authority Agency.

Installation of speed control bumps along the subject highways is considered in advisable due to disproportionate negative impacts on the traffic flow.

#### **Submission from the Hon. Isaac Mwaura, MP**

The Chairperson invited the Hon. Isaac Mwaura, MP to make his submission to the Committee on behalf of the petitioners. There upon, he informed the Committee that people with disability are facing challenges in crossing this section of the road. He further, informed the Committee that people with disability cannot get services from the very offices that are meant to help them because of lack of footbridges to cross the road

#### **Committee observations on the above petition**

- (a) The Committee requested from the ministry to involve disabled persons when designing roads.
- (b) The Committee having heard from the petitioner and the officials from the Ministry of Transport and Infrastructure, it observed that this section of the road along Waiyaki Way is very dangerous not only to the physically challenged persons but also to the normal pedestrians wishing to cross the road.
- (c) The Committee also observed that erecting road bumps on this section of the road will lead to heavy traffic jam.
- (d) It also observed that there is need to enforce the 50 kilometers speed limit from Kabete Police Station
- (e) A zebra crossing be clearly marked at a suitable location convenient for person wishing to access the National Council for Persons with Disabilities Offices.

### **III. Petition by the Hon. James Gakuya, MP, regarding the Re-carpeting of the Komarock Road, Nairobi County.**

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows, **that:-**

Komarock Road is approximately 4.7 KM long and starts at the junction of Juja Road and Outer Ring Road and terminates at Kangundo Road. It passes through Mowlem as shown in the attached map.

In particular a section of 1.2 Kilometer of the road from Juja/Outer Ring Road Roundabout to Mutarakwa Road is dilapidated requiring base reconstruction while the rest of the road is paved and in fair condition.

The Ministry is aware of the frequent traffic snarl-ups on the road arising from the slow flow of traffic on Outer Ring Road which is the main artery expected to evacuate traffic from the area. In the long term the Komarock road is ear marked for dualing under Lot 20 of the annuity program and the bids are scheduled to be opened on 20<sup>th</sup> March, 2015.

In the medium term the Ministry recently launched improvement of the Outer Ring Road as a medium-term measure to decongestion the East. The design of this road includes a grade separated junction at Komarock/Juja Road junction which once completed will greatly improve traffic flow on Komarock Road through elimination of traffic conflicts at the junction. The works under the contract include improvement of 0.7Kilometer of Komarock road from Juja/Outer Ring Junction. In addition during construction part of the Komarock Road will be improved to serve as a diversion.

As short term measures the Ministry through the Kenya Urban Roads Authority (KURA) in the last four years and including the current financial year has been undertaking maintenance of roads within Nairobi City County through the Fuel Levy fund.

For example in the 2013/2014 FY 2.0 Kilometer of the Komarock Road (Komarock - Kangundo Road - Bus Route) was placed under periodic maintenance at a cost of Kshs.50, 721,052.20. The road which was in poor condition has been improved and currently provides a safe connectivity between Kangundo road and Kayole Spine road.

In the current financial year (FY 2014/2015) the Ministry through Kenya Urban Roads Authority (KURA) has awarded a contract of sh. 24,539,568.00 to M/s NdumberiGeneral Merchants Limited for performance based maintenance of roads within Fedha/Komarock Area .

The works under this contract commenced on 7<sup>th</sup> January, 2015 and are expected to be completed on 6<sup>th</sup> October, 2015.

**Submission from the Petitioner**



The Chairperson invited the Hon. James Gakuya, MP, to make his submission to the Committee. There upon, he briefed the Committee on the state of Komarock road. He informed the Committee that the said road is part of the Nairobi Road Network within the Nairobi City County and links the Constituency to the rest of the County including Industrial Area and that the road is a living example of neglect by the concerned authorities.

### **Committee observations**

The Committee observed that the Ministry is aware of the frequent traffic congestion on the road arising from the slow flow of traffic on Outer Ring Road which is the main artery expected to evacuate traffic from the area. In the long term the Komarock road is earmarked for dualing under Lot 20 of the annuity program and the bids are scheduled to be opened on 20<sup>th</sup> March, 2015

The Committee also observed that in the current financial year (FY 2014/2015) the Ministry through Kenya Urban Roads Authority (KURA) has awarded a contract of Kshs. 24,539,568.00 to M/s Ndumberi General Merchants Limited for performance based maintenance of roads within Fedha/Komarock Area.

IV.

**Petition by the Hon. Sunjeev Kaur Birdi, MP on behalf of business owners and residents operating and living along the Old Mombasa Road/Maasai Road A, B and C in Nairobi County for the upgrading of the Old Mombasa Road/Maasai Road A, B and C in Nairobi County**

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows:-

**That:-**

The Ministry is aware that the Old Mombasa Road/ Maasai Road is an important link for the commercial, industrial and residential areas around the Old Mombasa Road. We are also aware that the current condition of the roads is not good.

### **Interventions**

The Ministry recently improved some of the roads around the area under the City Cabanas Interchange. However, the contract did not include all the adjacent roads. For example the Access to Excel Industries joining the interchange is currently in deplorable condition. This link was not developed under the interchange project due to land acquisition issues.

The Ministry through Kenya Urban Roads Authority (KURA) has engaged a contractor, MS Saxon Investments Ltd, to improve to bitumen standards the link road between the interchange at the Airport North Road and the access to Excell Industries at a cost of Kshs. 35,866,388. Work is expected to commence on the section of the road by 3<sup>rd</sup> March, 2015.

There are no immediate plans to upgrade all the roads to bitumen standards. However, the Ministry through Kenya Urban Roads Authority (KURA) in the FY 2015/2016 will carry out routine maintenance of the roads to restore them to motorable conditions for ease of access.

#### **Allocation of sh. 100 million**

Kenya Urban Roads Authority (KURA) was not in operation in 2008 when Kshs.100 Million was allocated by Kenya Roads Board (KRB) for upgrading of some roads within Nairobi. Kenya Urban Roads Authority (KURA) is therefore not aware of the said allocation.

#### **SITE VISIT BY THE COMMITTEE**

The Committee visited the site on Wednesday 4<sup>th</sup> March, 2015 and met with the petitioners where they observed that Road A was already constructed to bitumen standard by KURA. However the link of Road A and city Cabanas interchange was not accessible and required urgent construction to enable the industrialists to access their plots.

It was noted that the Ministry through Kenya Urban Roads Authority (KURA) has engaged a contractor, MS Saxon Investments Ltd, to construct the link road to bitumen standards at a cost of Kshs. 35,866,388. The works are on-going.

The residents/petitioners thanked the committee for visiting the said roads and hoped that the committee would address their concerns.

#### **V. Petition by the Hon. Onesmus Njuki, MP, regarding erection of bumps and road signs along Mate Road in Kathuana Town**

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows:-

**That:-**

The upgrading of Ena – Ishiara – Chiakariga (C92) Road to bitumen standard was completed in the year 2012. Field inspections along Ishiara – Thuchi – Kathwana – Chiakariga road has shown that a number of road signs earlier installed have been vandalized. The Ministry undertook the replacement of the road signs and installation of new ones, through KeNHA's maintenance programs, with a view to address the issues raised by the Honorable Member.

The ministry will consider erecting bumps on the said road.

This road serves as the main link between Embu, TharakaNithi and Meru counties. The road has the additional function of providing greater mobility besides access. It is expected that the occurrence of traffic accidents will be averted with enhanced provision of road signs as well as observance of traffic regulations by drivers and pedestrians.

**VI. Petition by the Hon. Irungu Kangata, MP on behalf of residents of Kiharu Constituency regarding the 40 Kms road traversing Mbiri, Mugoiri and Murarandia Wards.**

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows:-

**That:-**

- a) The Ministry can confirm that this road classified as (D440) is 39 Kilometers and traverses the mentioned markets within Kiharu Constituency as stated above.
- b) The contractor on this road was Intex Construction Ltd, who was able to complete 30 Kilometers out of the total length of 39 Kilometers, with the 9 Kilometers between Murarandia – Githambo pending, awaiting budgetary provisions.
- c) The contractor did not abandon the road project. The project was wound up with mutual consent between the contractor and the employer, due to insufficient budgetary provisions in the financial year 2013/2014.

- d) There is indeed a Tea Factory (Githambo Tea Factory Limited) along the 9 Kilometers stretch that the contractor was unable to do. However, the Ministry has prepared bid documents for the outstanding scope of works.
- e) The Ministry will start constructing the remaining 9 Kilometers section using Low Volume Seal Technology at an approximate budget of Kshs. 200 Million in the coming financial year 2015/2016.

#### **Submission from the Petitioner**

The Chairperson invited the Hon. Irungu Kang'ata, M.P. to make his submission to the Committee. He registered frustrations with the Committee on the dilapidated status of the road between Murarandia and Githambo shopping centers, which is a key road that leads Githambo Tea Factory Limited. He informed the Committee that as a result of the poor status of the road, economic activities like transportation of green leaves to the factory and processed tea from the factory remain hindered.

#### **Committee Observations**

The Committee observed that the Ministry has prepared bid documents for the outstanding scope of works and new contractor will be tendered from July 2015 to finish the remaining nine kilometers road between Murarandia and Githambo shopping Centers.

There is need for the Ministry of Transport and Infrastructure to ensure that money for the said road in the Financial Year 2015/2016. The allocation should be captured in the itemized budget of the Ministry.

VII.

**Petition by the Hon. David Pkosing Losiakon, MP on behalf of residents of Pokot South Constituency, Chepareria Ward regarding the Northern Corridor Transport Improvement Project in particular Lesseru-Kitale-Marich Pass (A1).**

The chair invited the Principal Secretary (PS) for the State Department of Infrastructure to make his presentation on the above petition. The PS responded as follows:-

**That:-**



- 1) The Ministry through Kenya National Highways Authority (KeNHA) procured the services of a consultant to conduct Feasibility Studies, Details and Tender Documentation of Leseru – Kitalale – Marich Pass section of Sudan Link Road. The Consultant has completed the services and has submitted the Final Design Report to the Client. The procurement of works is expected to proceed subject to confirmation of funding arrangements.
- 2) The existing longitudinal slope of Kamatira Hills is about 10-11% including sharp bends. The S-type curve at the lower section of Kamatira Hill is recognized as prone to accidents and therefore attracted special attention in the design.

To improve the situation especially in view of the anticipated high future truck volumes the following improvements are incorporated in the design.

- i. The sharp hairpin curve on the top of Kaamatira Hills has been realigned and the radius of the curve has been widened from 100m to 200m. Further this realignment ensures that surrounding settlement needs not to be relocated.
- ii. The s-curve on the bottom of Kamatira Hills has been realigned and the radiuses have been widened from 135m to 215m and 140m to 220m respectively.
- iii. The longitudinal slope has been reduced to a maximum of 7.8% for a length of approx. 4.3 km.

To achieve the longitudinal grades, it became necessary to design deep cuts and high fills. The average cut in this section is about 15m with a maximum of 30m in short sections and the average fill is 20m with a maximum of 28m in short sections.

However, the ministry undertook to hold consultative meetings with all the local leadership and locals with a view to redesign the road and come up with a consensus solution.

To ensure slope protection of the embankment, the following measures have been incorporated in the design; top soiling, Hydro seeding, Planting Rock or gravel protection and Berms.

**Submission by Hon. David Pkosing Losiakon,MP on the petition.**

The member appreciated the efforts taken by the ministry to address the concerns of the public. However, he drew the attention of the Committee on the concerns raised by the petitioners. The petitioners hold consultative meetings and resolved to have the corridor of the said road changed. To this end, the community has agreed to donate land for the change of the corridor. He further informed the Committee that members of the public will not co-operate with the ministry when the corridor is not changed during the implementation of the project.

**Committee observations**

The Committee agreed with the ministry that they should rethink the design in consultation with the residents so as to accommodate the views of the elected leaders and members of the public.

**MIN/DC-L/2015/046**

**ANY OTHER BUSINESS**

The Committee resolved to proceed with report writing retreat from 12<sup>th</sup> to 15<sup>th</sup> March 2015. In the retreat the Committee will adopt the reports on petitions.

**MIN/DC-L/2015/047**

**ADJOURNMENT**

And there being no other business, the Chair adjourned the meeting at 12.10 pm.

SIGNED.....

HON MAINA KAMANDA, M.P

(Chairperson)

DATE.....

MINUTES OF THE 9<sup>TH</sup> SITTING OF THE TRANSPORT, PUBLIC WORKS AND HOUSING COMMITTEE HELD ON TUESDAY 3<sup>RD</sup> MARCH, 2015 IN THE COMMITTEE ROOM, CONTINENTAL HOUSE, AT 10:30AM

PRESENT:

1. Hon. Maina Kamanda, M.P - Chairperson
2. Hon. (Eng.) Mahamud M. Mohamed, M.P - Vice-Chairperson
3. Hon. Omulele Christopher, M.P
4. Hon. Emmanuel Wangwe, M.P
5. Hon. Ahmed Abbas Ibrahim, M.P
6. Hon. Johnson Many Naicca, M.P
7. Hon. ChachuGanya, M.P
8. Hon. Omar Mwinyi, M.P
9. Hon. Peter Shehe, M.P.
10. Hon. (Eng.) Stephen Ngare, M.P
11. Hon. Ali Wario, M.P
12. Hon. EdickOmondiAnyanga, M.P
13. Hon. Mukwe James Lusweti, M.P
14. Hon. AdumaOwuor, M.P
15. Hon. (Capt.) Clement Wambugu, M.P
16. Hon. Mathias Robi, M.P

APOLOGY

1. Hon. Eng. John Kiragu, M.P
2. Hon. (Arch.) David Kiaraho, M.P
3. Hon. Cecily Mbarire, M.P
4. Hon. K.K. Stephen Kinyanjui Mburu, M.P
5. Hon. Mishi Juma, M.P
6. Hon. Joseph Lomwa, M.P
7. Hon. Suleiman Dori, M.P
8. Hon. Mark Lomunokol, M.P
9. Hon. Grace Kipchoim, M.P
10. Hon. Simon Nyaundi Ogari, M.P
11. Hon. Barchilei Kipruto, M.P
12. Hon. Stephen Manoti, M.P
13. Hon. Gideon Konchella, M.P

## IN ATTENDANCE

1. Mr. Samuel Kalama
2. Mr. Abdifatah Bule
3. Ms. Nuri Nataan

## NATIONAL ASSEMBLY

- Clerk Assistant  
Clerk Assistant  
Clerk Assistant

### MIN/DC-L/2015/039 Preliminaries

The Chair called the meeting to order at 10.30am and opened it with a word of prayer.

### Min/DC-L/2015/040 Adoption of the Agenda

The Chair presented the agenda as follows;

1. Prayer
2. Adoption of the Agenda
3. Consideration of the following Petitions:-
  - i. Petition by the Hon. Humphrey Kimani Njuguna, MP, regarding the Tarmacking of the Gatiiguru-McVast-Matangini-Ithanga, Kiarathani, MiyuuyaNg'ang'a-Mukuyu Road
  - ii. Petition by Hon. Isaac Mwaura, MP, on behalf of Persons with disabilities on the construction of a footbridge along Waiyaki Way to link ABC Place bus stage to the National Council for Persons with Disabilities Offices (NCPWD)
  - iii. Petition by the Hon. James Gakuya, MP, regarding the Re-carpeting of the Komarock Road, Nairobi County.
  - iv. Petition by the Hon. David Kangogo Bowen, MP, regarding the Stoppage of KQ's operations on Nairobi-Eldoret route and the inconveniences caused by Jambo Jet
  - v. Petition by the Hon. Sunjeev Kaur Birdi, MP on behalf of business owners and residents operating and living along the Old Mombasa Road/Maasai Road A, B and C in Nairobi County for the upgrading of the Old Mombasa Road/Maasai Road A, B and C in Nairobi County
  - vi. Petition by the Hon. Onesmus Njuki, MP, regarding erection of bumps and road signs along Mate Road in Kathuana Town
4. Any Other Business
5. Adjournment

The agenda was adopted as proposed by Hon. Eng. Stephen Ngare, MP and seconded by Hon. Emmanuel Wangwe, MP.



- a) Petition by the Hon. David Kangogo Bowen, MP, regarding the Stoppage of KQ's operations on Nairobi-Eldoret route and the inconveniences caused by Jambo Jet

The Principal Secretary responded as follows, that:-

- i) Initially, and in agreement with the Kenya Airways, Jambojets's network strategy was to serve the four main airports in Kenya i.e. Nairobi, Mombasa, Kisumu and Eldoret.

The initial months of network implementation has also provided the management of both Kenya Airways and Jambojet with an opportunity to receive and evaluate feedback from regular travelers on all the routes, including on the Nairobi-Eldoret route. Based, on the market data currently available and on the size of aircraft currently operated by both carriers, only one of the two carriers can serve this route on a commercially viable bases with double daily frequency. Responding to travelers' feedback, the scheduling team of both airlines recently reviewed the pattern of flights and from July 2014, to meet the requirement of regular travelers, Jambojet is offering both morning and evening flights on the Nairobi-Eldoret route.

- ii) Both airlines will continues to monitor demand for scheduled airline services on the route to decide if a further scheduling adjustment is required

#### Committee Recommendations

The Principal Secretary for the State Department of Transport was requested to facilitate a meeting between the Hon. David Kangogo and Kenya Airways Flight scheduling team to see if a compromise can be struck since the Member was not satisfied with the answer. The meeting was scheduled for Monday 9<sup>th</sup> March, 2015.

- b) Petition by the Hon. Sunjeev Kaur Birdi, MP on behalf of business owners and residents operating and living along the Old Mombasa Road/Maasai Road A, B and C in Nairobi County for the upgrading of the Old Mombasa Road/Maasai Road A, B and C in Nairobi County

The Principal Secretary responded as follows, that:-

- i) Interventions

The Ministry recently improved some of the roads around the area under the City Cabanas Interchange. However, the contract did not include all the adjacent

roads. For example the Access to Excel Industries joining the interchange is currently in deplorable condition. This link was not developed under the interchange project due to land acquisition issues.

The Ministry through Kenya Urban Roads Authority (KURA) has engaged a contractor, MS Saxon Investments Ltd, to improve to bitumen standards the link road between the interchange at the Airport North Road and the access to Excell Industries at a cost of sh. 35,866,388. Work is expected to commence on the section of the road by 3<sup>rd</sup> March, 2015.

There are no immediate plans to upgrade all the roads to bitumen standards. However, the Ministry through Kenya Urban Roads Authority (KURA) in the FY 2015/2016 will carry out routine maintenance of the roads to restore them to motorable conditions for ease of access.

ii) Allocation of sh. 100 million

Kenya Urban Roads Authority (KURA) was not in operation in 2008 when Kshs.100 Million was allocated by Kenya Roads Board (KRB) for upgrading of some roads within Nairobi. Kenya Urban Roads Authority (KURA) is therefore not aware of the said allocation.

**Committee Recommendations**

The Principal Secretary for the State Department of Infrastructure was requested to facilitate a site visit of the said road. The Hon. Sunjeev Birdi and Hon.Mathias Robi to accompany the Ministry Officials visit the road since the Member feltb that the road she is talking about is different from what the Ministry has provided answer for. The visit was scheduled for Wednesday 4<sup>th</sup> March, 2015.

c) Petition by the Hon. Humphrey Kimani Njuguna, MP, regarding the Tarmacking of the Gatiiguru-McVast-Matangini-lthanga, Kiarathani, MiyuuyaNg'ang'a-Mukuyu Road

The Principal Secretary informed the Committee that the response for the petition was not ready and the Committee deferred the petition to Thursday 5<sup>th</sup> March, 2015.

d) Petition by Hon. Isaac Mwaura, MP, on behalf of Persons with disabilities on the construction of a footbridge along Waiyaki Way to link ABC Place bus stage to the National Council for Persons with Disabilities Offices (NCPWD)

The Principal Secretary informed the Committee that the response for the petition was not ready and the Committee deferred the petition to Thursday 5<sup>th</sup> March, 2015.

- e) Petition by the Hon. James Gakuya, MP, regarding the Re-carpeting of the Komarock Road, Nairobi County.

The Principal Secretary informed the Committee that the response for the petition was not ready and the Committee deferred the petition to Thursday 5<sup>th</sup> March, 2015.

- f) Petition by the Hon. Onesmus Njuki, MP, regarding erection of bumps and road signs along Mate Road in Kathuana Town

The Principal Secretary informed the Committee that the response for the petition was not ready and the Committee deferred the petition to Thursday 5<sup>th</sup> March, 2015.

**MIN/DC-L/2015/042      Any Other Business**

The following issues were raised in the meeting:-

The Chair urged the Ministry to speed up processing of responses to petitions in order to avoid accumulation of petitions committed to the Committee.

**MIN/DC-L/2015/043      Adjournment**

And the time being 11.30am, the Chairperson adjourned the Meeting to Thursday, 5<sup>th</sup> March, 2015 at 10:00am.

Signed: \_\_\_\_\_  
Date:.....



10/3/15

Hon. Maina Kamanda, M.P., Chairperson

D/Committee

50 2015  
3



**MINISTRY OF TRANSPORT & INFRASTRUCTURE**  
Office of the Principal Secretary, Infrastructure

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WORKS BUILDING  
NGONG ROAD  
P.O. Box 30260-0010  
NAIROBI- KENYA

When replying please quote

Ref No: MOTI/I/A. 24.04 VOL 20/32

4<sup>th</sup> March, 2015

**Mr. Justin N. Bundi, CBS**

Clerk of the National Assembly  
Parliament Building  
**NAIROBI**

Dear *Justin*

*Kalanga  
Budi to attention of committee  
Finance  
a/b/w  
Ag. DDC*

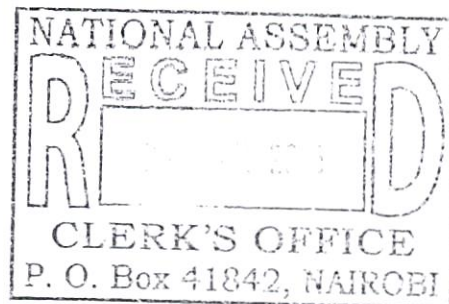
**PARLIAMENTARY PETITION REGARDING THE CONSTRUCTION OF A FOOTBRIDGE ALONG WAIYAKI WAY TO LINK ABC PLACE TO THE NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES OFFICES (NCPWD)**

Reference is made to letter No. KNA/DC.L/CORR/2015/09 of 24<sup>th</sup> February, 2015 on the above subject.

Attached, Please find the Ministry's response to the questions asked by Nominated Member of Parliament Hon. Issac Mwaura, MP for your further necessary action.

Yours *Sincerely*  
*[Signature]*

Eng. John K. Mosonik, EBS  
**PRINCIPAL SECRETARY**



Encls





## MINISTRY OF TRANSPORT & INFRASTRUCTURE

### PARLIAMENTARY PETITION REGARDING THE CONSTRUCTION OF A FOOTBRIDGE ALONG WAIYAKI WAY TO LINK ABC PLACE TO THE NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES OFFICES (NCPWD)

The Nominated Member of Parliament , Hon. Issac Mwaura, MP, rose on the floor of the House and Petitioned the Speaker on behalf of Persons with disabilities through the Chairperson of Departmental Committee on Transport, Public Works and Housing regarding the Construction of a footbridge along Waiyaki Way to link ABC Place to the National Council for Persons with disabilities offices (NCPWD) as follows:-

#### Question:-

- i. Recommends that the Ministry of Transport and Infrastructure urgently fast tracks the erection of speed bumps as a temporary measure to slow down the traffic and mitigate further loss of life along that stretch of the road.
- ii. Intervenes to ensure that the petitioners' plight is addressed by ensuring that money is budgeted for and allocated in the next financial year towards the construction of a disability-friendly foot bridge to ease access to the institution and address the danger that this predicament poses to the lives of kenyan road users along that area.

#### Answers:

**Mr. Speaker Sir, I beg to reply as follows:-**

- i. The Ministry through Kenya National Highways Authority (KeNHA) is implementing an ongoing projects co- financed between the Government and the World Bank, known as the National Urban

Transport Improvement Project. Under this project, a footbridge with either gentle ramps or escalators will be provided in the vicinity of ABC place. This footbridge will be harmonized with several other features such as a proposed Bus Rapid Transit System, Non Motorised Traffic Facilities and a flyover complex involving Waiyaki Way and James Gichuru road.

However, because the procedures and processes leading to installation of the proposed footbridge and associated works will not be completed before expiry of the 2015-2016 financial year, short term interventions to ensure safety will be conducted as follows:

- A zebra crossing will be clearly marked at a suitable location convenient for persons wishing to access the National Council for Persons with disabilities (NCPD) offices.
- The 50 kilometers per hour speed limit will be stringently enforced in this area in liason with the National Transport and Safety Authority Agency.

Installation of speed control bumps along the subject highways is considered in advisable due to disproportionate negative impacts on the traffic flow.



**Eng. John K. Mosonik, EBS**  
**PRINCIPAL SECRETARY**

4<sup>th</sup> March, 2015

Presented  
on 17/12/2015

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY  
ELEVENTH PARLIAMENT  
(THIRD SESSION)

PUBLIC PETITION

Mr. Speaker  
Please approve the  
petition for emergency  
in the House. It meets  
the requirements of the  
S.O.S.  
12/12.

Approved.  
BWA  
SNA  
12/12/15

**BY PERSONS WITH DISABILITIES ON THE CONSTRUCTION OF A  
FOOTBRIDGE ALONG WAIYAKI WAY TO LINK ABC PLACE BUS STAGE TO  
THE NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES OFFICES (NCPWD)**

I, the undersigned, on behalf of citizens of Kenya and in particular, persons with disabilities,

**DRAW** the attention of the House to the following:-

- i. **THAT**, the **NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES (NCPWD)** which promotes the rights of persons with disability in Kenya and mainstreams disability issues into all aspects of national development, is located along the busy Waiyaki Way;
- ii. **THAT**, the NCPWD offices are located across the ABC Place main stage along Waiyaki Way, making the organization inaccessible when one is arriving from the city;
- iii. **COGNIZANT** of the fact that persons with disabilities, and in particular those who are physically challenged and the visually impaired who use assistive devices such as wheel chairs, crutches and the white cane, encounter challenges while crossing over to and from the Council as well as other disability-affiliated organizations operating in the vicinity;
- iv. **NOTING THAT**, such a predicament poses a great risk to the lives of not only these persons with disabilities but also to other pedestrians in the area, who have to cross over four lanes against on-coming traffic which is usually comprised of speeding motorists;

PUBLIC PETITION

BY PERSONS WITH DISABILITIES ON THE CONSTRUCTION OF A  
FOOTBRIDGE ALONG WAIYAKI WAY TO LINK ABC PLACE BUS STAGE TO THE  
NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES OFFICES (NCPWD)

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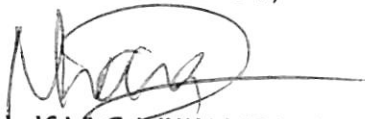
- v. **FURTHER NOTING THAT**, there is no other accessible and safe means that one can use to reach the Council and other establishments in the area;
- vi. **THAT** the matter in respect of which this petition is made is not pending before a Court of Law.

**THEREFORE** your humble petitioners pray that the National Assembly, through the Departmental Committee of Transport, Public Works and Housing:-

- i. Recommends that the Ministry of Transport and Infrastructure urgently fast tracks the erection of speed bumps as a temporary measure to slow down the traffic and mitigate further loss of life along that stretch of the road.
- ii. Intervenes to ensure that the petitioners' plight is addressed by ensuring that money is budgeted for and allocated in the next financial year towards the construction of a disability- friendly foot bridge to ease access to the institution and address the danger that this predicament poses to the lives of Kenyan road users along that area.

And your **PETITIONERS** will ever pray.

PRESENTED BY,



HON. ISAAC MWAURA, M.P.

NOMINATED MEMBER OF PARLIAMENT



DATE: 11 Feb 2017



PERSONS WITH DISABILITIES ON THE CONSTRUCTION OF A FOOTBRIDGE  
ALONG WAIYAKI WAY LINKING ABC PLACE BUS STAGE TO NCPWD  
OFFICES

	NAME OF PETITIONER	FULL ADDRESS	ID/PASSPORT NUMBER	SIGNATURE
1.	DANAM TIMORI TIMOI SAPPKWA	264 WAIYAKI	22474853	
2.	Alex P. Mwangi	87 Kiserian	5372207	
3.	Josphat Mwakoti	66577-00800	22927478	
4.	ISAAC MANG'ENGE	66577-00800	13580017	
5.	AMOS Makenzi	6657700800	7707977	
6.	JACKLINE ADHIAMBO D		27064591	
7.	Blaise Xiri	6657700800	24152156	
8.	Esther Jerline	35123-00700	28045199	
9.	Kisianan Kamau	-	271191409	
10.	JOSEPH COHENG.	6657700800	251577119	
11.	Sarah Echings	6657700800	21513655	
12.	LESLEY KAY	66577-00800	21808292	
13.	Hellen Owor	66577-00800	22649423	
14.	Harriet Shalini	"	21754322	
15.	Wendy Kamau	6657700800	24415355	
16.	Sammy Kamau	43674-00100	29679202	
17.	Leonida Anjoo	67282-00200	27770204	
18.	Murago Nyambura	-	21461377	
19.	WINIFRED WAIRIMU	66577-00800	23108877	
20.	Beatrice Mwangi	66577-00800	27556609	

PERSONS WITH DISABILITIES ON THE CONSTRUCTION OF A FOOTBRIDGE  
 ALONG WAHAKI WAY LINKING ABC PLACE BUS STAGE TO NCPWD  
 OFFICES

	NAME OF PETITIONER	FULL ADDRESS	ID/PASSPORT NUMBER	SIGNATURE
1.	Jaquelyne Samana			
2.	Jaquelyne Samana	67030-00200(146)	23812409	
3.	Karel Gilbert	66577-00500	23515774	
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# 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

KENYA MARITIME AUTHORITY  
P O Box 95076 - 80104.  
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 INTERNATIONAL  
MARITIME  
ORGANIZATION  
London, 2014


First published in 1992 by the  
INTERNATIONAL MARITIME ORGANIZATION  
4 Albert Embankment, London SE1 7SR  
www.imo.org

Sixth edition 2014

Printed by Polestar Wheatons (UK) Ltd, Exeter, EX2 8RP



ISBN 978-92-801-1594-9

IMO PUBLICATION
Sales number IF110E 

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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;

\* 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.

Article IV

- (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).



Article IX

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- (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.

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**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

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## 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>PSB</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>PSB</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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#### **PS3** 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.†

(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.

#### **PS3** Regulation 7 *Surveys of passenger ships‡*

(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).

† 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).

‡ 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.

**PRB 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.†

**PRB 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>†</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.

KENYA MARITIME AUTHORITY  
P O Box 95076 - 80104,  
MOMBASA  
Tel: 041-2318398, 0724-319344

\* 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).

† 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

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### 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.

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





# PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA OF 1 NOVEMBER 1974

(London, 17 February 1978)

THE PARTIES TO THE PRESENT PROTOCOL,

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

RECOGNIZING the significant contribution which can be made by the above-mentioned Convention to the promotion of the safety of ships and property at sea and the lives of persons on board,

RECOGNIZING also the need to improve further the safety of ships, particularly tankers,

CONSIDERING that this objective may best be achieved 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

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.

## Article II

### Application

1. The provisions of Articles II, III (other than paragraph (a)), IV, VI(b), (c) and (d), VII and VIII of the International Convention for the Safety of Life at Sea, 1974 (hereinafter referred to as "the Convention") are incorporated in the present Protocol, provided that references in those Articles 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.
2. Any ship to which the present Protocol applies shall comply with the provisions of the Convention, subject to the modifications and additions set out in the present Protocol.

3. With respect to the ships of non-parties 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 III**

#### **Communication of information**

The Parties to the present Protocol undertake to communicate to, and deposit with, the Secretary-General of the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as "the Organization"), 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. The Administration shall therefore notify the Organization of the specific responsibilities and conditions of the authority delegated to the nominated surveyors or recognized organizations.

### **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 June 1978 to 1 March 1979 and shall thereafter remain open for accession. Subject to the provisions of paragraph 3 of this Article, States may become Parties to 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 six months after the date on which 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 become Parties to it in accordance with Article IV of the present Protocol, provided however that the present Protocol shall not enter into force before the Convention has entered into force.
2. 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.
3. After the date on which an amendment to the present Protocol is deemed to have been accepted under Article VIII of the Convention, any instrument of ratification, acceptance, approval or accession deposited shall apply to the present Protocol as amended.

#### **Article VI**

##### **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.

#### **Article VII**

##### **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 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;
  - (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 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 VIII**

##### **Languages**

The present Protocol is established in a single original 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 Protocol.

DONE AT LONDON this seventeenth day of February One thousand nine hundred and seventy-eight.

[Signatures not reproduced here.]

#### **ANNEX**

#### **MODIFICATIONS AND ADDITIONS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974**

##### **CHAPTER I**

##### **GENERAL PROVISIONS**

##### **PART A - APPLICATION, DEFINITIONS, ETC**

##### **Regulation 2**



## Definitions

The following paragraph is added to the existing text:

(n) "Age of a ship" means the elapsed period of time determined from the year of build as indicated on the ship's registry papers.

## PART B - SURVEYS AND CERTIFICATES

### Regulation 6

#### Inspection and survey

The existing text of Regulation 6 is replaced by the following:

- (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) The Administration shall institute arrangements for unscheduled inspections to be carried out during the period of validity of the certificate. Such inspections shall ensure that the ship and its equipment remain in all respects satisfactory for the service for which the ship is intended. These inspections may be carried out by the Administration's own inspection services, or by nominated surveyors, or by recognized organizations, or by other Parties upon request of the Administration. Where the Administration, under the provisions of Regulations 8 and 10 of this Chapter, establishes mandatory annual surveys, the above unscheduled inspections shall not be obligatory.
- (c) An Administration nominating surveyors or recognizing organizations to conduct inspections and surveys as set forth in paragraphs (a) and (b) of this Regulation shall as a minimum empower any nominated surveyor or recognized organization to:
  - (i) require repairs to a ship, and
  - (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.

- (d) 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 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.
- (e) 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**

The existing text of paragraph (b)(iii) is replaced by the following:

- (iii) A survey either general or partial, according to the circumstances, shall be made after a repair resulting from investigations prescribed in Regulation 11 of this Chapter, 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 Convention and the present Protocol 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.

#### **Regulation 8**

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

The existing text of Regulation 8 is replaced by the following:

- (a) The life-saving appliances, except a radiotelegraph installation in a motor lifeboat or a portable radio apparatus for survival craft, the echo-sounding device, the gyro-compass, the fire-extinguishing appliances and the inert gas system of cargo

ships to which Chapters II-1, II-2, III and V of the Convention and the present Protocol apply, shall be subject to initial and subsequent surveys as prescribed for passenger ships in Regulation 7 of Chapter I of the Convention and the present Protocol with the substitution of 24 months for 12 months in sub-paragraph (a)(ii) of that Regulation. The fire control plans in new ships and the pilot ladders, mechanical pilot hoists, lights, shapes and means of making sound signals carried by new and existing ships shall be included in the surveys for the purpose of ensuring that they comply fully with the requirements of the Convention and the present Protocol and, where applicable, the International Regulations for Preventing Collisions at Sea in force.

- (b) Intermediate surveys shall be made for tankers of ten years of age and over, within three months before or after the anniversary date of the Cargo Ship Safety Equipment Certificate, to ensure that equipment specified in paragraph (a) of this Regulation has been maintained in accordance with Regulation 11 of this Chapter and that it is in good working condition. Such intermediate surveys shall be endorsed on the Cargo Ship Safety Equipment Certificate issued in accordance with Regulation 12(a)(iii) of Chapter I of the Convention.

#### Regulation 10

##### Surveys of hull, machinery and equipment of cargo ships

The existing text of Regulation 10 is replaced by the following:

- (a) The hull, machinery and equipment (other than items in respect of which Cargo Ship Safety Equipment Certificates, Cargo Ship Safety Radiotelegraphy Certificates or Cargo Ship Radiotelephony Certificates are issued) of a cargo ship shall be surveyed on completion and thereafter in such a manner as the Administration may consider necessary in order to ensure that their condition is in all respects satisfactory and at the following intervals:
  - (i) at intervals specified by the Administration but not exceeding five years (periodical surveys);
  - (ii) in addition to such periodical surveys a tanker of ten years of age and over shall undergo a minimum of one intermediate survey during the period of validity of its Cargo Ship Safety Construction Certificate. In cases where only one such intermediate survey is carried out in any one certificate validity period, it shall be held not before six months prior to, nor later than six months after, the half-way date of the certificate's period of validity.
- (b) The initial and periodical survey shall be such as to ensure that the arrangements, material and scantlings 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 are in all respects satisfactory for the service for which the ship is intended. Such surveys shall, in the case of tankers, also include inspection of the outside of the ship's bottom, pump rooms, cargo and bunker piping systems, vent piping, pressure vacuum valves and flame screens.

- (c) The intermediate survey of tankers of ten years of age and over shall include inspection of steering gear equipment and associated control systems, pump rooms, cargo and bunker piping systems on deck and in pump rooms, vent piping, pressure vacuum valves and flame screens, the electrical installations in dangerous zones, and the outside of the ship's bottom. In addition to the visual inspection of the electrical installation, the insulation resistance of the electrical equipment in dangerous zones is to be tested. If, upon examination, there should be any doubt as to the condition of the piping, extra measures, such as pressure tests and thickness determination, shall be taken as necessary. Such intermediate surveys shall be endorsed on the Cargo Ship Safety Construction Certificate issued in accordance with Regulation 12 (a)(ii) of Chapter I of the Convention.
- (d) A survey, either general or partial according to the circumstances, shall be made when required after an investigation prescribed in Regulation 11 of this Chapter, 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 is fit to proceed to sea without danger to the ship or persons on board.

#### Regulation 11

##### Maintenance of conditions after survey

The existing text of Regulation 11 is replaced by the following:

- (a) The condition of the ship and its equipment shall be maintained to conform with the provisions of the Convention and the present Protocol 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 6, 7, 8, 9 or 10 of Chapter I of the Convention and the present Protocol has been completed, no change shall be made in the structural arrangement, 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 6, 7, 8, 9 or 10 of Chapter I of the Convention and the present Protocol, is necessary. If the ship is in a port of another Party, 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 14

##### Duration and validity of certificates

The existing text of Regulation 14 is replaced by the following:

- (a) Certificates other than the Cargo Ship Safety Construction Certificate, the Cargo Ship Safety Equipment Certificate and any Exemption Certificate shall be issued for a period not exceeding 12 months. The Cargo Ship Safety Construction Certificate shall be issued for a period not exceeding five years. The Cargo Ship Safety Equipment Certificate shall be issued for a period not exceeding 24 months. Exemption Certificates shall not be valid for longer than the period of the certificates to which they refer.
- (b) No extension of the five-year period of validity of the Cargo Ship Safety Construction Certificate shall be permitted.
- (c) If a survey takes place within two months before the end of the period for which a Cargo Ship Safety Radiotelegraphy Certificate or a Cargo Ship Safety Radiotelephony Certificate issued in respect of cargo ships of 300 tons gross tonnage and upwards, but less than 500 tons gross tonnage, was originally issued, that certificate may be withdrawn, and a new certificate may be issued which shall expire 12 months after the end of the said period.
- (d) If the ship at the time when a certificate, other than that referred to in paragraph (b) of this Regulation, expires is not in a port of the country in which it is registered or is to be surveyed, the Administration may extend the certificate, but such extension shall be granted only for the purpose of allowing the ship to complete its voyage to the country in which it is registered or is to be surveyed, and then only in cases where it appears proper and reasonable to do so.
- (e) No certificate shall be extended under the provisions of paragraph (d) of this Regulation for a longer period than five months, and a ship to which an extension is granted shall not, on its arrival in the country in which it is registered or the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port or country without having obtained a new certificate.

- (f) A certificate, other than that referred to in paragraph (b) of this Regulation, which has not been extended under the foregoing provisions of this Regulation, may be extended by the Administration for a period of grace up to one month from the date of expiry stated on it.
- (g) A certificate shall cease to be valid:
- (i) if the inspections and surveys are not carried out within the period specified under Regulations 7(a), 8, 9 and 10(a) of Chapter I of the Convention and the present Protocol or as they may have been extended in accordance with paragraphs (d), (e) or (f) of this Regulation, or
  - (ii) upon transfer of the ship to the flag of another Government. 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) of this Chapter. In the case of a transfer between Parties, if requested within three months after the transfer has taken place, the Government of the Party whose flag the ship was formally entitled to fly shall, as soon as possible, transmit to the Administration copies of the certificates carried by the ship before the transfer and, if available, copies of the relevant survey reports.

### Regulation 19

#### Control

The existing text of Regulation 19 is replaced by the following:

- (a) Every ship when in a port of another Party 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 of Chapter I of the Convention 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) of this Chapter.
- (c) In the circumstances given in paragraph (b) of this Regulation 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 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) of this Regulation, if it is unable to take action as specified in paragraphs (c) and (d) of this Regulation 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.

## CHAPTER II-1

### CONSTRUCTION - SUBDIVISION AND STABILITY, MACHINERY AND ELECTRICAL INSTALLATIONS

#### PART A - GENERAL

##### Regulation 1

##### Application

The following sub-paragraphs are added to the existing text of paragraph (b):

- (iii) Notwithstanding the provisions of sub-paragraph (ii) of this paragraph and sub-paragraph (a)(iii) of this Regulation, for the purposes of paragraph (d) of Regulation 29 of this Chapter, a new tanker means a tanker:
  - (1) for which the building contract is placed after 1 June 1979; or
  - (2) in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction after 1 January 1980; or
  - (3) the delivery of which is after 1 June 1982; or
  - (4) which has undergone an alteration or modification of a major character:
    - (a) for which the contract is placed after 1 June 1979; or



- (b) in the absence of a contract, the construction work of which is begun after 1 January 1980; or
  - (c) which is completed after 1 June 1982.
- 
- (iv) For the purposes of paragraph (d) of Regulation 29 of this Chapter, an existing tanker is a tanker which is not a new tanker as defined in sub-paragraph (iii) of this paragraph.
  - (v) For the purposes of sub-paragraph (iii) of this paragraph, conversion of an existing tanker of 20,000 metric tons deadweight and upwards to meet the requirements of the present Protocol or the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, shall not be deemed to constitute an alteration or modification of a major character.

## Regulation 2

### Definitions

The following paragraphs are added to the existing text:

- (k) The remote steering gear control system is the means by which required rudder movements are transmitted from the navigating bridge to the steering gear power unit controls.
- (l) The main steering gear is the machinery, the steering gear power units, if any, and ancillary equipment and the means of applying torque to the rudder stock (e.g. tiller or quadrant) necessary for effecting movement of the rudder for the purpose of steering the ship under normal service conditions.
- (m) The steering gear power unit is:
  - (i) In the case of electric steering gear, an electric motor and its associated electrical equipment;
  - (ii) in the case of electro-hydraulic steering gear, an electric motor and its associated electrical equipment and connected pump;
  - (iii) in the case of other hydraulic steering gear, a driving engine and connected pump.
- (n) The auxiliary steering gear is that equipment which is provided for effecting movement of the rudder for the purpose of steering the ship in the event of failure of the main steering gear.

## PART C - MACHINERY AND ELECTRICAL INSTALLATIONS



## Regulation 29

### Steering gear

The following paragraph is added to the existing text:

(d) Tankers only

- (i) The following shall apply to every new tanker of 10,000 tons gross tonnage and upwards and, not later than two years from the date of entry into force of the present Protocol, to every existing tanker of 10,000 tons gross tonnage and upwards:
- (1) two remote steering gear control systems shall be provided, each of which shall be operable separately from the navigating bridge. This does not require duplication of the steering wheel or steering lever. In the event of failure of the remote steering gear control system in operation, the other system shall be capable of being brought into immediate operation from a position on the navigating bridge. Each remote steering gear control system, if electric, shall be served by its own separate circuit supplied from the steering gear power circuit from a point within the steering gear compartment. In the event of failure of electrical power supply to a remote steering gear control system an alarm shall be given on the navigating bridge. The alarms required in this sub-paragraph shall be both audible and visual and situated in a position on the navigating bridge where they can be readily observed;
  - (2) control of the main steering gear shall also be provided in the steering gear compartment;
  - (3) means shall be provided in the steering gear compartment to disconnect the remote steering gear control system from the power circuit;
  - (4) a means of communication shall be provided between the navigating bridge and the steering gear compartment;
  - (5) the exact angular position of the rudder shall be indicated on the navigating bridge. The rudder angle indication shall be independent of the remote steering gear control system; and
  - (6) the angular position of the rudder shall be recognizable in the steering gear compartment.

- (ii) In every new tanker of 10,000 tons gross tonnage and upwards, in addition to the requirements of paragraph (a) and sub-paragraph (d)(i) of this Regulation, the following shall apply:
- (1) the main steering gear shall comprise two or more identical power units and it shall be capable of operating the rudder as required by sub-paragraph (d)(ii)(2) of this Regulation while operating with one or more power units. As far as reasonable and practicable, the main steering gear shall be so arranged that a single failure in its piping or in one of the power units will not impair the integrity of the remaining part of the steering gear. All mechanical couplings which are part of the steering gear and the mechanical connexion with any remote steering gear control system, if any, shall be of sound and reliable construction to the satisfaction of the Administration;
  - (2) the main steering gear shall, with the ship at its deepest sea-going draught, be capable of putting the rudder over from 35 degrees on one side to 35 degrees on the other side with the ship running ahead at maximum service speed. The rudder shall be capable of being put over from 35 degrees on either side to 30 degrees on the other side in not more than 28 seconds, under the same conditions;
  - (3) the main steering gear shall be operated by power where necessary to fulfill the requirements of sub-paragraph (d)(ii)(2) of this Regulation;
  - (4) the main steering gear power units shall be arranged to start automatically when power is restored after a power failure;
  - (5) in the event of failure of any of the steering gear power units an alarm shall be given on the navigating bridge. Every steering gear power unit shall be capable of being brought into operation either automatically or manually from a position on the navigating bridge; and
  - (6) an alternative power supply, at least sufficient to supply a steering gear power unit so as to enable it to move the rudder as specified below, and also to supply its associated remote steering gear control system and the rudder angle indicator, shall be provided, automatically, within 45 seconds, either from the emergency source of electrical power, or from another independent source of power located in the steering gear compartment. This independent source of power shall be used only for this purpose and shall have a capacity sufficient for half an hour of continuous operation. The steering gear power unit, when being supplied by the alternative

power supply, shall at least be capable of putting the rudder over from 15 degrees on one side to 15 degrees on the other side in not more than 60 seconds with the ship at its deepest sea-going draught while running at one half of its maximum service speed ahead or 7 knots, whichever is the greater.

## CHAPTER II - 2

### CONSTRUCTION - FIRE PROTECTION, FIRE DETECTION AND FIRE EXTINGUISHMENT

#### PART A - GENERAL

##### Regulation 1

##### Application

The following sub-paragraphs are added to the existing text of paragraph (a):

- (iv) Notwithstanding the provisions of sub-paragraphs (ii) and (iii) of this paragraph, for the purposes of paragraph (a)(ii) of Regulation 55 and of Regulation 60 of this Chapter, a new tanker means a tanker:
  - (1) for which the building contract is placed after 1 June 1979; or
  - (2) in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction after 1 January 1980; or
  - (3) the delivery of which is after 1 June 1982; or
  - (4) which has undergone an alteration or modification of a major character:
    - (a) for which the contract is placed after 1 June 1979; or
    - (b) in the absence of a contract, the construction work of which is begun after 1 January 1980; or
    - (c) which is completed after 1 June 1982.
- (v) For the purposes of paragraph (a)(ii) of Regulation 55 and of Regulation 60 of this Chapter, an existing tanker is a tanker which is not a new tanker as defined in sub-paragraph (iv) of this paragraph.
- (vi) For the purposes of sub-paragraph (iv) of this paragraph, conversion of an existing tanker of 20,000 metric tons deadweight and upwards to meet the requirements of the present Protocol or the Protocol of 1978 Relating to the

International Convention for the Prevention of Pollution from Ships, 1973 shall not be deemed to constitute an alteration or modification of a major character.

### Regulation 3

#### Definitions

The existing text of paragraph (v) is replaced by the following:

- (v) "Lightweight" means the displacement of a ship in metric tons without cargo, fuel, lubricating oil, ballast water, fresh water and feed water in tanks, consumable stores, and passengers and crew and their effects.

The following paragraph is added to the existing text:

- (x) "Crude oil" mean oil occurring naturally in the earth whether or not treated to render it suitable for transportation and includes:
- (i) crude oil from which certain distillate fractions may have been removed; and
  - (ii) crude oil to which certain distillate fractions may have been added.

### PART E - FIRE SAFETY MEASURES FOR TANKERS

#### Regulation 55

#### Application

The existing text of this Regulation is replaced by the following:

- (a) Unless expressly provided otherwise:
- (i) this part shall apply to all new tankers carrying crude oil and petroleum products having a flashpoint not exceeding 60deg.C (140deg.F) (closed cup test) as determined by an approved flashpoint apparatus and a Reid vapour pressure which is below atmospheric pressure and other liquid products having similar fire hazard; and
  - (ii) in addition, all ships covered by this Part shall comply with the requirements of Regulations 52, 53 and 54 of Chapter II-2 of the Convention except that fixed gas fire-extinguishing systems for cargo spaces shall not be used for new tankers and for those existing tankers complying with Regulation 60 of this Chapter. For existing tankers not required to comply with Regulation 60, the Administration, in applying the requirements of paragraph (f) of Regulation 52, may accept a froth



system capable of discharging froth internally or externally to the tanks. The details of the installation shall be to the satisfaction of the Administration.

- (b) Where cargoes other than those referred to in sub-paragraph (a)(i) of this Regulation which introduce additional fire hazards are intended to be carried, additional safety measures shall be required to the satisfaction of the Administration.
- (c) Combination carriers shall not carry solid cargoes unless all cargo tanks are empty of oil and gas freed or unless, in each case, the Administration is satisfied with the arrangements provided.

### Regulation 60

#### Cargo tank protection

The existing text of this Regulation is replaced by the following:

- (a) For new tankers of 20,000 metric tons deadweight and upwards, the protection of the cargo tanks deck area and cargo tanks shall be achieved by a fixed deck froth system and a fixed inert gas system in accordance with the requirements of Regulations 61 and 62 of Chapter II-2 of the Convention except that in lieu of the above installations the Administration, after having given consideration to the ship's arrangement and equipment, may accept other combinations of fixed installations if they afford protection equivalent to the above, in accordance with Regulation 5 of Chapter I of the Convention.
- (b) To be considered equivalent, the system proposed in lieu of the deck froth system shall:
  - (i) be capable of extinguishing spill fires and also preclude ignition of spilled oil not yet ignited; and
  - (ii) be capable of combating fires in ruptured tanks.
- (c) To be considered equivalent, the system proposed in lieu of the fixed inert gas system shall:
  - (i) be capable of preventing dangerous accumulations of explosive mixtures in intact cargo tanks during normal service throughout the ballast voyage and necessary in-tank operations; and
  - (ii) be so designed as to minimize the risk of ignition from the generation of static electricity by the system itself.

- (d) Any existing tanker of 20,000 metric tons deadweight and upwards engaged in the trade of carrying crude oil shall be fitted with an inert gas system, complying with the requirements of paragraph (a) of this Regulation, not later than a date:
  - (i) for a tanker of 70,000 metric tons deadweight and upwards, two years after the date of entry into force of the present Protocol; and
  - (ii) for a tanker of less than 70,000 metric tons deadweight, four years after the date of entry into force of the present Protocol, except that for tankers less than 40,000 tons deadweight not fitted with tank washing machines having an individual throughput of greater than 60 cubic metres per hour, the Administration may exempt existing tankers from the requirements of this paragraph, if it would be unreasonable and impracticable to apply these requirements, taking into account the ship's design characteristics.
- (e) Any existing tanker of 40,000 metric tons deadweight and upwards engaged in the trade of carrying oil other than crude oil and any such tanker of 20,000 metric tons deadweight and upwards engaged in the trade of carrying oil other than crude oil fitted with tank washing machines having an individual throughput of greater than 60 cubic metres per hour shall be fitted with an inert gas system, complying with the requirements of paragraph (a) of this Regulation, not later than a date:
  - (i) for a tanker of 70,000 metric tons deadweight and upwards, two years after the date of entry into force of the present Protocol; and
  - (ii) for a tanker of less than 70,000 metric tons deadweight, four years after the date of entry into force of the present Protocol.
- (f) Any tanker operating with a cargo tank cleaning procedure using crude oil washing shall be fitted with an inert gas system complying with the requirements of Regulation 62 of Chapter II-2 of the Convention and with fixed tank washing machines.
- (g) All tankers fitted with a fixed inert gas system shall be provided with a closed ullage system.
- (h) Any new tanker of 2,000 tons gross tonnage and upwards not covered by paragraph (a) of this Regulation shall be provided with a froth system, capable of discharging froth internally or externally, to the tanks. The details of such installation shall be to the satisfaction of the Administration.

## CHAPTER V

### SAFETY OF NAVIGATION

#### Regulation 12

## Shipborne navigational equipment

The existing text of paragraph (a) is replaced by the following:

- (a) All ships of 1,600 tons gross tonnage and upwards but less than 10,000 tons gross tonnage shall be fitted with at least one radar. All ships of 10,000 tons gross tonnage and upwards shall be fitted with at least two radars, each capable of operating independently of the other. All radars fitted in compliance with this Regulation shall be of a type approved by the Administration and shall conform to operational standards not inferior to those adopted by the Organization. Facilities for plotting radar readings shall be provided on the bridge in those ships.

### Regulation 19

#### Use of the automatic pilot

The following paragraph is added to the existing text:

- (d) The manual steering shall be tested after prolonged use of the automatic pilot, and before entering areas where navigation demands special caution.

The following new Regulations are added to this Chapter:

#### Regulation 19-1

##### Operation of steering gear

In areas where navigation demands special caution, ships shall have more than one steering gear power unit in operation when such units are capable of simultaneous operation.

#### Regulation 19-2

##### Steering gear - testing and drills

- (a) Within 12 hours before departure, the ship's steering gear shall be checked and tested by the ship's crew. The test procedure shall include, where applicable, the operation of the following:
  - (i) the main steering gear;
  - (ii) the auxiliary steering gear;
  - (iii) the remote steering gear control systems;
  - (iv) the steering positions located on the navigating bridge;

- (v) the emergency power supply;
  - (vi) the rudder angle indicators in relation to the actual position of the rudder;
  - (vii) the remote steering gear control system power failure alarms; and
  - (viii) the steering gear power unit failure alarms.
- (b) The checks and test shall include:
- (i) the full movement of the rudder according to the required capabilities of the steering gear;
  - (ii) a visual inspection of the steering gear and its connecting linkage; and
  - (iii) the operation of the means of communication between the navigating bridge and steering gear compartment.
- (c)
- (i) Simple operating instructions with a block diagram showing the change-over procedures for remote steering gear control systems and steering gear power units shall be permanently displayed on the navigating bridge and in the steering gear compartment.
  - (ii) All officers concerned with the operation and/or maintenance of steering gear shall be familiar with the operation of the steering systems fitted on the ship and with the procedures for changing from one system to another.
- (d) In addition to the routine checks and tests prescribed in paragraphs (a) and (b) of this Regulation, emergency steering drills shall take place at least once every three months in order to practise emergency steering procedures. These drills shall include direct control from within the steering gear compartment, the communications procedure with the navigating bridge and, where applicable, the operation of alternative power supplies.
- (e) The Administration may waive the requirement to carry out the checks and tests prescribed in paragraphs (a) and (b) of this Regulation for ships which regularly ply on voyages of short duration. Such ships shall carry out these checks and tests at least once every week.
- (f) The date upon which the checks and test prescribed in paragraphs (a) and (b) of this Regulation are carried out and the date and details of emergency steering drills carried out under paragraph (d) of this Regulation, shall be recorded in the log book as may be prescribed by the Administration.

#### APPENDIX



Form of Safety Construction Certificate for Cargo Ships

The following form of Supplement is added to the existing form:

SUPPLEMENT TO THE CARGO SHIP SAFETY CONSTRUCTION CERTIFICATE

(Official Seal) (Country)

Issued under the provisions of the

PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974

Name of ship	of Distinctive letters	number	or Port registry	of Deadweight tons	of ship	(metric Year build	of
--------------	------------------------	--------	------------------	--------------------	---------	--------------------	----

Type of ship:

Tanker engaged in the trade of carrying crude oil\*

Tanker engaged in the trade of carrying oil other than crude oil\*

Tanker engaged in the trade of carrying crude/other oil\*

Cargo ship other than a tanker engaged in the trade of carrying oil\*

Date of contract for building or alteration or modification of a major character

Date on which keel was laid or ship was at a similar stage of construction or on which an alteration or modification of a major character was commenced

Date of delivery or completion of an alteration or modification of a major character

This Supplement shall be permanently attached to the Cargo Ship Safety Construction Certificate.

\* Delete as appropriate. [Footnote appearing in original text.]

THIS IS TO CERTIFY:

That the ship has been surveyed in accordance with Regulation 10 of Chapter I of the Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974; and

that the survey showed that the condition of the hull, machinery and equipment as defined in the above Regulation was in all respects satisfactory and that the ship complied with the requirements of that Protocol.

This certificate is valid until ..... subject to intermediate survey(s) at intervals of

Issued at .....

(Place of issue of certificate)

.....19.....

(Signature of duly authorized official issuing the certificate)

(Seal or stamp of the issuing Authority, as appropriate)

Intermediate Survey

This is to certify that at an intermediate survey required by Regulation 10 of Chapter I of the Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974, this ship was found to comply with the relevant provisions of that Protocol.

Signed .....

(Signature of duly authorized official)

Place .....

Date .....

Next intermediate survey due .....

(Seal or stamp of the Authority, as appropriate)

Signed .....

(Signature of duly authorized official)

Place .....

Date .....

Next intermediate survey due .....

(Seal or stamp of the Authority, as appropriate)

Signed .....

(Signature of duly authorized official)

Place .....

Date .....

Next intermediate survey due .....

(Seal or stamp of the Authority, as appropriate)

Signed .....

(Signature of duly authorized official)

Place .....

Date .....

Next intermediate survey due .....

(Seal or stamp of the Authority, as appropriate)

Form of Safety Equipment Certificate for Cargo Ships

The following form of Supplement is added to the existing form:

SUPPLEMENT TO THE CARGO SHIP SAFETY EQUIPMENT CERTIFICATE

(Official Seal) (Country)

Issued under the provisions of the

PROTOCOL OF 1978 RELATING TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974

Name	of Distinctive	number	or Port	of Deadweight	of ship	(metric Year	of
ship	letters		registry	tons)		build	

Type of ship:

Tanker engaged in the trade of carrying crude oil\*

Tanker engaged in the trade of carrying oil other than crude oil\*

Tanker engaged in the trade of carrying crude/other oil\*

Cargo ship other than a tanker engaged in the trade of carrying oil\*

Date of contract for building or alteration or modification of a major character

Date on which keel was laid or ship was at a similar stage of construction or on which an alteration or modification of a major character was commenced

Date of delivery or completion of an alteration or modification of a major character

This Supplement shall be permanently attached to the Cargo Ship Safety Equipment Certificate.

\* Delete as appropriate. [Footnote appearing in original text.]

THIS IS TO CERTIFY:

That the ship has been surveyed in accordance with Regulation 8 of Chapter I of the Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974; and

that the survey showed that the condition of the safety equipment as defined in the above Regulation was in all respects satisfactory and that the ship complied with requirements of that Protocol.

This certificate is valid until .....subject to intermediate survey(s) at intervals of

Issued at .....

(Place of issue of certificate)

..... 19.....

(Signature of duly authorized official issuing the certificate)

(Seal or stamp of the issuing Authority, as appropriate)



Intermediate Survey

This is to certify that at an intermediate survey required by Regulation 8 of Chapter I of the Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974, the ship was found to comply with the relevant provisions of that Protocol.

Signed .....

(Signature of duly authorized official)

Place .....

Date .....

Next intermediate survey due .....

(Seal or stamp of the Authority, as appropriate)

Signed .....

(Signature of duly authorized official)

Place .....

Date .....

(Seal or stamp of the Authority, as appropriate)

Under the provisions of Regulation 14 of Chapter I of the Protocol the validity of this Certificate is extended until.....

Signed .....

(Signature of duly authorized official)

Place .....

Date .....

(Seal or stamp of the Authority, as appropriate)

Protocol of 1996 to amend the 1976 Convention on Limitation of  
Liability for Maritime Claims

(London, 2 May 1996)

THE PARTIES TO THE PRESENT PROTOCOL,

CONSIDERING that it is desirable to amend the Convention on Limitation of Liability for Maritime Claims, done at London on 19 November 1976, to provide for enhanced compensation and to establish a simplified procedure for updating the limitation amounts,

HAVE AGREED as follows:

Article 1

For the purposes of this Protocol:

1. "Convention" means the Convention on Limitation of Liability for Maritime Claims, 1976.
2. "Organization" means the International Maritime Organization.
3. "Secretary-General" means the Secretary-General of the Organization.

Article 2

Article 3, subparagraph (a) of the Convention is replaced by the following text:

(a) claims for salvage, including, if applicable, any claim for special compensation under Article 14 of the International Convention on Salvage 1989, as amended, or contribution in general average;

Article 3

Article 6, paragraph 1 of the Convention is replaced by the following text:

1. The limits of liability for claims other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows:

(a) in respect of claims for loss of life or personal injury,

(i) 2 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 800 Units of Account;

for each ton from 30,001 to 70,000 tons, 600 Units of Account; and

for each ton in excess of 70,000 tons, 400 Units of Account,

(b) in respect of any other claims,

(i) 1 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 400 Units of Account;

for each ton from 30,001 to 70,000 tons, 300 Units of Account; and

for each ton in excess of 70,000 tons, 200 Units of Account.

#### Article 4

Article 7, paragraph 1 of the Convention is replaced by the following text:

1. In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate.

#### Article 5

Article 8, paragraph 2 of the Convention is replaced by the following text:

2. Nevertheless, those States which are not members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 may, at the time of signature without reservation as to ratification, acceptance or approval or at the time of ratification, acceptance, approval or accession or at any time thereafter, declare that the limits of liability provided for in this Convention to be applied in their territories shall be fixed as follows:

(a) in respect of Article 6, paragraph 1(a), at an amount of

(i) 30 million monetary units for a ship with a tonnage not exceeding 2,000 tons;

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 12,000 monetary units;

for each ton from 30,001 to 70,000 tons, 9,000 monetary units; and

for each ton in excess of 70,000 tons, 6,000 monetary units; and

(b) in respect of Article 6, paragraph 1(b), at an amount of:

(i) 15 million monetary units for a ship with a tonnage not exceeding 2,000 tons;

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 6,000 monetary units;

for each ton from 30,001 to 70,000 tons, 4,500 monetary units; and

for each ton in excess of 70,000 tons, 3,000 monetary units; and

(c) in respect of Article 7, paragraph 1, at an amount of 2,625,000 monetary units multiplied by the number of passengers which the ship is authorized to carry according to its certificate.

Paragraphs 2 and 3 of Article 6 apply correspondingly to subparagraphs (a) and (b) of this paragraph.

#### Article 6

The following text is added as paragraph *3bis* in Article 15 of the Convention:

*3bis* Notwithstanding the limit of liability prescribed in paragraph 1 of Article 7, a State Party may regulate by specific provisions of national law the system of liability to be applied to claims for loss of life or personal injury to passengers of a ship, provided that the limit of liability is not lower than that prescribed in paragraph 1 of Article 7. A State Party which makes use of the option provided for in this paragraph shall inform the Secretary-General of the limits of liability adopted or of the fact that there are none.

#### Article 7

Article 18, paragraph 1 of the Convention is replaced by the following text:

1. Any State may, at the time of signature, ratification, acceptance, approval or accession, or at any time thereafter, reserve the right:



(a) to exclude the application of Article 2, paragraphs 1(d) and (e);

(b) to exclude claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 or of any amendment or protocol thereto.

No other reservations shall be admissible to the substantive provisions of this Convention.

## Article 8

### Amendment of limits

1. Upon the request of at least one half, but in no case less than six, of the States Parties to this Protocol, any proposal to amend the limits specified in Article 6, paragraph 1, Article 7, paragraph 1 and Article 8, paragraph 2 of the Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.
2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization (the Legal Committee) for consideration at a date at least six months after the date of its circulation.
3. All Contracting States to the Convention as amended by this Protocol, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.
4. Amendments shall be adopted by a two-thirds majority of the Contracting States to the Convention as amended by this Protocol present and voting in the Legal Committee expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States to the Convention as amended by this Protocol shall be present at the time of voting.
5. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and, in particular, the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance.
6. (a) No amendment of the limits under this Article may be considered less than five years from the date on which this Protocol was opened for signature nor less than five years from the date of entry into force of a previous amendment under this Article.  
(b) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the Convention as amended by this Protocol increased by six percent per year calculated on a compound basis from the date on which this Protocol was opened for signature.

(c) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the Convention as amended by this Protocol multiplied by three.

7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period not less than one-fourth of the States that were Contracting States at the time of the adoption of the amendment have communicated to the Secretary-General that they do not accept the amendment, in which case the amendment is rejected and shall have no effect.

8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force eighteen months after its acceptance.

9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with paragraphs 1 and 2 of Article 12 at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

10. When an amendment has been adopted but the eighteen-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

#### Article 9

1. The Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.

2. A State which is Party to this Protocol but not a Party to the Convention shall be bound by the provisions of the Convention as amended by this Protocol in relation to other States Parties hereto, but shall not be bound by the provisions of the Convention in relation to States Parties only to the Convention.

3. The Convention as amended by this Protocol shall apply only to claims arising out of occurrences which take place after the entry into force for each State of this Protocol.

4. Nothing in this Protocol shall affect the obligations of a State which is a Party both to the Convention and to this Protocol with respect to a State which is a Party to the Convention but not a Party to this Protocol.

#### FINAL CLAUSES

## Article 10

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

1. This Protocol shall be open for signature at the Headquarters of the Organization from 1 October 1996 to 30 September 1997 by all States.
2. Any State may express its consent to be bound by this 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.
3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.
4. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

## Article 11

### Entry into force

1. This Protocol shall enter into force ninety days following the date on which ten States have expressed their consent to be bound by it.
2. For any State which expresses its consent to be bound by this Protocol after the conditions in paragraph 1 for entry into force have been met, this Protocol shall enter into force ninety days following the date of expression of such consent.

## Article 12

### Denunciation

1. This Protocol may be denounced by any State Party at any time after the date on which it enters into force for that State Party.
2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.
3. A denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General.

4. As between the States Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 19 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

### Article 13

#### Revision and amendment

1. A conference for the purpose of revising or amending this Protocol may be convened by the Organization.
2. The Organization shall convene a conference of Contracting States to this Protocol for revising or amending it at the request of not less than one-third of the Contracting States.

### Article 14

#### Depositary

1. This Protocol and any amendments adopted under Article 8 shall be deposited with the Secretary General.
2. The Secretary-General shall:
  - (a) inform all States which have signed or acceded to this Protocol of:
    - (i) each new signature or deposit of an instrument together with the date thereof;
    - (ii) each declaration and communication under Article 8, paragraph 2 of the Convention as amended by this Protocol, and Article 8, paragraph 4 of the Convention;
    - (iii) the date of entry into force of this Protocol;
    - (iv) any proposal to amend limits which has been made in accordance with Article 8, paragraph 1;
    - (v) any amendment which has been adopted in accordance with Article 8, paragraph 4;
    - (vi) any amendment deemed to have been accepted under Article 8, paragraph 7, together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;
    - (vii) the deposit of any instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;



(b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to this Protocol.

3. As soon as this Protocol enters into force, the text shall be transmitted by the Secretary-General to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

#### Article 15

##### Languages

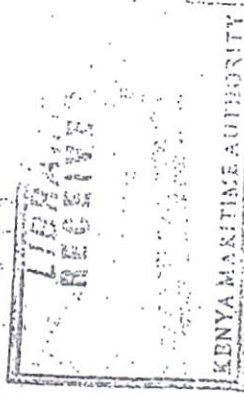
This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic

DONE at London this second day of May one thousand nine hundred and ninety-six.

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

631,40/=

Nairobi International Convention on the  
**Removal of Wrecks, 2007**  
2008 Edition



INTERNATIONAL  
MARITIME  
ORGANIZATION  
London, 2008

First published in 2008 by the  
INTERNATIONAL MARITIME ORGANIZATION  
4 Albert Embankment, London SE1 7SR

Printed in the United Kingdom by MPG Books Ltd, Bodmin

2 4 6 8 10 9 7 5 3 1

ISBN 978-92-801-4238-9

IMO PUBLICATION

Sales number: I470E

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## Foreword

The Nairobi International Convention on the Removal of Wrecks, 2007 was adopted on 18 May 2007 by the International Conference on the Removal of Wrecks convened by the International Maritime Organization (IMO) at the Headquarters of the United Nations Office at Nairobi (UNON), from 14 to 18 May 2007.

The Convention provides the legal basis to enable States to remove, or have removed, from their coastlines and waters around their coasts, wrecks posing a hazard to the safety of shipping or to the marine environment. To achieve these objectives, the new treaty includes provisions on the reporting and locating of ships and wrecks and criteria for determining the hazard posed by wrecks, including assessment of damage to the marine environment. It also regulates measures to facilitate the removal of wrecks, as well as the liability of the owner for the costs of locating, marking and removing of ships and wrecks. The registered shipowner is required to maintain compulsory insurance or other financial security to cover liability under the Convention.

The Convention will enter into force twelve months following the date on which ten States have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the IMO Secretary-General.

The Conference also adopted the following resolutions:

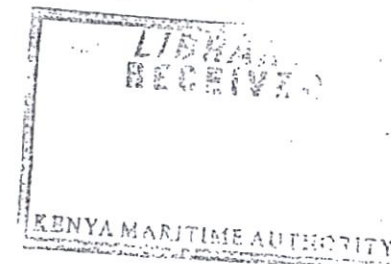
1. Resolution on expressions of appreciation;
2. Resolution on compulsory insurance certificates under existing maritime liability conventions; including the Nairobi International Convention on the Removal of Wrecks, 2007; and
3. Resolution on promotion of technical co-operation and assistance.

This publication reproduces the texts of the Final Act of the International Conference on the Removal of Wrecks, the Nairobi International Convention on the Removal of Wrecks, 2007 and the three resolutions adopted by the Conference.



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**FINAL ACT OF THE INTERNATIONAL CONFERENCE  
ON THE REMOVAL OF WRECKS, 2007**

1 In accordance with Article 2(b) of the Convention on the International Maritime Organization, and pursuant to a decision of the Assembly of the Organization at its twenty-third regular session, as reflected in resolution A.942(23) of 5 December 2003, and subsequently endorsed by the Assembly at its twenty-fourth regular session, as reflected in resolution A.969(24) of 28 November 2005, the Council of the Organization decided at its ninety-sixth session, in June 2006, to convene a diplomatic conference to consider the adoption of a convention on the removal of wrecks in Nairobi, Kenya, in May 2007.

2 The Conference was held at the Headquarters of the United Nations Office at Nairobi (UNON), Kenya, from 14 to 18 May 2007.

3 Representatives of 64 States participated in the Conference, namely the representatives of:

ALGERIA	GHANA
ANTIGUA AND BARBUDA	GREECE
ARGENTINA	INDIA
AUSTRALIA	INDONESIA
BAHAMAS	IRAN (ISLAMIC
BANGLADESH	REPUBLIC OF)
BELGIUM	IRELAND
BENIN	ITALY
BRAZIL	JAPAN
BULGARIA	KENYA
BURUNDI	KUWAIT
CANADA	LATVIA
CHILE	LIBERIA
CHINA	LITHUANIA
CUBA	MADAGASCAR
CYPRUS	MALAYSIA
DENMARK	MALTA
EGYPT	MAURITIUS
ESTONIA	MEXICO
FINLAND	MOROCCO
FRANCE	NETHERLANDS
GERMANY	NIGERIA



NORWAY	SWEDEN
PAPUA NEW GUINEA	TURKEY
PHILIPPINES	UKRAINE
POLAND	UNITED KINGDOM OF
PORTUGAL	GREAT BRITAIN AND
QATAR	NORTHERN IRELAND
REPUBLIC OF KOREA	UNITED REPUBLIC OF
RUSSIAN FEDERATION	TANZANIA
SAUDI ARABIA	UNITED STATES OF
SINGAPORE	AMERICA
SOMALIA	VANUATU
SOUTH AFRICA	VENEZUELA
SPAIN	

4 Hong Kong, China, an Associate Member of the Organization, sent observers to the Conference.

5 The International Tribunal for the Law of the Sea (ITLOS) sent an observer to the Conference.

6 The following intergovernmental organizations sent observers to the Conference:

INTERNATIONAL OIL POLLUTION COMPENSATION  
FUNDS (IOPC FUNDS)  
REGIONAL ORGANIZATION FOR THE  
CONSERVATION OF THE ENVIRONMENT OF THE  
RED SEA AND GULF OF ADEN (PERSGA)  
PORT MANAGEMENT ASSOCIATION OF EASTERN AND  
SOUTHERN AFRICA (PMAESA)

7 The following non-governmental international organizations sent observers to the Conference:

INTERNATIONAL CHAMBER OF SHIPPING (ICS)  
INTERNATIONAL ASSOCIATION OF PORTS AND  
HARBORS (IAPH)  
INTERNATIONAL SALVAGE UNION (ISU)  
INTERNATIONAL GROUP OF P & I ASSOCIATIONS  
(P & I CLUBS)

8 The Honourable Chirau Ali Mwakwere, Head of the delegation of Kenya, was elected President of the Conference.



- 9 The Vice-Presidents elected by the Conference were:  
Admiral Miguel Angelo Davena (Brazil)  
Mr. Eddy Pratomo (Indonesia)  
H.E. Mr. Rafal Wiechecki (Poland)  
Mr. Jassim Mohamed Al-Manai (Qatar)  
Prof. Lee-Sik Chai (Republic of Korea)
- 10 The Secretariat of the Conference consisted of the following officers:
- |                                |   |
|--------------------------------|---|
| Secretary-General:             | Mr. E.E. Mitropoulos<br>Secretary-General of the Organization   |
| Executive Secretary:           | Dr. R.P. Balkin<br>Director, Legal Affairs and<br>External Relations Division   |
| Deputy Executive<br>Secretary: | Mr. A. Blanco-Bazán<br>Senior Deputy Director/Head,<br>Sub-Division for Legal Affairs<br>Legal Affairs and External Relations<br>Division |
- 11 The Conference established a Committee of the Whole with the mandate to consider a draft convention on the removal of wrecks.
- 12 A Drafting Committee established by the Conference was composed of representatives of the following eight States:
- CANADA
  - CHINA
  - EGYPT
  - FRANCE
  - MEXICO
  - RUSSIAN FEDERATION
  - SPAIN
  - UNITED KINGDOM
- 13 A Credentials Committee was appointed to examine the credentials of representatives attending the Conference. The Committee was composed of representatives of the following five States:
- BELGIUM
  - LIBERIA
  - MADAGASCAR
  - MALAYSIA
  - VENEZUELA



*Removal of Wrecks, 2007*

14 The officers elected for the Committees were as follows:

*Committee of the Whole:*

Chairman: Mr. Jan Engel de Boer (Netherlands)  
First Vice-Chairman: Mr. Kofi Mbiah (Ghana)  
Second Vice-Chairman: H.E. Mr. Julio César González Marchante (Cuba)

*Drafting Committee:*

Chairman: Mr. Marc Gauthier (Canada)  
Vice-Chairperson: Mrs. Tang Guomei (China)

*Credentials Committee:*

Chairman: Mr. George M. Arku (Liberia)

15 The Conference used, as the basis of its work, a draft convention on the removal of wrecks prepared by the IMO Legal Committee.

16 Also before the Conference were a number of documents containing proposals and comments submitted by Governments and interested organizations on the above-mentioned draft text.

17 As a result of its deliberations, the Conference adopted the following instrument:

NAIROBI INTERNATIONAL CONVENTION ON THE  
REMOVAL OF WRECKS, 2007

18 The Conference also adopted the following resolutions contained in the Attachment to this Final Act:

- 1 RESOLUTION ON EXPRESSIONS OF APPRECIATION
- 2 RESOLUTION ON COMPULSORY INSURANCE CERTIFICATES UNDER EXISTING MARITIME LIABILITY CONVENTIONS, INCLUDING THE NAIROBI INTERNATIONAL CONVENTION ON THE REMOVAL OF WRECKS, 2007
- 3 RESOLUTION ON PROMOTION OF TECHNICAL CO-OPERATION AND ASSISTANCE



Final Act

19 This Final Act is established in a single original text in the Arabic, Chinese, English, French, Russian and Spanish languages, which is to be deposited with the Secretary-General of the Organization.

20 The Secretary-General shall send certified 33 copies of this Final Act with its Attachment, and certified copies of the authentic text of the instrument referred to in paragraph 17 above, to the Governments of the States invited to be represented at the Conference.

IN WITNESS WHEREOF the undersigned\* have affixed their signatures to this Final Act.

DONE IN NAIROBI this eighteenth day of May, two thousand and seven.

\* Signatures omitted.

## CONFERENCE RESOLUTIONS

### Resolution 1

#### *EXPRESSIONS OF APPRECIATION*

##### THE CONFERENCE,

NOTING with appreciation the kind invitation of the Government of Kenya to the International Maritime Organization to hold the Conference in Nairobi,

ACKNOWLEDGING the generous financial and in-kind contribution and excellent arrangements made by the Government of Kenya for the Conference, as well as the hospitality and other amenities bestowed on the participants to the Conference by the Government and the People of Kenya,

ACKNOWLEDGING FURTHER the excellent facilities provided by the United Nations Office at Nairobi (UNON), which greatly facilitated the efficient conduct of the Conference,

1. EXPRESSES its profound gratitude and thanks to the Government and the People of Kenya for their valuable contribution to the success of the Conference;

2. DECIDES, in grateful recognition of this contribution, to designate the Convention adopted by the Conference as the:

**NAIROBI INTERNATIONAL CONVENTION ON THE  
REMOVAL OF WRECKS, 2007;**

3. EXPRESSES FURTHER its thanks to UNON for the facilities provided.



**Resolution 2**

**COMPULSORY INSURANCE CERTIFICATES  
UNDER EXISTING MARITIME LIABILITY  
CONVENTIONS, INCLUDING THE NAIROBI  
INTERNATIONAL CONVENTION ON THE  
REMOVAL OF WRECKS, 2007**

THE CONFERENCE,

HAVING ADOPTED the Nairobi International Convention on the Removal of Wrecks, 2007 (hereinafter referred to as "the Convention"),

NOTING that the Convention requires that a compulsory insurance certificate attesting that insurance or other financial security is in force on the same basis as previously established IMO liability and compensation conventions,

MINDFUL that all existing liability and compensation conventions require that a compulsory insurance certificate attesting that insurance or other financial security is in force, shall be issued in the form of the model set out in the specific annexes to these conventions,

RECOGNIZING the reduction of administrative costs and further facilitation as regards the issuing of all relevant compulsory insurance certificates by appropriate authorities in States Parties, if in future each and every ship could be provided with a single compulsory insurance certificate,

NOTING FURTHER the urgent priority to implement all the existing liability and compensation conventions,

1. URGES States to ensure, as a matter of priority, the entry into force of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, and the Protocol to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 2002;



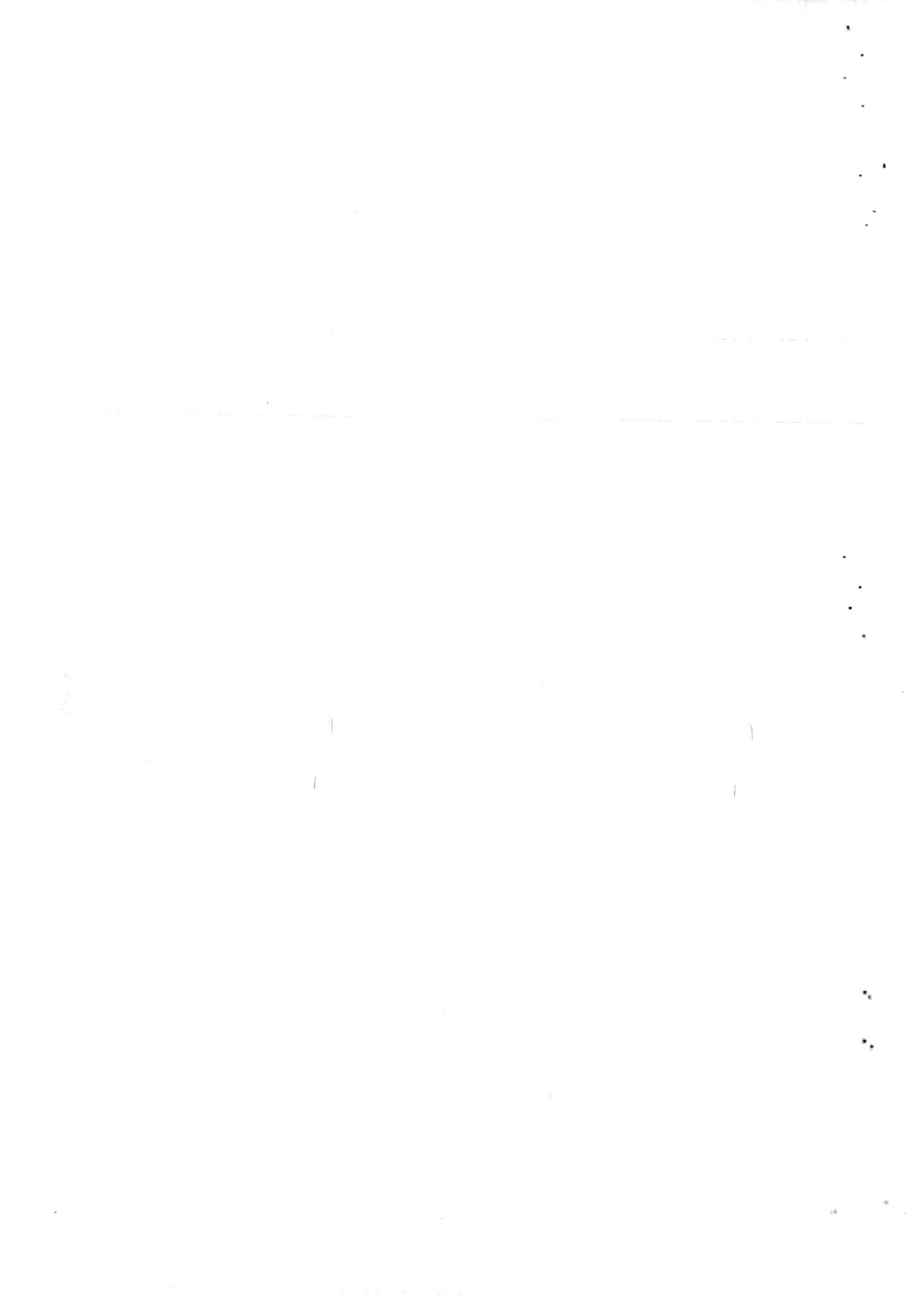
Resolution 2

2. INVITES the International Maritime Organization (IMO) and in particular the Legal Committee to develop a model for a single insurance certificate which may be issued by States Parties in respect of each and every ship under the relevant IMO liability and compensation conventions, including the Convention.

3. INVITES FURTHER IMO to follow the same procedure as that adopted in relation to the reciprocal recognition of certificates by States Parties to the 1969 and 1992 International Conventions on Oil Pollution Damage.



2. INVITES the International Maritime Organization (IMO) and in particular the Legal Committee to develop a model for a single insurance certificate which may be issued by States Parties in respect of each and every ship under the relevant IMO liability and compensation conventions, including the Convention;
3. INVITES FURTHER IMO to follow the same procedure as that adopted in relation to the reciprocal recognition of certificates by States Parties to the 1969 and 1992 International Conventions on Civil Liability for Oil Pollution Damage.





### Resolution 3

#### *PROMOTION OF TECHNICAL CO-OPERATION AND ASSISTANCE*

THE CONFERENCE,

HAVING ADOPTED the Nairobi International Convention on the Removal of Wrecks, 2007 (hereinafter referred to as "the Convention"), concerning uniform international rules and procedures to ensure the prompt and effective removal of wrecks and payment of compensation for the costs therein involved,

RECOGNIZING the need for the development of appropriate legislation and the putting in place of appropriate infrastructure for the removal of wrecks which may pose a danger or impediment to navigation, or may reasonably be expected to result in major harmful consequences to the marine environment, or damage to the coastline or related interests of one or more States,

RECOGNIZING FURTHER that there may be limited infrastructure, facilities and training programmes for obtaining the experience required in assessing the hazard which a wreck may pose, particularly in developing countries,

BELIEVING that the promotion of technical co-operation at the international level will assist those States not yet having adequate expertise or facilities for providing training and experience to assess, put in place or enhance appropriate infrastructure and, in general, implement the measures required by the Convention,

EMPHASIZING, in this regard, the grave threat a wreck can pose to the safety of navigation and to the marine environment, or both, if not removed promptly and effectively,

1. URGES States Parties to the Convention, Member States of the International Maritime Organization (IMO), other appropriate organizations and the maritime industry to provide assistance, either directly or through IMO, to those States which require support in the consideration of adoption and in the implementation of the Convention;



2. INVITES the Secretary-General of IMO to make adequate provision in its Integrated Technical Co-operation Programme (ITCP) for advisory services related to the adoption and effective implementation of the Convention and, in particular, to address requests for assistance in assessing the safety and environmental hazards of wrecks and in developing appropriate national legislation;

3. INVITES States Parties to the Convention, Member States of IMO, other appropriate organizations and the maritime industry to provide financial and in-kind support to IMO for technical assistance activities related to the adoption and effective implementation of the Convention.



NAIROBI INTERNATIONAL CONVENTION  
ON THE REMOVAL OF WRECKS, 2007

THE STATES PARTIES TO THE PRESENT CONVENTION,

CONSCIOUS of the fact that wrecks, if not removed, may pose a hazard to navigation or the marine environment,

CONVINCED of the need to adopt uniform international rules and procedures to ensure the prompt and effective removal of wrecks and payment of compensation for the costs therein involved,

NOTING that many wrecks may be located in States' territory, including the territorial sea,

RECOGNIZING the benefits to be gained through uniformity in legal regimes governing responsibility and liability for removal of hazardous wrecks,

BEARING IN MIND the importance of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, and of the customary international law of the sea, and the consequent need to implement the present Convention in accordance with such provisions,

HAVE AGREED as follows:

**Article 1**

*Definitions*

For the purposes of this Convention:

1 *Convention area* means the exclusive economic zone of a State Party, established in accordance with international law or, if a State Party has not established such a zone, an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured.

2 *Ship* means a seagoing vessel of any type whatsoever and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and



floating platforms, except when such platforms are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

3 *Maritime casualty* means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it, resulting in material damage or imminent threat of material damage to a ship or its cargo.

4 *Wreck*, following upon a maritime casualty, means:

- (a) a sunken or stranded ship; or
- (b) any part of a sunken or stranded ship, including any object that is or has been on board such a ship; or
- (c) any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or
- (d) a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken.

5 *Hazard* means any condition or threat that:

- (a) poses a danger or impediment to navigation; or
- (b) may reasonably be expected to result in major harmful consequences to the marine environment, or damage to the coastline or related interests of one or more States.

6 *Related interests* means the interests of a coastal State directly affected or threatened by a wreck, such as:

- (a) maritime coastal, port and estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;
- (b) tourist attractions and other economic interests of the area concerned;
- (c) the health of the coastal population and the wellbeing of the area concerned, including conservation of marine living resources and of wildlife; and
- (d) offshore and underwater infrastructure.

7 *Removal* means any form of prevention, mitigation or elimination of the hazard created by a wreck. *Remove, removed* and *removing* shall be construed accordingly.



8 *Registered owner* means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship at the time of the maritime casualty. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the operator of the ship, *registered owner* shall mean such company.

9 *Operator of the ship* means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities established under the International Safety Management Code, as amended.

10 *Affected State* means the State in whose Convention area the wreck is located.

11 *State of the ship's registry* means, in relation to a registered ship, the State of registration of the ship and, in relation to an unregistered ship, the State whose flag the ship is entitled to fly.

12 *Organization* means the International Maritime Organization.

13 *Secretary-General* means the Secretary-General of the Organization.

## Article 2

### *Objectives and general principles*

1 A State Party may take measures in accordance with this Convention in relation to the removal of a wreck which poses a hazard in the Convention area.

2 Measures taken by the Affected State in accordance with paragraph 1 shall be proportionate to the hazard.

3 Such measures shall not go beyond what is reasonably necessary to remove a wreck which poses a hazard and shall cease as soon as the wreck has been removed; they shall not unnecessarily interfere with the rights and interests of other States including the State of the ship's registry, and of any person, physical or corporate, concerned.

4 The application of this Convention within the Convention area shall not entitle a State Party to claim or exercise sovereignty or sovereign rights over any part of the high seas.



5 States Parties shall endeavour to co-operate when the effects of a maritime casualty resulting in a wreck involve a State other than the Affected State.

### Article 3

#### *Scope of application*

1 Except as otherwise provided in this Convention, this Convention shall apply to wrecks in the Convention area.

2 A State Party may extend the application of this Convention to wrecks located within its territory, including the territorial sea, subject to article 4, paragraph 4. In that case, it shall notify the Secretary-General accordingly, at the time of expressing its consent to be bound by this Convention or at any time thereafter. When a State Party has made a notification to apply this Convention to wrecks located within its territory, including the territorial sea, this is without prejudice to the rights and obligations of that State to take measures in relation to wrecks located in its territory, including the territorial sea, other than locating, marking and removing them in accordance with this Convention. The provisions of articles 10, 11 and 12 of this Convention shall not apply to any measures so taken other than those referred to in articles 7, 8 and 9 of this Convention.

3 When a State Party has made a notification under paragraph 2, the Convention area of the Affected State shall include the territory, including the territorial sea, of that State Party.

4 A notification made under paragraph 2 above shall take effect for that State Party, if made before entry into force of this Convention for that State Party, upon entry into force. If notification is made after entry into force of this Convention for that State Party, it shall take effect six months after its receipt by the Secretary-General.

5 A State Party that has made a notification under paragraph 2 may withdraw it at any time by means of a notification of withdrawal to the Secretary-General. Such notification of withdrawal shall take effect six months after its receipt by the Secretary-General, unless the notification specifies a later date.



## Article 4

### *Exclusions*

1 This Convention shall not apply to measures taken under the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, as amended, or the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973, as amended.

2 This Convention shall not apply to any warship or other ship owned or operated by a State and used, for the time being, only on Government non-commercial service, unless that State decides otherwise.

3 Where a State Party decides to apply this Convention to its warships or other ships as described in paragraph 2, it shall notify the Secretary-General, thereof, specifying the terms and conditions of such application.

4 (a) When a State Party has made a notification under article 3, paragraph 2, the following provisions of this Convention shall not apply in its territory, including the territorial sea:

(i) Article 2, paragraph 4;

(ii) Article 9, paragraphs 1, 5, 7, 8, 9 and 10; and

(iii) Article 15.

(b) Article 9, paragraph 4, insofar as it applies to the territory, including the territorial sea of a State Party, shall read:

Subject to the national law of the Affected State, the registered owner may contract with any salvor or other person to remove the wreck determined to constitute a hazard on behalf of the owner. Before such removal commences, the Affected State may lay down conditions for such removal only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment.

## Article 5

### *Reporting wrecks*

1 A State Party shall require the master and the operator of a ship flying its flag to report to the Affected State without delay when that ship has been involved in a maritime casualty resulting in a wreck. To the extent that the reporting obligation under this article has been fulfilled either by



the master or the operator of the ship, the other shall not be obliged to report.

2 Such reports shall provide the name and the principal place of business of the registered owner and all the relevant information necessary for the Affected State to determine whether the wreck poses a hazard in accordance with article 6, including:

- (a) the precise location of the wreck;
- (b) the type, size and construction of the wreck;
- (c) the nature of the damage to, and the condition of, the wreck;
- (d) the nature and quantity of the cargo, in particular any hazardous and noxious substances; and
- (e) the amount and types of oil, including bunker oil and lubricating oil, on board.

## Article 6

### *Determination of hazard*

When determining whether a wreck poses a hazard, the following criteria should be taken into account by the Affected State:

- (a) the type, size and construction of the wreck;
- (b) depth of the water in the area;
- (c) tidal range and currents in the area;
- (d) particularly sensitive sea areas identified and, as appropriate, designated in accordance with guidelines adopted by the Organization, or a clearly defined area of the exclusive economic zone where special mandatory measures have been adopted pursuant to article 211, paragraph 6, of the United Nations Convention on the Law of the Sea, 1982;
- (e) proximity of shipping routes or established traffic lanes;
- (f) traffic density and frequency;
- (g) type of traffic;
- (h) nature and quantity of the wreck's cargo, the amount and types of oil (such as bunker oil and lubricating oil) on board the wreck and, in particular, the damage likely to result should the cargo or oil be released into the marine environment;
- (i) vulnerability of port facilities;



- (j) prevailing meteorological and hydrographical conditions;
- (k) submarine topography of the area;
- (l) height of the wreck above or below the surface of the water at lowest astronomical tide;
- (m) acoustic and magnetic profiles of the wreck;
- (n) proximity of offshore installations, pipelines, telecommunications cables and similar structures; and
- (o) any other circumstances that might necessitate the removal of the wreck.

#### Article 7

##### *Locating wrecks*

1 Upon becoming aware of a wreck, the Affected State shall use all practicable means, including the good offices of States and organizations, to warn mariners and the States concerned of the nature and location of the wreck as a matter of urgency.

2 If the Affected State has reason to believe that a wreck poses a hazard, it shall ensure that all practicable steps are taken to establish the precise location of the wreck.

#### Article 8

##### *Marking of wrecks*

1 If the Affected State determines that a wreck constitutes a hazard, that State shall ensure that all reasonable steps are taken to mark the wreck.

2 In marking the wreck, all practicable steps shall be taken to ensure that the markings conform to the internationally accepted system of buoyage in use in the area where the wreck is located.

3 The Affected State shall promulgate the particulars of the marking of the wreck by use of all appropriate means, including the appropriate nautical publications.



Article 9

*Measures to facilitate the removal of wrecks*

1 If the Affected State determines that a wreck constitutes a hazard, that State shall immediately:

- (a) inform the State of the ship's registry and the registered owner; and
- (b) proceed to consult the State of the ship's registry and other States affected by the wreck regarding measures to be taken in relation to the wreck.

2 The registered owner shall remove a wreck determined to constitute a hazard.

3 When a wreck has been determined to constitute a hazard, the registered owner, or other interested party, shall provide the competent authority of the Affected State with evidence of insurance or other financial security as required by article 12.

4 The registered owner may contract with any salvor or other person to remove the wreck determined to constitute a hazard on behalf of the owner. Before such removal commences, the Affected State may lay down conditions for such removal only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment.

5 When the removal referred to in paragraphs 2 and 4 has commenced, the Affected State may intervene in the removal only to the extent necessary to ensure that the removal proceeds effectively in a manner that is consistent with considerations of safety and protection of the marine environment.

6 The Affected State shall:

- (a) set a reasonable deadline within which the registered owner must remove the wreck, taking into account the nature of the hazard determined in accordance with article 6;
- (b) inform the registered owner in writing of the deadline it has set and specify that, if the registered owner does not remove the wreck within that deadline, it may remove the wreck at the registered owner's expense; and



- (c) inform the registered owner in writing that it intends to intervene immediately in circumstances where the hazard becomes particularly severe.

7 If the registered owner does not remove the wreck within the deadline set in accordance with paragraph 6(a), or the registered owner cannot be contacted, the Affected State may remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.

8 In circumstances where immediate action is required and the Affected State has informed the State of the ship's registry and the registered owner accordingly, it may remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.

9 States Parties shall take appropriate measures under their national law to ensure that their registered owners comply with paragraphs 2 and 3.

10 States Parties give their consent to the Affected State to act under paragraphs 4 to 8, where required.

11 The information referred to in this article shall be provided by the Affected State to the registered owner identified in the reports referred to in article 5, paragraph 2.

## Article 10

### *Liability of the owner*

1 Subject to article 11, the registered owner shall be liable for the costs of locating, marking and removing the wreck under articles 7, 8 and 9, respectively, unless the registered owner proves that the maritime casualty that caused the wreck:

- (a) resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable and irresistible character;
- (b) was wholly caused by an act or omission done with intent to cause damage by a third party; or
- (c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.



2 Nothing in this Convention shall affect the right of the registered owner to limit liability under any applicable national or international regime, such as the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

3 No claim for the costs referred to in paragraph 1 may be made against the registered owner otherwise than in accordance with the provisions of this Convention. This is without prejudice to the rights and obligations of a State Party that has made a notification under article 3, paragraph 2, in relation to wrecks located in its territory, including the territorial sea, other than locating, marking and removing in accordance with this Convention.

4 Nothing in this article shall prejudice any right of recourse against third parties.

#### Article 11

##### *Exceptions to liability*

1 The registered owner shall not be liable under this Convention for the costs mentioned in article 10, paragraph 1 if, and to the extent that, liability for such costs would be in conflict with:

- (a) the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended;
- (b) the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, as amended;
- (c) the Convention on Third Party Liability in the Field of Nuclear Energy, 1960, as amended, or the Vienna Convention on Civil Liability for Nuclear Damage, 1963, as amended; or national law governing or prohibiting limitation of liability for nuclear damage; or
- (d) the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, as amended;

provided that the relevant convention is applicable and in force.

2 To the extent that measures under this Convention are considered to be salvage under applicable national law or an international convention, such law or convention shall apply to questions of the remuneration or compensation payable to salvors to the exclusion of the rules of this Convention.



**Article 12***Compulsory insurance or other financial security*

1 The registered owner of a ship of 300 gross tonnage and above and flying the flag of a State Party shall be required to maintain insurance or other financial security, such as a guarantee of a bank or similar institution, to cover liability under this Convention in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases not exceeding an amount calculated in accordance with article 6(1)(b) of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

2 A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship of 300 gross tonnage and above by the appropriate authority of the State of the ship's registry after determining that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party, such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form of the model set out in the annex to this Convention, and shall contain the following particulars:

- (a) name of the ship, distinctive number or letters and port of registry;
- (b) gross tonnage of the ship;
- (c) name and principal place of business of the registered owner;
- (d) IMO ship identification number;
- (e) type and duration of security;
- (f) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and
- (g) period of validity of the certificate, which shall not be longer than the period of validity of the insurance or other security.

3 (a) A State Party may authorize either an institution or an organization recognized by it to issue the certificate referred to in paragraph 2. Such institution or organization shall inform that State of the issue of each certificate. In all cases, the State Party shall fully guarantee the completeness and accuracy of the



certificate issued and shall undertake to ensure the necessary arrangements to satisfy this obligation.

- (b) A State Party shall notify the Secretary-General of:
- (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognized by it;
  - (ii) the withdrawal of such authority; and
  - (iii) the date from which such authority or withdrawal of such authority takes effect.

An authority delegated shall not take effect prior to three months from the date on which notification to that effect was given to the Secretary-General.

- (c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are no longer maintained. In all cases, the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.

4. The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into one of these languages and, where the State so decides, the official language(s) of the State may be omitted.

5. The certificate shall be carried onboard the ship and a copy shall be deposited with the authorities who keep the record for the ship's registry or, if the ship is not registered in a State Party, with the authorities issuing or certifying the certificate.

6. An insurance or other financial security shall not satisfy the requirements of this article if it can cease for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2 before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5, unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this article.



certificate so issued and shall undertake to ensure the necessary arrangements to satisfy this obligation.

(b) A State Party shall notify the Secretary-General of:

- (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognized by it;
- (ii) the withdrawal of such authority; and
- (iii) the date from which such authority or withdrawal of such authority takes effect.

An authority delegated shall not take effect prior to three months from the date on which notification to that effect was given to the Secretary-General.

(c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates, if the conditions under which they have been issued are not maintained. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.

4 The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into one of these languages and, where the State so decides, the official language(s) of the State may be omitted.

5 The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authorities issuing or certifying the certificate.

6 An insurance or other financial security shall not satisfy the requirements of this article if it can cease for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2 before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5 unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification, which results in the insurance or security no longer satisfying the requirements of this article.



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7 The State of the ship's registry shall, subject to the provisions of this article and having regard to any guidelines adopted by the Organization on the financial responsibility of the registered owners, determine the conditions of issue and validity of the certificate.

8 Nothing in this Convention shall be construed as preventing a State Party from relying on information obtained from other States or the Organization or other international organizations relating to the financial standing of providers of insurance or financial security for the purposes of this Convention. In such cases, the State Party relying on such information is not relieved of its responsibility as a State issuing the certificate required by paragraph 2.

9 Certificates issued and certified under the authority of a State Party shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as certificates issued or certified by them, even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the certificate is not financially capable of meeting the obligations imposed by this Convention.

10 Any claim for costs arising under this Convention may be brought directly against the insurer or other person providing financial security for the registered owner's liability. In such a case the defendant may invoke the defences (other than the bankruptcy or winding up of the registered owner) that the registered owner would have been entitled to invoke, including limitation of liability under any applicable national or international regime. Furthermore, even if the registered owner is not entitled to limit liability, the defendant may limit liability to an amount equal to the amount of the insurance or other financial security required to be maintained in accordance with paragraph 1. Moreover, the defendant may invoke the defence that the maritime casualty was caused by the wilful misconduct of the registered owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the registered owner against the defendant. The defendant shall in any event have the right to require the registered owner to be joined in the proceedings.

11 A State Party shall not permit any ship entitled to fly its flag to which this article applies to operate at any time unless a certificate has been issued under paragraphs 2 or 14.



12 Subject to the provisions of this article, each State Party shall ensure, under its national law, that insurance or other security to the extent required by paragraph 1 is in force in respect of any ship of 300 gross tonnage and above, wherever registered, entering or leaving a port in its territory, or arriving at or leaving from an offshore facility in its territorial sea.

13 Notwithstanding the provisions of paragraph 5, a State Party may notify the Secretary-General that, for the purposes of paragraph 12, ships are not required to carry on board or to produce the certificate required by paragraph 2, when entering or leaving a port in its territory, or arriving at or leaving from an offshore facility in its territorial sea, provided that the State Party which issues the certificate required by paragraph 2 has notified the Secretary-General that it maintains records in an electronic format, accessible to all States Parties, attesting the existence of the certificate and enabling States Parties to discharge their obligations under paragraph 12.

14 If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authority of the State of registry, stating that it is owned by that State and that the ship's liability is covered within the limits prescribed in paragraph 1. Such a certificate shall follow as closely as possible the model prescribed by paragraph 2.

### Article 13

#### *Time limits*

Rights to recover costs under this Convention shall be extinguished unless an action is brought hereunder within three years from the date when the hazard has been determined in accordance with this Convention. However, in no case shall an action be brought after six years from the date of the maritime casualty that resulted in the wreck. Where the maritime casualty consists of a series of occurrences, the six-year period shall run from the date of the first occurrence.

### Article 14

#### *Amendment provisions*

1 At the request of not less than one-third of States Parties, a conference shall be convened by the Organization for the purpose of revising or amending this Convention.



2 Any consent to be bound by this Convention, expressed after the date of entry into force of an amendment to this Convention, shall be deemed to apply to this Convention, as amended.

## Article 15

### *Settlement of disputes*

1 Where a dispute arises between two or more States Parties regarding the interpretation or application of this Convention, they shall seek to resolve their dispute, in the first instance, through negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice.

2 If no settlement is possible within a reasonable period of time not exceeding twelve months after one State Party has notified another that a dispute exists between them, the provisions relating to the settlement of disputes set out in Part XV of the United Nations Convention on the Law of the Sea, 1982, shall apply *mutatis mutandis*, whether or not the States party to the dispute are also States Parties to the United Nations Convention on the Law of the Sea, 1982.

3 Any procedure chosen by a State Party to this Convention and to the United Nations Convention on the Law of the Sea, 1982, pursuant to Article 287 of the latter, shall apply to the settlement of disputes under this article, unless that State Party, when ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, chooses another procedure pursuant to Article 287 for the purpose of the settlement of disputes arising out of this Convention.

4 A State Party to this Convention which is not a Party to the United Nations Convention on the Law of the Sea, 1982, when ratifying, accepting, approving or acceding to this Convention or at any time thereafter shall be free to choose, by means of a written declaration, one or more of the means set out in Article 287, paragraph 1, of the United Nations Convention on the Law of the Sea, 1982, for the purpose of settlement of disputes under this Article. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is party, which is not covered by a declaration in force. For the purpose of conciliation and arbitration, in accordance with Annexes V and VII of the United Nations Convention on the Law of the Sea, 1982, such State shall be entitled to nominate conciliators and arbitrators to be included in the lists referred to in Annex V, Article 2, and Annex VII, Article 2, for the settlement of disputes arising out of this Convention.



*Removal of Wrecks, 2007*

5 A declaration made under paragraphs 3 and 4 shall be deposited with the Secretary-General, who shall transmit copies thereof to the States Parties.

**Article 16**

*Relationship to other conventions and international agreements*

Nothing in this Convention shall prejudice the rights and obligations of any State under the United Nations Convention on the Law of the Sea, 1982, and under the customary international law of the sea.

**Article 17**

*Signature, ratification, acceptance, approval and accession*

1 This Convention shall be open for signature at the Headquarters of the Organization from 19 November 2007 until 18 November 2008 and shall thereafter remain open for accession.

(a) States may express their consent to be bound by this 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.

**Article 18**

*Entry into force*

1 This Convention shall enter into force twelve months following the date on which ten States have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General.



2 For any State which ratifies, accepts, approves or accedes to this Convention after the conditions in paragraph 1 for entry into force have been met, this Convention shall enter into force three months following the date of deposit by such State of the appropriate instrument, but not before this Convention has entered into force in accordance with paragraph 1.

#### Article 19

##### *Denunciation*

1 This Convention may be denounced by a State Party at any time after the expiry of one year following the date on which this Convention comes into force for that State.

2 Denunciation shall be effected by the deposit of an instrument to that effect with the Secretary-General.

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

#### Article 20

##### *Depositary*

1 This Convention shall be deposited with the Secretary General.

2 The Secretary-General shall:

- (a) inform all States which have signed or acceded to this Convention of:
  - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
  - (ii) the date of entry into force of this Convention;
  - (iii) the deposit of any instrument of denunciation of this Convention, together with the date of the deposit and the date on which the denunciation takes effect; and
  - (iv) other declarations and notifications received pursuant to this Convention;
- (b) transmit certified true copies of this Convention to all States that have signed or acceded to this Convention.



3 As soon as this Convention enters into force, a certified true copy of the text shall be transmitted by the Secretary-General 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 21**

*Languages*

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

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

DONE IN NAIROBI this eighteenth day of May two thousand and seven.

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\* Signatures omitted.

Annex

*Certificate of insurance or other financial security in respect of liability for the removal of wrecks*

Issued in accordance with the provisions of article 12 of the Nairobi International Convention on the Removal of Wrecks, 2007

Name of ship	Gross tonnage	Distinctive number or letters	IMO ship identification number	Port of registry	Name and full address of the principal place of business of the registered owner

This is to certify that there is in force, in respect of the above-named ship, a policy of insurance or other financial security satisfying the requirements of article 12 of the Nairobi International Convention on the Removal of Wrecks, 2007.

Type of security .....

Duration of security .....

Name and address of the insurer(s) and/or guarantor(s)  
 Name .....

Address .....

This certificate is valid until .....

Issued or certified by the Government of .....

(Full designation of the State)



OR

The following text should be used when a State Party avails itself of article 12, paragraph 3:

The present certificate is issued under the authority of the Government of

.....  
*(full designation of the State)*

by .....

*(name of institution or organization)*

at .....

*(place)*

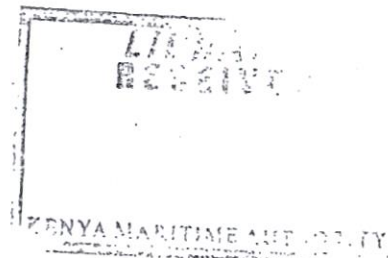
on .....

*(date)*

.....  
*(Signature and title of issuing or certifying official)*

*Explanatory notes:*

- 1 If desired, the designation of the State may include a reference to the competent public authority of the country where the Certificate is issued.
- 2 If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
- 3 If security is furnished in several forms, these should be enumerated.
- 4 The entry "Duration of Security" must stipulate the date on which such security takes effect.
- 5 The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.





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# Anti-Fouling Systems

International Convention on the Control of Harmful  
Anti-Fouling Systems on Ships, 2001 (AFS 2001)

and

Guidelines for survey and certification of anti-fouling  
systems on ships (resolution MEPC.102(48)),  
Guidelines for brief sampling of anti-fouling systems  
on ships (resolution MEPC.104(49)),  
and Guidelines for inspection of anti-fouling systems  
on ships (resolution MEPC.105(49)).

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London, 2005

First published in 2003 by the  
INTERNATIONAL MARITIME ORGANIZATION  
4 Albert Embankment, London SE1 7SR  
www.imo.org

Second edition 2005

Printed in the United Kingdom by CPI Books Limited, Reading RG1 8EX



ISBN 978-92-801-4195-5

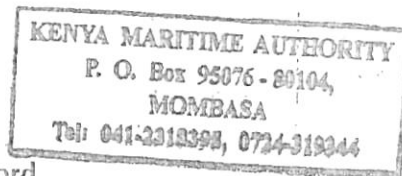
IMO PUBLICATION
Sales number: IA680E

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H31434



## Foreword

The harmful effects of anti-fouling systems were considered by the International Maritime Organization's Marine Environment Protection Committee (MEPC) for the first time in 1988, when the Paris Commission requested the MEPC to consider the need for measures to restrict the use of tributyltin (TBT) compounds on seagoing vessels. As a first step, the Committee at its thirtieth session in 1990 adopted resolution MEPC.46(30) on "Measures to control potential adverse impacts associated with the use of tributyltin compounds in anti-fouling paints", which recommends that IMO Member Governments adopt measures to eliminate the use of anti-fouling paint containing TBT on non-aluminium-hulled vessels of less than 25 m in length and eliminate the use of TBT-based anti-fouling paints with an average leaching rate of more than four micrograms of organotin per square centimetre per day. These recommendations were intended to be interim measures until IMO could consider a possible total prohibition of TBT compounds in anti-fouling systems. From 1990 onwards, MEPC was presented with TBT monitoring results which reconfirmed the toxicity of TBT compounds, as well as with information on existing alternatives, including their effectiveness and the risk posed to the marine environment by these systems.

The twenty-first session of the IMO Assembly in 1999 adopted resolution A.895(21) urging MEPC to work towards the expeditious development of a global legally binding instrument to address the harmful effects of anti-fouling systems used on ships. The resolution states that the global instrument, to be developed by MEPC, should ensure a global prohibition of the application of organotin compounds which act as biocides in anti-fouling systems on ships by 1 January 2003 and a complete prohibition on the presence of organotin compounds which act as biocides in anti-fouling systems on ships by 1 January 2008. A working group was established at MEPC, which took on the task of developing such a draft instrument.

In accordance with Article 2(b) of the Convention on the International Maritime Organization, the MEPC at its forty-third session recommended; and the twentieth extraordinary session of the Council decided, to convene a diplomatic conference to consider the adoption of a legal instrument on the control of harmful anti-fouling systems on ships.

In accordance with the decision of the Council, the International Conference on the Control of Harmful Anti-Fouling Systems for Ships, 2001, was convened by IMO and held in London at its Headquarters from 1 to 5 October 2001. The Conference adopted the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 (the AFS Convention), together with four Conference resolutions, relating to the



*Foreword*

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early and effective application of the AFS Convention, future work by the Organization pertaining to the AFS Convention, approval and test methodologies for anti-fouling systems on ships and the promotion of technical co-operation.

Article 11(1)(b) and (2) and regulation 1(4)(a) of annex 4 of the AFS Convention refer to the following guidelines to be developed by the Organization:

- .1 Guidelines for survey and certification of anti-fouling systems on ships;
- .2 Guidelines for brief sampling of anti-fouling systems on ships; and
- .3 Guidelines for inspection of ships anti-fouling systems on ships.

Conference resolution 2 urges the Organization to develop the above-mentioned guidelines as a matter of urgency for them to be adopted before the entry into force of the AFS Convention, with a view to facilitating global and uniform implementation of the AFS Convention.

This 2005 edition, reproduces the texts of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001, the four Conference resolutions, and the Guidelines developed and adopted by the Organization.

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## INTERNATIONAL CONVENTION ON THE CONTROL OF HARMFUL ANTI-FOULING SYSTEMS ON SHIPS, 2001

THE PARTIES TO THIS CONVENTION,

NOTING that scientific studies and investigations by Governments and competent international organizations have shown that certain anti-fouling systems used on ships pose a substantial risk of toxicity and other chronic impacts to ecologically and economically important marine organisms and also that human health may be harmed as a result of the consumption of affected seafood,

NOTING IN PARTICULAR the serious concern regarding anti-fouling systems that use organotin compounds as biocides and being convinced that the introduction of such organotins into the environment must be phased-out,

RECALLING that Chapter 17 of Agenda 21 adopted by the United Nations Conference on Environment and Development, 1992, calls upon States to take measures to reduce pollution caused by organotin compounds used in anti-fouling systems,

RECALLING ALSO that resolution A.895(21), adopted by the Assembly of the International Maritime Organization on 25 November 1999, urges the Organization's Marine Environment Protection Committee (MEPC) to work towards the expeditious development of a global legally binding instrument to address the harmful effects of anti-fouling systems as a matter of urgency,

MINDFUL OF the precautionary approach set out in Principle 15 of the Rio Declaration on Environment and Development and referred to in resolution MEPC.67(37) adopted by MEPC on 15 September 1995,

RECOGNIZING the importance of protecting the marine environment and human health from adverse effects of anti-fouling systems,

RECOGNIZING ALSO that the use of anti-fouling systems to prevent the build-up of organisms on the surface of ships is of critical importance to efficient commerce, shipping and impeding the spread of harmful aquatic organisms and pathogens,

RECOGNIZING FURTHER the need to continue to develop anti-fouling systems which are effective and environmentally safe and to promote the substitution of harmful systems by less harmful systems or preferably harmless systems,

HAVE AGREED as follows:

### Article 1

#### *General obligations*

(1) Each Party to this Convention undertakes to give full and complete effect to its provisions in order to reduce or eliminate adverse effects on the marine environment and human health caused by anti-fouling systems.

(2) The annexes form an integral part of this Convention. Unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to its annexes.

(3) No provision of this Convention shall be interpreted as preventing a State from taking, individually or jointly, more stringent measures with respect to the reduction or elimination of adverse effects of anti-fouling systems on the environment, consistent with international law.

(4) Parties shall endeavour to co-operate for the purpose of effective implementation, compliance and enforcement of this Convention.

(5) The Parties undertake to encourage the continued development of anti-fouling systems that are effective and environmentally safe.

## Article 2

### *Definitions*

For the purposes of this Convention, unless expressly provided otherwise:

(1) *Administration* means the Government of the State under whose authority the ship is operating. With respect to a ship entitled to fly a flag of a State, the Administration is the Government of that State. With respect to fixed or floating platforms engaged in exploration and exploitation of the seabed and subsoil thereof adjacent to the coast over which the coastal State exercises sovereign rights for the purposes of exploration and exploitation of their natural resources, the Administration is the Government of the coastal State concerned.

(2) *Anti-fouling system* means a coating, paint, surface treatment, surface, or device that is used on a ship to control or prevent attachment of unwanted organisms.

(3) *Committee* means the Marine Environment Protection Committee of the Organization.

(4) *Gross tonnage* means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in annex 1 to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention.

(5) *International voyage* means a voyage by a ship entitled to fly the flag of one State to or from a port, shipyard, or offshore terminal under the jurisdiction of another State.

(6) *Length* means the length as defined in the International Convention on Load Lines, 1966, as modified by the Protocol of 1988 relating thereto, or any successor Convention.

(7) *Organization* means the International Maritime Organization.

(8) *Secretary-General* means the Secretary-General of the Organization.

(9) *Ship* means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, fixed or floating platforms, floating storage units (FSUs) and floating production storage and off-loading units (FPSOs).

(10) *Technical Group* is a body comprised of representatives of the Parties, Members of the Organization, the United Nations and its Specialized Agencies, intergovernmental organizations having agreements with the Organization, and non-governmental organizations in consultative status with the Organization, which should preferably include representatives of institutions and laboratories that engage in anti-fouling system analysis. These representatives shall have expertise in environmental fate and effects, toxicological effects, marine biology, human health, economic analysis, risk management, international shipping, anti-fouling systems coating technology, or other fields of expertise necessary to objectively review the technical merits of a comprehensive proposal.

### Article 3

#### *Application*

(1) Unless otherwise specified in this Convention, this Convention shall apply to:

- (a) ships entitled to fly the flag of a Party;
- (b) ships not entitled to fly the flag of a Party, but which operate under the authority of a Party; and
- (c) ships that enter a port, shipyard, or offshore terminal of a Party, but do not fall within subparagraph (a) or (b).

(2) This Convention shall not apply to any warships, naval auxiliary, or other ships owned or operated by a Party and used, for the time being, only on government non-commercial service. However, each Party shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with this Convention.

(3) With respect to the ships of non-Parties to this Convention, Parties shall apply the requirements of this Convention as may be necessary to ensure that no more favourable treatment is given to such ships.

### Article 4

#### *Controls on anti-fouling systems*

(1) In accordance with the requirements specified in annex 1, each Party shall prohibit and/or restrict:

- (a) the application, re-application, installation, or use of harmful anti-fouling systems on ships referred to in article 3(1)(a) or (b); and



- (b) the application, re-application, installation or use of such systems, whilst in a Party's port, shipyard, or offshore terminal, on ships referred to in article 3(1)(c),

and shall take effective measures to ensure that such ships comply with those requirements.

- (2) Ships bearing an anti-fouling system which is controlled through an amendment to annex 1 following entry into force of this Convention may retain that system until the next scheduled renewal of that system, but in no event for a period exceeding 60 months following application, unless the Committee decides that exceptional circumstances exist to warrant earlier implementation of the control.

#### **Article 5**

##### *Controls of annex 1 waste materials*

Taking into account international rules, standards and requirements, a Party shall take appropriate measures in its territory to require that wastes from the application or removal of an anti-fouling system controlled in annex 1 are collected, handled, treated and disposed of in a safe and environmentally sound manner to protect human health and the environment.

#### **Article 6**

##### *Process for proposing amendments to controls on anti-fouling systems*

- (1) Any Party may propose an amendment to annex 1 in accordance with this article.
- (2) An initial proposal shall contain the information required in annex 2, and shall be submitted to the Organization. When the Organization receives a proposal, it shall bring the proposal to the attention of the Parties, Members of the Organization, the United Nations and its Specialized Agencies, intergovernmental organizations having agreements with the Organization, and non-governmental organizations in consultative status with the Organization and shall make it available to them.
- (3) The Committee shall decide whether the anti-fouling system in question warrants a more in-depth review based on the initial proposal. If the Committee decides that further review is warranted, it shall require the proposing Party to submit to the Committee a comprehensive proposal containing the information required in annex 3, except where the initial proposal also includes all the information required in annex 3. Where the Committee is of the view that there is a threat of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason to prevent a decision to proceed with the evaluation of the proposal. The Committee shall establish a technical group in accordance with article 7.
- (4) The technical group shall review the comprehensive proposal along with any additional data submitted by any interested entity and shall evaluate and report to the Committee whether the proposal has demonstrated a

potential for unreasonable risk of adverse effects on non-target organisms or human health such that the amendment of annex 1 is warranted. In this regard:

- (a) The technical group's review shall include:
    - (i) an evaluation of the association between the anti-fouling system in question and the related adverse effects observed either in the environment or on human health, including, but not limited to, the consumption of affected seafood, or through controlled studies based on the data described in annex 3 and any other relevant data which come to light;
    - (ii) an evaluation of the potential risk reduction attributable to the proposed control measures and any other control measures that may be considered by the technical group;
    - (iii) consideration of available information on the technical feasibility of control measures and the cost-effectiveness of the proposal;
    - (iv) consideration of available information on other effects from the introduction of such control measures relating to:
      - the environment (including, but not limited to, the cost of inaction and the impact on air quality);
      - shipyard health and safety concerns (i.e. effects on shipyard workers);
      - the cost to international shipping and other relevant sectors; and
    - (v) consideration of the availability of suitable alternatives, including a consideration of the potential risks of alternatives.
  - (b) The technical group's report shall be in writing and shall take into account each of the evaluations and considerations referred to in subparagraph (a), except that the technical group may decide not to proceed with the evaluations and considerations described in subparagraph (a)(ii) through (a)(v) if it determines after the evaluation in subparagraph (a)(i) that the proposal does not warrant further consideration.
  - (c) The technical group's report shall include, *inter alia*, a recommendation on whether international controls pursuant to this Convention are warranted on the anti-fouling system in question, on the suitability of the specific control measures suggested in the comprehensive proposal, or on other control measures which it believes to be more suitable.
- (5) The technical group's report shall be circulated to the Parties, Members of the Organization, the United Nations and its Specialized Agencies, intergovernmental organizations having agreements with the Organization and non-governmental organizations in consultative status with the Organization, prior to its consideration by the Committee. The Committee shall decide whether to approve any proposal to amend annex 1, and any modifications thereto, if appropriate, taking into account the technical group's report. If the report finds a threat of serious or irreversible damage, lack of full scientific certainty shall not, itself, be used as a reason to

prevent a decision from being taken to list an anti-fouling system in annex 1. The proposed amendments to annex 1, if approved by the Committee, shall be circulated in accordance with article 16(2)(a). A decision not to approve the proposal shall not preclude future submission of a new proposal with respect to a particular anti-fouling system if new information comes to light.

(6) Only Parties may participate in decisions taken by the Committee described in paragraphs (3) and (5).

#### **Article 7**

##### *Technical groups*

(1) The Committee shall establish a technical group pursuant to article 6 when a comprehensive proposal is received. In circumstances where several proposals are received concurrently or sequentially, the Committee may establish one or more technical groups as needed.

(2) Any Party may participate in the deliberations of a technical group, and should draw on the relevant expertise available to that Party.

(3) The Committee shall decide on the terms of reference, organization and operation of the technical groups. Such terms shall provide for protection of any confidential information that may be submitted. Technical groups may hold such meetings as required, but shall endeavour to conduct their work through written or electronic correspondence or other media as appropriate.

(4) Only the representatives of Parties may participate in formulating any recommendation to the Committee pursuant to article 6. A technical group shall endeavour to achieve unanimity among the representatives of the Parties. If unanimity is not possible, the technical group shall communicate any minority views of such representatives.

#### **Article 8**

##### *Scientific and technical research and monitoring*

(1) The Parties shall take appropriate measures to promote and facilitate scientific and technical research on the effects of anti-fouling systems as well as monitoring of such effects. In particular, such research should include observation, measurement, sampling, evaluation and analysis of the effects of anti-fouling systems.

(2) Each Party shall, to further the objectives of this Convention, promote the availability of relevant information to other Parties who request it on:

- (a) scientific and technical activities undertaken in accordance with this Convention;
- (b) marine scientific and technological programmes and their objectives; and
- (c) the effects observed from any monitoring and assessment programmes relating to anti-fouling systems.



## Article 9

### *Communication and exchange of information*

- (1) Each Party undertakes to communicate to the Organization:
  - (a) a list of the nominated surveyors or recognized organizations which are authorized to act on behalf of that Party in the administration of matters relating to the control of anti-fouling systems in accordance with this Convention for circulation to the Parties for the information of their officers. The Administration shall therefore notify the Organization of the specific responsibilities and conditions of the authority delegated to nominated surveyors or recognized organizations; and
  - (b) on an annual basis, information regarding any anti-fouling systems approved, restricted, or prohibited under its domestic law.
- (2) The Organization shall make available, through any appropriate means, information communicated to it under paragraph (1).
- (3) For those anti-fouling systems approved, registered or licensed by a Party, such Party shall either provide, or require the manufacturers of such anti-fouling systems to provide, to those Parties which request it, relevant information on which its decision was based, including information provided for in annex 3, or other information suitable for making an appropriate evaluation of the anti-fouling system. No information shall be provided that is protected by law.

## Article 10

### *Survey and certification*

A Party shall ensure that ships entitled to fly its flag or operating under its authority are surveyed and certified in accordance with the regulations in annex 4.

## Article 11

### *Inspections of ships and detection of violations*

- (1) A ship to which this Convention applies may, in any port, shipyard, or offshore terminal of a Party, be inspected by officers authorized by that Party for the purpose of determining whether the ship is in compliance with this Convention. Unless there are clear grounds for believing that a ship is in violation of this Convention, any such inspection shall be limited to:
  - (a) verifying that, where required, there is on board a valid International Anti-Fouling System Certificate or a Declaration on Anti-Fouling System; and/or
  - (b) a brief sampling of the ship's anti-fouling system that does not affect the integrity, structure, or operation of the anti-fouling system taking into account guidelines developed by the Organization.\*

\* Refer to the Guidelines for brief sampling of anti-fouling systems on ships adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC.104(49) and attached on page 41 of this publication.

However, the time required to process the results of such sampling shall not be used as a basis for preventing the movement and departure of the ship.

(2) If there are clear grounds to believe that the ship is in violation of this Convention, a thorough inspection may be carried out taking into account guidelines developed by the Organization.\*

(3) If the ship is detected to be in violation of this Convention, the Party carrying out the inspection may take steps to warn, detain, dismiss, or exclude the ship from its ports. A Party taking such action against a ship for the reason that the ship does not comply with this Convention shall immediately inform the Administration of the ship concerned.

(4) Parties shall co-operate in the detection of violations and the enforcement of this Convention. A Party may also inspect a ship when it enters the ports, shipyards, or offshore terminals under its jurisdiction, if a request for an investigation is received from any Party, together with sufficient evidence that a ship is operating or has operated in violation of this Convention. The report of such investigation shall be sent to the Party requesting it and to the competent authority of the Administration of the ship concerned so that the appropriate action may be taken under this Convention.

#### **Article 12** **Violations**

(1) Any violation of this Convention shall be prohibited and sanctions shall be established therefor under the law of the Administration of the ship concerned wherever the violation occurs. If the Administration is informed of such a violation, it shall investigate the matter and may request the reporting Party to furnish additional evidence of the alleged violation. If the Administration is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken as soon as possible, in accordance with its laws. The Administration shall promptly inform the Party that reported the alleged violation, as well as the Organization, of any action taken. If the Administration has not taken any action within one year after receiving the information, it shall so inform the Party which reported the alleged violation.

(2) Any violation of this Convention within the jurisdiction of any Party shall be prohibited and sanctions shall be established therefor under the law of that Party. Whenever such a violation occurs, that Party shall either:

- (a) cause proceedings to be taken in accordance with its law; or
- (b) furnish to the Administration of the ship concerned such information and evidence as may be in its possession that a violation has occurred.

\* Refer to the Guidelines for inspection of anti-fouling systems on ships adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC.105(49) and attached on page 63 of this publication.

(3) The sanctions established under the laws of a Party pursuant to this article shall be adequate in severity to discourage violations of this Convention wherever they occur.

#### **Article 13**

##### *Undue delay or detention of ships*

(1) All possible efforts shall be made to avoid a ship being unduly detained or delayed under article 11 or 12.

(2) When a ship is unduly detained or delayed under article 11 or 12, it shall be entitled to compensation for any loss or damage suffered.

#### **Article 14**

##### *Dispute settlement*

Parties shall settle any dispute between them concerning the interpretation or application of this Convention by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

#### **Article 15**

##### *Relationship to international law of the sea*

Nothing in this Convention shall prejudice the rights and obligations of any State under customary international law as reflected in the United Nations Convention on the Law of the Sea.

#### **Article 16**

##### *Amendments*

(1) This Convention may be amended by either of the procedures specified in the following paragraphs.

(2) Amendments after consideration within the Organization:

(a) Any Party may propose an amendment to this Convention. A proposed amendment shall be submitted to the Secretary-General, who shall then circulate it to the Parties and Members of the Organization at least six months prior to its consideration. In the case of a proposal to amend annex 1, it shall be processed in accordance with article 6, prior to its consideration under this article.

(b) An amendment proposed and circulated as above shall be referred to the Committee for consideration. Parties, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Committee for consideration and adoption of the amendment.

(c) Amendments shall be adopted by a two-thirds majority of the Parties present and voting in the Committee, on condition that at least one third of the Parties shall be present at the time of voting.



- (d) Amendments adopted in accordance with subparagraph (c) shall be communicated by the Secretary-General to the Parties for acceptance.
- (e) An amendment shall be deemed to have been accepted in the following circumstances:
  - (i) An amendment to an article of this Convention shall be deemed to have been accepted on the date on which two thirds of the Parties have notified the Secretary-General of their acceptance of it.
  - (ii) An amendment to an annex shall be deemed to have been accepted at the end of twelve months after the date of adoption or such other date as determined by the Committee. However, if by that date more than one third of the Parties notify the Secretary-General that they object to the amendment, it shall be deemed not to have been accepted.
- (f) An amendment shall enter into force under the following conditions:
  - (i) An amendment to an article of this Convention shall enter into force for those Parties that have declared that they have accepted it six months after the date on which it is deemed to have been accepted in accordance with subparagraph (e)(i).
  - (ii) An amendment to annex 1 shall enter into force with respect to all Parties six months after the date on which it is deemed to have been accepted, except for any Party that has:
    - (1) notified its objection to the amendment in accordance with subparagraph (e)(ii) and that has not withdrawn such objection;
    - (2) notified the Secretary-General, prior to the entry into force of such amendment, that the amendment shall enter into force for it only after a subsequent notification of its acceptance; or
    - (3) made a declaration at the time it deposits its instrument of ratification, acceptance or approval of, or accession to, this Convention that amendments to annex 1 shall enter into force for it only after the notification to the Secretary-General of its acceptance with respect to such amendments.
  - (iii) An amendment to an annex other than annex 1 shall enter into force with respect to all Parties six months after the date on which it is deemed to have been accepted, except for those Parties that have notified their objection to the amendment in accordance with subparagraph (e)(ii) and that have not withdrawn such objection.
- (g) (i) A Party that has notified an objection under subparagraph (f)(ii)(1) or (iii) may subsequently notify the Secretary-General that it accepts the amendment. Such amendment shall enter into force for such Party six months after the date of its notification of acceptance, or the date on which the amendment enters into force, whichever is the later date.

- (ii) If a Party that has made a notification or declaration referred to in subparagraph (f)(ii)(2) or (3), respectively, notifies the Secretary-General of its acceptance with respect to an amendment, such amendment shall enter into force for such Party six months after the date of its notification of acceptance, or the date on which the amendment enters into force, whichever is the later date.
- (3) Amendment by a Conference:
- (a) Upon the request of a Party concurred in by at least one-third of the Parties, the Organization shall convene a Conference of Parties to consider amendments to this Convention.
  - (b) An amendment adopted by such a Conference by a two-thirds majority of the Parties present and voting shall be communicated by the Secretary-General to all Parties for acceptance.
  - (c) 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 paragraphs (2)(e) and (f) respectively of this article.
- (4) Any Party that has declined to accept an amendment to an annex shall be treated as a non-Party only for the purpose of application of that amendment.
- (5) An addition of a new annex shall be proposed and adopted and shall enter into force in accordance with the procedure applicable to an amendment to an article of this Convention.
- (6) Any notification or declaration under this article shall be made in writing to the Secretary-General.
- (7) The Secretary-General shall inform the Parties and Members of the Organization of:
- (a) any amendment that enters into force and the date of its entry into force generally and for each Party; and
  - (b) any notification or declaration made under this article.

#### Article 17

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

- (1) This Convention shall be open for signature by any State at the Headquarters of the Organization from 1 February 2002 to 31 December 2002 and shall thereafter remain open for accession by any State.
- (2) States may become Parties to this Convention by:
- (a) signature not subject to ratification, acceptance, or approval; or
  - (b) signature subject to ratification, acceptance, or approval, followed by ratification, acceptance, or approval; or
  - (c) accession.

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

(4) If a State comprises two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval, or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

(5) Any such declaration shall be notified to the Secretary-General and shall state expressly the territorial units to which this Convention applies.

#### **Article 18**

##### *Entry into force*

(1) This 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 twenty-five per cent of the gross tonnage of the world's merchant shipping, have either signed it without reservation as to ratification, acceptance or approval, or have deposited the requisite instrument of ratification, acceptance, approval or accession in accordance with article 17.

(2) For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of this Convention after the requirements 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 this Convention or three months after the date of deposit of instrument, whichever is the later date.

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

(4) After the date on which an amendment to this Convention is deemed to have been accepted under article 16, any instrument of ratification, acceptance, approval or accession deposited shall apply to the Convention as amended.

#### **Article 19**

##### *Denunciation*

(1) This Convention may be denounced by any Party at any time after the expiry of two years from the date on which this Convention enters into force for that Party.

(2) Denunciation shall be effected by the deposit of written notification with the Secretary-General, to take effect one year after receipt or such longer period as may be specified in that notification.



**Article 20**  
*Depositary*

(1) This Convention shall be deposited with the Secretary-General, who shall transmit certified copies of this Convention to all States which have signed this Convention or acceded thereto.

(2) In addition to the functions specified elsewhere in this Convention, the Secretary-General shall:

- (a) inform all States which have signed this Convention or acceded thereto of:
  - (i) each new signature or deposit of an instrument of ratification, acceptance, approval, or accession, together with the date thereof;
  - (ii) the date of entry into force of this Convention; and
  - (iii) the deposit of any instrument of denunciation of this Convention, together with the date on which it was received and the date on which the denunciation takes effect; and
- (b) as soon as this Convention enters into force, transmit the text thereof to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

**Article 21**  
*Languages*

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

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

DONE AT LONDON, this fifth day of October, two thousand and one.

\* Signatures omitted.

**Annex 1**  
*Controls on anti-fouling systems*

Anti-fouling system	Control measures	Application	Effective date
Organotin compounds which act as biocides in anti-fouling systems	Ships shall not apply or reapply such compounds	All ships	1 January 2003
Organotin compounds which act as biocides in anti-fouling systems	Ships either: (1) shall not bear such compounds on their hulls or external parts or surfaces; or (2) shall bear a coating that forms a barrier to such compounds leaching from the underlying non-compliant anti-fouling systems	All ships (except fixed and floating platforms, FSUs, and FPSOs that have been constructed prior to 1 January 2003 and that have not been in dry-dock on or after 1 January 2003)	1 January 2008

## Annex 2

### *Required elements for an initial proposal*

- (1) An initial proposal shall include adequate documentation containing at least the following:
  - (a) identification of the anti-fouling system addressed in the proposal: name of the anti-fouling system; name of active ingredients and Chemical Abstracts Service Registry Number (CAS number), as applicable; or components of the system which are suspected of causing the adverse effects of concern;
  - (b) characterization of the information which suggests that the anti-fouling system or its transformation products may pose a risk to human health or may cause adverse effects in non-target organisms at concentrations likely to be found in the environment (e.g., the results of toxicity studies on representative species or bioaccumulation data);
  - (c) material supporting the potential of the toxic components in the anti-fouling system, or its transformation products, to occur in the environment at concentrations which could result in adverse effects to non-target organisms, human health, or water quality (e.g., data on persistence in the water column, sediments and biota; the release rate of toxic components from treated surfaces in studies or under actual use conditions; or monitoring data, if available);
  - (d) an analysis of the association between the anti-fouling system, the related adverse effects and the environmental concentrations observed or anticipated; and
  - (e) a preliminary recommendation on the type of restrictions that could be effective in reducing the risks associated with the anti-fouling system.
- (2) An initial proposal shall be submitted in accordance with rules and procedures of the Organization.



Annex 3  
Required elements of a  
comprehensive proposal

- (1) A comprehensive proposal shall include adequate documentation containing the following:
- (a) developments in the data cited in the initial proposal;
  - (b) findings from the categories of data set out in paragraphs (3)(a), (b) and (c), as applicable, depending on the subject of the proposal and the identification or description of the methodologies under which the data were developed;
  - (c) a summary of the results of studies conducted on the adverse effects of the anti-fouling system;
  - (d) if any monitoring has been conducted, a summary of the results of that monitoring, including information on ship traffic and a general description of the area monitored;
  - (e) a summary of the available data on environmental or ecological exposure and any estimates of environmental concentrations developed through the application of mathematical models, using all available environmental fate parameters, preferably those which were determined experimentally, along with an identification or description of the modelling methodology;
  - (f) an evaluation of the association between the anti-fouling system in question, the related adverse effects and the environmental concentrations, either observed or expected;
  - (g) a qualitative statement of the level of uncertainty in the evaluation referred to in subparagraph (f);
  - (h) a recommendation of specific control measures to reduce the risks associated with the anti-fouling system; and
  - (i) a summary of the results of any available studies on the potential effects of the recommended control measures relating to air quality, shipyard conditions, international shipping and other relevant sectors, as well as the availability of suitable alternatives.
- (2) A comprehensive proposal shall also include information on each of the following physical and chemical properties of the component(s) of concern, if applicable:
- melting point;
  - boiling point;
  - density (relative density);
  - vapour pressure;
  - water solubility/pH/dissociation constant ( $pK_a$ );
  - oxidation/reduction potential;

- molecular mass;
- molecular structure; and
- other physical and chemical properties identified in the initial proposal.

(3) For the purposes of paragraph (1)(b) above, the categories of data are:

(a) Data on environmental fate and effect:

- modes of degradation/dissipation (e.g., hydrolysis/photodegradation/biodegradation);
- persistence in the relevant media (e.g., water column/sediments/biota);
- sediments/water partitioning;
- leaching rates of biocides or active ingredients;
- mass balance;
- bioaccumulation, partition coefficient, octanol/water coefficient; and
- any novel reactions on release or known interactive effects.

(b) Data on any unintended effects in aquatic plants, invertebrates, fish, seabirds, marine mammals, endangered species, other biota, water quality, the sea-bed, or habitat of non-target organisms, including sensitive and representative organisms:

- acute toxicity;
- chronic toxicity;
- developmental and reproductive toxicity;
- endocrine disruption;
- sediment toxicity;
- bioavailability/biomagnification/bioconcentration;
- food web/population effects;
- observations of adverse effects in the field/fish kills/strandings/tissue analysis; and
- residues in seafood.

These data shall relate to one or more types of non-target organisms such as aquatic plants, invertebrates, fish, birds, mammals and endangered species.

(c) Data on the potential for human health effects (including, but not limited to, consumption of affected seafood).

(4) A comprehensive proposal shall include a description of the methodologies used, as well as any relevant measures taken for quality assurance and any peer review conducted of the studies.

**Annex 4**  
*Surveys and certification requirements  
for anti-fouling systems*

**Regulation 1**  
*Surveys*

(1) Ships of 400 gross tonnage and above referred to in article 3(1)(a) engaged in international voyages, excluding fixed or floating platforms, FSUs, and FPSOs, shall be subject to surveys specified below:

- (a) an initial survey before the ship is put into service or before the International Anti-Fouling System Certificate (Certificate) required under regulation 2 or 3 is issued for the first time; and
- (b) a survey when the anti-fouling systems are changed or replaced. Such surveys shall be endorsed on the Certificate issued under regulation 2 or 3.

(2) The survey shall be such as to ensure that the ship's anti-fouling system fully complies with this Convention.

(3) The Administration shall establish appropriate measures for ships that are not subject to the provisions of paragraph (1) of this regulation in order to ensure that this Convention is complied with.

(4) (a) As regards the enforcement of this Convention, surveys of ships shall be carried out by officers duly authorized by the Administration or as provided in regulation 3(1), taking into account guidelines for surveys developed by the Organization.\* Alternatively, the Administration may entrust surveys required by this Convention either to surveyors nominated for that purpose or to organizations recognized by it.

(b) An Administration nominating surveyors or recognizing organizations† to conduct surveys shall, as a minimum, empower any nominated surveyor or recognized organization to:

- (i) require a ship that it surveys to comply with the provisions of annex 1; and
- (ii) carry out surveys if requested by the appropriate authorities of a port State that is a Party to this Convention.

\* Refer to the Guidelines for survey and certification of anti-fouling systems on ships adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC.102(48) and attached on page 33 of this publication.

† Refer to the guidelines adopted by the Organization by resolution A.739(18), as may be amended by the Organization, and the specifications adopted by the Organization by resolution A.789(19), as may be amended by the Organization.



- (c) When the Administration, a nominated surveyor, or a recognized organization determines that the ship's anti-fouling system does not conform either to the particulars of a Certificate required under regulation 2 or 3, or to the requirements of this Convention, such Administration, surveyor or organization shall immediately ensure that corrective action is taken to bring the ship into compliance. A surveyor or organization shall also in due course notify the Administration of any such determination. If the required corrective action is not taken, the Administration shall be notified forthwith and it shall ensure that the Certificate is not issued or is withdrawn as appropriate.
- (d) In the situation described in subparagraph (c), if the ship is in the port of another Party, the appropriate authorities of the port State shall be notified forthwith. When 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 Administration, surveyor, or organization any necessary assistance to carry out their obligations under this regulation, including any action described in article 11 or 12.

## Regulation 2

### *Issue or endorsement of an International Anti-Fouling System Certificate*

- (1) The Administration shall require that a ship to which regulation 1 applies is issued with a Certificate after successful completion of a survey in accordance with regulation 1. A Certificate issued under the authority of a Party shall be accepted by the other Parties and regarded for all purposes covered by this Convention as having the same validity as a Certificate issued by them.
- (2) Certificates shall be issued or endorsed either by the Administration or by any person or organization duly authorized by it. In every case, the Administration assumes full responsibility for the Certificate.
- (3) For ships bearing an anti-fouling system controlled under annex 1 that was applied before the date of entry into force of a control for such a system, the Administration shall issue a Certificate in accordance with paragraphs (2) and (3) of this regulation not later than two years after entry into force of that control. This paragraph shall not affect any requirement for ships to comply with annex 1.
- (4) The Certificate shall be drawn up in the form corresponding to the model given in appendix 1 to this annex and shall be written at least in English, French, or Spanish. If an official language of the issuing State is also used this shall prevail in the case of the dispute or discrepancy.

### **Regulation 3**

#### *Issue or endorsement of an International Anti-Fouling System Certificate by another Party*

- (1) At the request of the Administration, another Party may cause a ship to be surveyed and, if satisfied that this Convention has been complied with, it shall issue or authorize the issue of a Certificate to the ship and, where appropriate, endorse or authorize the endorsement of that Certificate for the ship, in accordance with this Convention.
- (2) A copy of the Certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.
- (3) A Certificate so issued shall contain a statement that it has been issued at the request of the Administration referred to in paragraph (1) and it shall have the same force and receive the same recognition as a Certificate issued by the Administration.
- (4) No Certificate shall be issued to a ship which is entitled to fly the flag of a State which is not a Party.

### **Regulation 4**

#### *Validity of an International Anti-Fouling System Certificate*

- (1) A Certificate issued under regulation 2 or 3 shall cease to be valid in either of the following cases:
  - (a) if the anti-fouling system is changed or replaced, and the Certificate is not endorsed in accordance with this Convention; and
  - (b) upon transfer of the ship to the flag of another State. A new Certificate shall only be issued when the Party issuing the new Certificate is fully satisfied that the ship is in compliance with this Convention. In the case of a transfer between Parties, if requested within three months after the transfer has taken place, the Party whose flag the ship was formerly entitled to fly shall, as soon as possible, transmit to the Administration a copy of the Certificates carried by the ship before the transfer and, if available, a copy of the relevant survey reports.
- (2) The issue by a Party of a new Certificate to a ship transferred from another Party may be based on a new survey or on a valid Certificate issued by the previous Party whose flag the ship was entitled to fly.

### **Regulation 5**

#### *Declaration on Anti-Fouling System*

- (1) The Administration shall require a ship of 24 metres or more in length, but less than 400 gross tonnage engaged in international voyages and to which article 3(1)(a) applies (excluding fixed or floating platforms, FSUs, and FPSOs) to carry a Declaration signed by the owner or owner's authorized

agent. Such Declaration shall be accompanied by appropriate documentation (such as a paint receipt or a contractor invoice) or contain appropriate endorsement.

(2) The Declaration shall be drawn up in the form corresponding to the model given in appendix 2 to this annex and shall be written at least in English, French, or Spanish. If an official language of the State whose flag the ship is entitled to fly is also used, this shall prevail in the case of a dispute or discrepancy.



Appendix 1 to annex 4  
MODEL FORM OF INTERNATIONAL  
ANTI-FOULING SYSTEM CERTIFICATE

INTERNATIONAL ANTI-FOULING SYSTEM CERTIFICATE

(This certificate shall be supplemented by a Record of Anti-Fouling Systems)

(Official seal) \_\_\_\_\_ (State)

Issued under the  
International Convention on the Control of Harmful Anti-Fouling Systems  
on Ships

under the authority of the Government of

.....  
(name of the State)

by

.....  
(person or organization authorized)

When a Certificate has been previously issued, this Certificate replaces the certificate dated .....

Particulars of ship<sup>1</sup>

Name of ship .....

Distinctive number or letters .....

Port of registry .....

Gross tonnage .....

IMO number<sup>2</sup> .....

An anti-fouling system controlled under annex 1 has not been applied during or after construction of this ship

An anti-fouling system controlled under annex 1 has been applied on this ship previously, but has been removed by ..... (insert name of the facility) on ..... (date)

An anti-fouling system controlled under annex 1 has been applied on this ship previously, but has been covered with a sealer coat applied by ..... (insert name of the facility) on ..... (date)

An anti-fouling system controlled under annex 1 was applied on this ship prior to ..... (date),<sup>3</sup> but must be removed or covered with a sealer coat prior to ..... (date)<sup>4</sup>

<sup>1</sup> Alternatively, the particulars of the ship may be placed horizontally in boxes.

<sup>2</sup> In accordance with the IMO Ship Identification Number Scheme adopted by the Organization with Assembly resolution A.600(15).

<sup>3</sup> Date of entry into force of the control measure.

<sup>4</sup> Date of expiration of any implementation period specified in article 4(2) or annex 1.

THIS IS TO CERTIFY THAT:

- 1 the ship has been surveyed in accordance with regulation 1 of annex 4 to the Convention; and
- 2 the survey shows that the anti-fouling system on the ship complies with the applicable requirements of annex 1 to the Convention.

Issued at .....  
(Place of issue of Certificate)

.....  
(Date of issue) (Signature of authorized official issuing the Certificate)

Date of completion of the survey  
on which this certificate is issued: .....

**MODEL FORM OF RECORD OF ANTI-FOULING SYSTEMS**

**RECORD OF ANTI-FOULING SYSTEMS**

This Record shall be permanently attached to the International Anti-Fouling System Certificate

*Particulars of ship*

Name of ship: .....  
Distinctive number or letters: .....  
IMO number: .....

*Details of anti-fouling system(s) applied*

Type(s) of anti-fouling system(s) used .....  
Date(s) of application of anti-fouling system(s) .....  
Name(s) of company(ies) and facility(ies)/location(s) where applied .....  
Name(s) of anti-fouling system manufacturer(s) .....  
Name(s) and colour(s) of anti-fouling system(s) .....  
Active ingredient(s) and their Chemical Abstracts Service Registry Number(s) (CAS number(s)) .....  
Type(s) of sealer coat, if applicable .....  
Name(s) and colour(s) of sealer coat applied, if applicable .....  
Date of application of sealer coat .....

THIS IS TO CERTIFY that this Record is correct in all respects.

Issued at .....  
(Place of issue of Record)

.....  
(Date of issue) (Signature of authorized official issuing the Record)



Endorsement of the Records<sup>5</sup>

THIS IS TO CERTIFY that a survey required in accordance with regulation 1(1)(b) of annex 4 to the Convention found that the ship was in compliance with the Convention

*Details of anti-fouling system(s) applied*

Type(s) of anti-fouling system(s) used .....

Date(s) of application of anti-fouling system(s) .....

Name(s) of company(ies) and facility(ies)/location(s) where applied .....

Name(s) of anti-fouling system(s) manufacturer(s) .....

Name(s) and colour(s) of anti-fouling system(s) .....

Active ingredient(s) and their Chemical Abstracts Service Registry Number(s) (CAS number(s)) .....

Type(s) of sealer coat, if applicable .....

Name(s) and colour(s) of sealer coat applied, if applicable .....

Date of application of sealer coat .....

Signed: .....

*(Signature of authorized official issuing the Record)*

Place: .....

Date:<sup>6</sup> .....

*(Seal or stamp of the authority)*

<sup>5</sup> This page of the Record shall be reproduced and added to the Record as considered necessary by the Administration.

<sup>6</sup> Date of completion of the survey on which this endorsement is made.

**Appendix 2 to annex 4**  
**MODEL FORM OF DECLARATION ON ANTI-FOULING SYSTEM**

**DECLARATION ON ANTI-FOULING SYSTEM**

*Drawn up under the*  
International Convention on the Control of Harmful Anti-Fouling Systems  
on Ships

Name of ship .....  
Distinctive number or letters .....  
Port of registry .....  
Length .....  
Gross tonnage .....  
IMO number (if applicable) .....

I declare that the anti-fouling system used on this ship complies with annex 1 of  
the Convention.

.....  
(Date) (Signature of owner or owner's authorized agent)

*Endorsement of anti-fouling system(s) applied*

Type(s) of anti-fouling system(s) used and date(s) of application .....

.....  
(Date) (Signature of owner or owner's authorized agent)

Type(s) of anti-fouling system(s) used and date(s) of application .....

.....  
(Date) (Signature of owner or owner's authorized agent)

Type(s) of anti-fouling system(s) used and date(s) of application .....

.....  
(Date) (Signature of owner or owner's authorized agent)

## RESOLUTIONS ADOPTED BY THE CONFERENCE

### Resolution 1

#### *Early and effective application of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships*

THE CONFERENCE,

HAVING ADOPTED the International Convention on the Control of Harmful Anti-Fouling Systems on Ships,

RECALLING that resolution A.895(21), adopted by the Assembly of the International Maritime Organization on 25 November 1999, *inter alia*, agrees that a legally binding instrument should ensure a global prohibition of the application of organotin compounds which act as biocides in anti-fouling systems on ships by 1 January 2003,

NOTING that article 18 of the Convention provides that it 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 twenty-five per cent of the gross tonnage of the world's merchant shipping, have become Parties to it in accordance with article 17 of the Convention,

NOTING ALSO that annex 1 of the Convention stipulates that organotin compounds which act as biocides in anti-fouling systems shall not be applied or re-applied on ships on or after 1 January 2003,

BEING AWARE that the time remaining until 1 January 2003 may not be sufficient to enable entry into force of the Convention by that date,

DESIRING that the substances addressed by annex 1 of the Convention will cease to be applied on ships as from 1 January 2003,

1. REQUESTS Member States of the Organization to do the utmost to prepare for consent to be bound by the Convention as a matter of urgency;
2. URGES the relevant industries involved to refrain from marketing, sale and application of the substances controlled by annex 1 of the Convention.



**Resolution 2**

*Future work by the Organization pertaining to the  
International Convention on the Control of  
Harmful Anti-Fouling Systems on Ships*

THE CONFERENCE,

HAVING ADOPTED the International Convention on the Control of Harmful Anti-Fouling Systems on Ships,

NOTING that article 11(1)(b) and (2) and regulation 1(4)(a) of annex 4 of the Convention refer to guidelines to be developed by the Organization for a brief sampling of anti-fouling systems, for thorough inspection and for surveys,

RECOGNIZING the need for the development of these Guidelines in order to ensure global and uniform application of the relevant requirements of the Convention,

INVITES the Organization to develop as a matter of urgency:

- (a) guidelines for brief sampling of anti-fouling systems under article 11(1)(b);
- (b) guidelines for inspection of ships under article 11(2); and
- (c) guidelines for surveys of ships under regulation 1(4)(a) of annex 4,

and adopt them in time before the entry into force of the Convention with a view to facilitating global and uniform implementation of the Convention.

Resolution 3

Approval and test methodologies for anti-fouling systems on ships

THE CONFERENCE,

HAVING ADOPTED the International Convention on the Control of Harmful Anti-Fouling Systems on Ships,

NOTING the procedures set out in the Convention for the addition of controlled anti-fouling systems in annex 1, and the time necessary to consider, adopt, and bring into force such amendments,

MINDFUL OF the precautionary approach set out in Principle 15 of the Rio Declaration on Environment and Development,

RECOGNIZING the importance of preventing the introduction and use of environmentally harmful anti-fouling systems,

1. INVITES States to approve, register or license anti-fouling systems applied in their territories, bearing in mind the information contained in annex 3 of the Convention;

2. ENCOURAGES States to make use of the provisions of article 9(3) of the Convention when considering anti-fouling systems for approval, registration or licensing for use on ships;

3. URGES States to continue the work, in appropriate international fora, for the harmonization of test methods, assessment methodologies, and performance standards for anti-fouling systems containing biocides;

4. REQUESTS the Organization to monitor and, as appropriate, participate in the initiatives described in the above paragraphs.

## Resolution 4

### Promotion of technical co-operation

THE CONFERENCE,

HAVING ADOPTED the International Convention on the Control of Harmful Anti-Fouling Systems on Ships,

BEING AWARE that the comprehensive protection of the marine environment requires, *inter alia*, broad international co-operation to prevent, reduce and control marine pollution from ships,

RECOGNIZING that Parties to this Convention will be called upon to give full and complete effect to its provisions, in order to reduce or eliminate adverse effects on the marine environment and human health caused by anti-fouling systems on ships,

BEING CONVINCED that the promotion of technical co-operation will expedite the acceptance, uniform implementation and enforcement of this Convention by States,

NOTING WITH APPRECIATION that, through the adoption of resolution A.901 (21), the Assembly of the International Maritime Organization (IMO):

- (a) affirmed that IMO's work in developing global maritime standards and in providing technical co-operation for their effective implementation and enforcement, can and does, contribute to sustainable development; and
- (b) decided that IMO's mission statement, in relation to technical co-operation, is to help developing countries improve their ability to comply with international rules and standards relating to maritime safety and the prevention and control of marine pollution, giving priority to technical assistance programmes that focus on human resource development, particularly through training and institutional capacity-building.

1. REQUESTS Member States, in co-operation with IMO, other interested States, competent international or regional organizations and industry programmes, to promote and provide directly, or through IMO, support to States that request technical assistance for:

- (a) the assessment of the implications of ratifying, accepting, approving, or acceding to, as well as implementing and enforcing this Convention;
- (b) the development of national legislation to give effect to this Convention;
- (c) the introduction of other measures, including the training of personnel, for the effective implementation and enforcement of this Convention; and



- (d) the introduction of environmentally sound measures to collect, handle, treat and dispose of wastes generated in applying or removing anti-fouling systems;
2. REQUESTS ALSO Member States, in co-operation with IMO, other interested States, competent international and regional organizations and industry programmes, to promote co-operation for scientific and technical research on the effects of anti-fouling systems as well as monitoring such effects in particular among Member States which have access to appropriate technology and those which do not;
3. URGES all States to initiate action in connection with the above-mentioned technical co-operation measures without awaiting the entry into force of this Convention.

GUIDELINES DEVELOPED AND ADOPTED  
BY THE ORGANIZATION

**Resolution MEPC.102(48)**  
(Adopted on 11 October 2002)

GUIDELINES FOR SURVEY AND CERTIFICATION  
OF ANTI-FOULING SYSTEMS ON SHIPS

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Marine Environment Protection Committee conferred upon it by the international-conventions for the prevention and control of marine pollution,

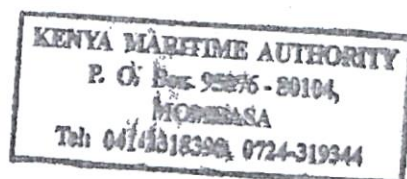
RECALLING ALSO that the International Conference on the Control of Harmful Anti-Fouling Systems for Ships, 2001, held in October 2001, adopted the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 (the AFS Convention) together with four Conference resolutions,

NOTING that Article 10 of the AFS Convention prescribes that ships shall be surveyed and certified in accordance with the regulations of annex 4 of the Convention,

NOTING ALSO that regulation 1(4)(a) of annex 4 of the AFS Convention refers to the guidelines to be developed by the Organization and Conference resolution 2 urges the Organization to develop these Guidelines as a matter of urgency for them to be adopted before the entry into force of the Convention,

HAVING CONSIDERED the draft Guidelines for survey and certification of anti-fouling systems on ships prepared by the Sub-Committee on Flag State Implementation at its tenth session,

1. ADOPTS the Guidelines for survey and certification of anti-fouling systems on ships, as set out in the annex to this resolution;
2. INVITES Governments to apply the Guidelines as soon as possible, or when the Convention becomes applicable to them; and
3. RECOMMENDS that the Guidelines be reviewed on a regular basis.



## Annex

### *Guidelines for survey and certification of anti-fouling systems on ships*

#### 1 General

1.1 Article 10 of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001, hereinafter referred to as "the Convention", prescribes that ships shall be surveyed and certified in accordance with the regulations of annex 4 of the Convention. The purpose of this document is to provide the Guidelines for surveys and certification of anti-fouling systems on ships referred to in Regulation 1(4)(a) of annex 4, hereinafter referred to as the "Guidelines", that will assist Administrations and recognized organizations in the uniform application of the provisions of the Convention and assist companies, shipbuilders, manufacturers of anti-fouling systems, as well as other interested parties to understand the process of the surveys and issuance and endorsement of the certificates.

1.2 These Guidelines provide the procedures for survey to ensure that a ship's anti-fouling system complies with the Convention, and those necessary for issuance and endorsement of an International Anti-Fouling System Certificate. A guidance for compliant anti-fouling systems is given in the appendix to this annex.

1.3 These Guidelines apply to surveys of ships of 400 gross tonnage and above engaged in international voyages, excluding fixed or floating platforms, floating storage units (FSUs), and floating production storage and off-loading units (FPSOs), as specified in regulation 1(1) of annex 4 to the Convention.

1.4 The sole purpose of the survey activities described in these Guidelines is to verify compliance with the provisions of the Convention. Consequently, such surveys do not relate to any aspect not regulated by the Convention even if such aspects relate to the performance of an anti-fouling system on the hull of a ship, including the quality of workmanship during the application process.

1.5 In the event that a new survey method is developed, or in the event that the use of a certain anti-fouling system is prohibited and/or restricted, or in the light of experience gained, these Guidelines may need to be revised in the future.

#### 2 Definitions

For the purposes of these Guidelines:

2.1 "Administration" means the Government of the State under whose authority the ship is operating. With respect to a ship entitled to fly a flag of a State, the Administration is the Government of that State. With respect to fixed or floating platforms engaged in exploration and exploitation of the



sea-bed and subsoil thereof adjacent to the coast over which the coastal State exercises sovereign rights for the purposes of exploration and exploitation of their natural resources, the Administration is the Government of the coastal State concerned.

2.2 "Anti-fouling system" means a coating, paint, surface treatment, surface, or device that is used on a ship to control or prevent attachment of unwanted organisms.

2.3 "Company" means the owner of the ship or any other organization or person such as the manager or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities imposed by the International Safety Management (ISM) Code.

2.4 "Gross tonnage" means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in annex 1 to the International Convention on Tonnage Measurement of Ships, 1969, or any successor convention.

2.5 "International voyage" means a voyage by a ship entitled to fly the flag of one State to or from a port, shipyard, or offshore terminal under the jurisdiction of another State.

2.6 "Length" means the length as defined in the International Convention on Load Lines, 1966, as modified by the Protocol of 1988 relating thereto, or any successor convention.

2.7 "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, fixed or floating platforms, floating storage units (FSUs) and floating production storage and off-loading units (FPSOs).

### **3 When are surveys required**

3.1 An initial survey should be carried out:

- .1 for a newbuilding; or
- .2 for an existing ship, before the International Anti-Fouling System Certificate required under regulations 2 or 3 of annex 4 to the Convention is issued for the first time.

3.2 In order to ease the burden on the companies and other parties, the initial survey of the anti-fouling system on existing ships may best be carried out in connection with a drydock survey.

3.3 A survey should be carried out whenever an anti-fouling system is changed or replaced. Such surveys should cover the same scope as in section 5.2.

3.4 A major conversion affecting the anti-fouling system of a ship may be considered as a newbuilding as determined by the Administration.

3.5 Repairs generally do not require a survey. However, repairs affecting approximately twenty-five (25) percent or more of the anti-fouling system, should be considered as a change or replacement of the anti-fouling system.

3.6 A non-compliant anti-fouling system controlled under annex 1 of the Convention, that undergoes repair must be repaired, or replaced with a compliant anti-fouling system.

#### 4 Request for survey

4.1 Prior to any survey, a request for survey should be submitted by the company to the Administration, or to a recognized organization, along with the ship's data required in the International Anti-Fouling System Certificate as listed:

- 1 Name of ship
- 2 Distinctive number or letters
- 3 Port of registry
- 4 Gross tonnage
- 5 IMO Number.

4.2 A request for survey should be supplemented by a declaration and supporting information from the anti-fouling system manufacturer, confirming that the anti-fouling system applied, or intended to be applied, to the ship is in compliance with the requirements of the Convention (with an identification of the version of the Convention referred to). Such declaration should provide the following information contained in the Record of Anti-Fouling Systems, as can be found in appendix 1 to annex 4 of the Convention:

1. Type of anti-fouling system\*
2. Name of anti-fouling system manufacturer
3. Name and colour of anti-fouling system
4. Active ingredient(s) and their Chemical Abstracts Service Registry Number(s) (CAS number(s)).

Information required by the surveyor regarding compliance of product with the Convention should be found in a declaration from the anti-fouling system manufacturer which may be provided on the anti-fouling system container and/or on supportive documentation (such as Material Safety Data Sheets (MSDSs), or similar). A link between the supportive documentation and the relevant container should exist.

#### 5 Conduct of surveys

##### 5.1 Surveys for newbuildings

- 1 As part of the survey, it should be verified that the anti-fouling system specified by the documentation submitted with the

\* Examples of suitable wording could be: "Organotin-free self-polishing type", "Organotin-free ablative type", "Organotin-free conventional", "Biocide-free silicon type paint, others". In the case of an anti-fouling system containing no active ingredients, the words "biocide-free" should be used.

- request for survey complies with the Convention. The survey should include verification that the anti-fouling system applied is identical to the system specified in the request for survey.
- .2 Taking into account experience gained and the prevailing circumstances, the verification required by paragraph 5.1.1 should include one or more of the following tasks, as deemed necessary to verify compliance:
    - (a) Checking that the product identification on anti-fouling system containers used during the application process is identical to the system specified in the request for survey.
    - (b) Sampling of the anti-fouling system.
    - (c) Testing of the anti-fouling system.
    - (d) Other checks conducted on site.
  - .3 The verification tasks set out in paragraph 5.1.2 should be conducted at any time, either before, during, or after the anti-fouling system has been applied to the ship, as deemed necessary to verify compliance. No checks or tests must affect the integrity, structure or operation of the anti-fouling system.
- 5.2 *Surveys of existing ships intending to apply a new anti-fouling system*
- .1 If the existing anti-fouling system is confirmed by an International Anti-Fouling System Certificate not to be controlled under annex 1 of the Convention, the provisions described in paragraph 5.1 apply.
  - .2 If the existing anti-fouling system is declared not to be controlled under annex 1 of the Convention, without being documented by an International Anti-Fouling System Certificate, a verification should be carried out to confirm that the anti-fouling system complies with the requirements of the Convention. This verification may be based on sampling and/or testing and/or reliable documentation, as deemed necessary based on experience gained and the existing circumstances. Documentation for verification could, e.g., be MSDSs or similar, a declaration of compliance from the anti-fouling system manufacturer, invoices from the shipyard and/or the anti-fouling system manufacturer. To verify the new anti-fouling system, the provisions described in paragraph 5.1 apply.
  - .3 If the existing anti-fouling system has been removed, the removal should be verified in addition to the provisions described in paragraph 5.1.
  - .4 If a sealer coat has been applied, a verification should be carried out to confirm that the name, type and colour of the sealer coat applied to the ship match those specified in the request for survey, and that the existing anti-fouling system has been covered with that sealer coat. Additionally the provisions described in paragraph 5.1 apply.
  - .5 If the existing anti-fouling system is controlled under annex 1 of the Convention, it should be removed according to subparagraph 5.2.3 or covered by a sealer coat according to subparagraph 5.2.4 not later than 1 January 2008. Prior to this date, the existing anti-



fouling system may be overcoated with an anti-fouling system not controlled under annex 1 without removing or sealing the existing anti-fouling system. This option should be stated on the International Anti-Fouling System Certificate by ticking off the appropriate box. To verify the new anti-fouling system, the provisions described in paragraph 5.1 apply.

**5.3** *Surveys of existing ships requesting only an International Anti-Fouling System Certificate*

- .1 If the existing anti-fouling system is declared to be controlled under annex 1 of the Convention (i.e. containing prohibited/regulated compounds), an International Anti-Fouling System Certificate may be issued on request stating that the anti-fouling system will be removed, or covered with a sealer coat when directed by the Convention.
- .2 If the existing anti-fouling system is declared not to be controlled under annex 1 of the Convention, a verification should be carried out to confirm that the anti-fouling system complies with the requirements of the Convention. This verification may be based on sampling and/or testing and/or reliable documentation, as deemed necessary based on experience gained and the existing circumstances. Such documentation could be MSDSs or similar, a declaration of compliance from the anti-fouling system manufacturer, invoices from the shipyard and/or the anti-fouling system manufacturer. If this information raises no reasonable doubt that the system applied is compliant with annex 1 of the Convention, the International Anti-Fouling System Certificate may be issued on this basis.

**5.4** *Surveys of ships prior to entry into force of the Convention*

- .1 Prior to the Convention having entered into force, an Administration may conduct surveys of ships in accordance with these Guidelines, and may then issue a Statement of Compliance to this effect.
- .2 Ships capable of documenting full compliance with the Convention through such a statement of compliance may be issued, upon entry into force of the Convention, an International Anti-Fouling System Certificate on that basis subject to any additional requirements from the Administration.

**6 Issuing or endorsing the International Anti-Fouling System Certificate**

**6.1** The International Anti-Fouling System Certificate along with the Record of Anti-Fouling Systems should be:

- .1 issued upon satisfactory completion of the initial survey;
- .2 issued upon acceptance of another Party's International Anti-Fouling System Certificate; or
- .3 endorsed upon satisfactory completion of a survey for change or replacement of an anti-fouling system.

## **Appendix**

### **Guidance for compliant anti-fouling systems**

For the purpose of compliance with annex 1 of the Convention, small quantities of organotin compounds acting as a chemical catalyst (such as mono- and di-substituted organotin compounds) are allowed, provided that they are present at a level which does not provide a biocidal effect to the coating. On a practical level, when used as a catalyst, an organotin compound should not be present above 2,500 mg total tin per kilogram of dry paint.

**Resolution MEPC.104(49)**  
*Adopted on 18 July 2003*

**GUIDELINES FOR BRIEF SAMPLING  
OF ANTI-FOULING SYSTEMS ON SHIPS**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Marine Environment Protection Committee conferred upon it by the international conventions for the prevention and control of marine pollution,

RECALLING ALSO that the International Conference on the Control of Harmful Anti-fouling Systems for Ships, 2001, held in October 2001, adopted the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001 (the AFS Convention) together with four Conference resolutions,

NOTING that article 11(1) of the AFS Convention prescribes that ships to which this Convention applies may, in any port, shipyard, or offshore terminal of a Party, be inspected by officers authorized by that Party for the purpose of determining whether the ship is in compliance with this Convention, and that such inspection includes brief sampling of the ship's anti-fouling system,

NOTING ALSO that article 11(1) of the AFS Convention refers to the guidelines to be developed by the Organization and Conference resolution 2 urges the Organization to develop these guidelines as a matter of urgency for them to be adopted before the entry into force of the Convention,

NOTING FURTHER that through resolutions MEPC.102(48) and MEPC.105(49) the Organization has developed "Guidelines for Survey and Certification of Anti-fouling Systems on Ships" and "Guidelines for Inspection of Anti-fouling Systems on Ships, respectively, and

HAVING CONSIDERED the recommendation made by the Sub-Committee on Flag State Implementation at its eleventh session,

1. ADOPTS the Guidelines for brief sampling of anti-fouling systems on ships, the text of which is set out in the annex to this resolution;
2. INVITES Governments to apply the Guidelines as soon as possible, or when the Convention becomes applicable to them; and
3. RECOMMENDS that the Guidelines be reviewed on a regular basis.



## Annex

### *Guidelines for brief sampling of anti-fouling systems on ships*

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<b>Appendix:</b>	Possible methods for brief sampling and analysis of anti-fouling systems on ships - organotin
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#### **1 General**

##### **Purpose**

**1.1** Article 11 of the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001, hereinafter referred to as "the Convention", and resolution MEPC.102(48) Guidelines for survey and certification of anti-fouling systems on ships refer to sampling as a method of verification of compliance of a ships anti fouling system with the Convention for inspection and survey.

1.2 The "Guidelines for brief sampling of anti-fouling systems on ships", hereinafter referred to as "the Guidelines", provide procedures for sampling to support the effectiveness of survey and inspection to ensure that a ship's anti-fouling system complies with the Convention and thus assists:

- .1 Administrations and recognized organizations (ROs) in the uniform application of the provisions of the Convention;
- .2 port State control officers with guidance on methods and handling of brief sampling in accordance with Article 11(1)(b) of the Convention; and
- .3 companies, shipbuilders, manufacturers of anti-fouling systems, as well as any other interested parties in understanding the process of sampling as required in terms of the Convention.

1.3 However, inspections or surveys do not necessarily always need to include sampling of anti-fouling system.

1.4 These Guidelines apply to surveys and inspections of ships subject to the Convention.

1.5 The sole purpose of the sampling activities described in the Guidelines is to verify compliance with the provisions of the Convention. Consequently, such activities do not relate to any aspect not regulated by the Convention, (even if such aspects relate to the performance of an anti-fouling system on the hull of a ship, including the quality of workmanship).

#### Structure of these Guidelines

1.6 These Guidelines contain:

- .1 a main body covering aspects of general nature common to "sampling" procedures related to the regulation of anti-fouling systems controlled by the Convention; and
- .2 appendices describing the unique procedures associated with the sampling and analysis of anti-fouling systems controlled by the Convention. These appendices only serve as examples of sampling and analytical methods and other sampling methods not described in an appendix may be used subject to the satisfaction of the Administration or the port State, as appropriate.

1.7 For reasons including the event of other anti-fouling systems becoming controlled under the Convention, or in the light of new experience acquired, these Guidelines may need to be reviewed or amended in the future.

## 2 Definitions

For the purposes of these Guidelines:

2.1 *Administration* means the Government of the State under whose authority the ship is operating. With respect to a ship entitled to fly a flag of a State, the Administration is the Government of that State. With respect to fixed or floating platforms engaged in exploration and exploitation of the seabed and subsoil thereof adjacent to the coast over which the coastal State exercises sovereign rights for the purposes of exploration and exploitation of their natural resources, the Administration is the Government of the coastal State concerned.

2.2 *Anti-fouling system* means a coating, paint, surface treatment, surface or device that is used on a ship in order to control or prevent attachment of unwanted organisms.

2.3 *Threshold value* means the concentration limit of the chemical under investigation below which compliance with the relevant provisions of the Convention may be assumed.

2.4 *Company* means the owner of the ship or any other organization or person such as the manager or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities imposed by the International Safety Management (ISM) Code.

2.5 *Length* means the length as defined in the International Convention on Load Lines, 1966, as modified by the Protocol of 1988 relating thereto, or any successor Convention.

2.6 *Tolerance range* means the numerical range added to the threshold value indicating the range where detected concentrations above the threshold value are acceptable due to recognised analytical inaccuracy and thus do not compromise the assumption of compliance.

### 3 Personnel safety when sampling

#### Health

3.1 Persons carrying out sampling should be aware that solvents or other materials used for sampling may be harmful. Wet paint which is sampled may also be harmful. In these cases the material safety data sheet (MSDS) for the solvent or paint should be read and appropriate precautions should be taken. This will normally include the wearing of long sleeve solvent resistant gloves of suitable impervious material - e.g. nitrile rubber.

3.2 Quantities of dry anti-fouling paint removed during sampling from ships' hulls will normally be too small to cause significant health effects.

#### Safety

3.3 Access to ships to carry out sampling safely may be difficult. If a ship is moored alongside persons carrying out sampling must ensure they have safe access to reach the hull from e.g. platforms, crane baskets, cherry-pickers, gangways. They must ensure that they are protected by railings or a climbing harness or take other precautions so that they cannot fall into the water between the quay and the ship. If in doubt a lifejacket and possibly a safety line, should be worn when sampling.

3.4 Access to ships in dry-dock should be made by secure means. Scaffolding should be securely constructed and cherry-pickers or dock-arms should be properly constructed and maintained if they are to be used to gain access. There should be a system to record the presence of the inspector in the dock area, and he should preferably be accompanied. Safety harnesses should be worn in cherry-picker baskets, if used.



## 4 Sampling and analysis

### Sampling methods

4.1 During sampling, care should be taken not to affect the integrity or operation of the anti-fouling system.

4.2 Sampling where the anti-fouling coating is visibly damaged\* or on block mark areas on the flat bottom of the ship (where the intact anti-fouling system is not applied) should be avoided. Sampling adjacent to or below areas where the anti-fouling system is damaged should also be avoided. When a sample point on the hull has been selected, any fouling present should be removed with water and a soft sponge/cloth before taking a specimen of the anti-fouling system (to avoid contamination of sample). Where possible, if carried out in dry-dock, sampling should be carried out after the hull has been water-washed.

4.3 The materials required for brief sampling methodologies should ideally be inexpensive, widely available and therefore readily accessible, irrespective of sampling conditions and/or location.

4.4 The sampling procedure should ideally be easily and reliably undertaken. Persons conducting sampling should receive appropriate training in sampling methods.

### Technical aspects

4.5 The sampling method should take into account the type of anti-fouling system used on the ship.

4.6 Specimens of paint for analysis during survey and certification can be taken either as wet paint† from product containers, or dry paint film sampled from the hull.

### Sampling strategy and number of samples

4.7 The sampling strategy is dependent on the precision of the sampling method, the analytical requirements, costs and required time and the purpose of the sampling. The number of paint specimens taken of each sample should allow for a retention quantity for back-up/storage in the event

\* During in-service periods, anti-fouling coatings on ships' hulls often become damaged. The extent of the damage varies between ships and damaged areas can be visually recognized. Typically damage can be restricted to localized areas e.g. anchor chain damage (bow region), fender damage (vertical sides of hull), 'rust through areas' (underlying rust causing coating failure) or in some cases be in smaller areas scattered over larger areas of the hull (usually older ships where over-coating of original system has taken place many times).

† In order to prevent contamination, wet paint samples should be taken from a newly opened container. Paint should be stirred to ensure even consistency before sampling and all equipment used should be cleaned prior to use. Liquid paint samples should be stored in appropriate sealed packaging which will not react with or contaminate the sample. In the case of multi-component coatings (where on-site mixing of several components is required prior to application), samples of each component should be taken and the required mixing ratio recorded. When a sample of wet paint is taken from a container, details of the paint should be recorded e.g. details required for the IAFS Certificate along with a batch number for the product.

of a dispute. For dry samples, triplicate specimens of paint at each sampling point should be taken in close proximity to each other on the hull (e.g. within 10 cm of each other).

4.8 In cases where it is recognized that more than one type of anti-fouling system is present on the hull, where access can be gained, samples should be taken from each type of system:

- .1 for survey purposes or for more thorough inspections pursuant to article 11(2) of the Convention, in order to verify the compliance of an anti-fouling system, the number of sample points should reflect representative areas of the ship's hull; and
- .2 for inspection purposes pursuant to article 11(1) of the Convention sample points on the hull should be selected covering representative areas where the anti-fouling system is intact. Depending on the size of the vessel and accessibility to the hull, at least four sample points should be equally spaced down the length of the hull. If sampling is undertaken in dry-dock, flat bottom areas of the hull should be sampled in addition to vertical sides as different anti-fouling systems can be present on these different areas.

#### Analysis

4.9 The analysis of the anti-fouling system should ideally involve minimal analytical effort and economic cost.

4.10 The analysis should be conducted by a recognized laboratory meeting the ISO 17025 standard or another appropriate facility at the discretion of the Administration or the port State.

4.11 The analytical process should be expeditious, such that results are rapidly communicated to the officers authorized to enforce the Convention.

4.12 The analysis should produce unambiguous results expressed in units consistent with the Convention and its associated Guidelines. For example, for organotin, results should be expressed as: mg tin (Sn) per kg of dry paint.

Note: Compound-specific sampling and analytical methodologies are described in the appendices to these Guidelines.

## 5 Thresholds and tolerance limits

### Thresholds

5.1 The analysis should be quantitative to the point of being able to accurately verify the threshold limits within the given tolerance.

5.2 In cases where compliance with acceptable limits, or lack thereof, is unclear, additional sampling or other methodologies for sampling should be considered.

### Tolerance range

5.3 Statistical reliability for each (compound-specific) brief sampling procedure should be documented. The analysis should be quantitative to

the point of being able to accurately verify the threshold limits within the given tolerance. On the basis of these data a compound-specific tolerance range should be derived and stated compound-specific in the method description. In general, the tolerance range should not be higher than the standard deviation under typical conditions for testing and should under no circumstances go beyond 30 %.

## 6 Definition of compliance

6.1 Compliance with Annex 1 of the Convention is assumed if the anti-fouling system contains organotin at a level which does not provide a biocidal effect. In practice organotin compounds should not be present above 2,500 mg organotin (measured as Sn) per kg of dry paint.

6.2 Compliance is largely dependent on the results of sampling and subsequent analysis. As every method of sampling and analysis has its specific accuracy, a compound-specific tolerance level may be applied in borderline cases with concentrations very close to the threshold level.

6.3 In general, compliance is assumed when the samples yield results below the threshold value.

## 7 Documentation and recording of information

7.1 The results of the sampling procedure should be fully documented on a method-specific record sheet. Examples are provided in the appendices to these Guidelines.

7.2 Such record sheets should be completed by the sampler and should be submitted to the competent authority of the Port State or Administration.



## Appendix

### Possible methods for brief sampling and analysis of anti-fouling systems on ships

#### - Organotin -

#### METHOD 1

#### 1 Purpose of this method concerning brief sampling and analysis of anti-fouling systems

1.1 This method has been developed in order to describe a rapid methodology appropriate for the identification of anti-fouling systems on ship hulls containing organotin compounds acting as biocide. This method has been designed such that sealers should not be affected, and any underlying anti-fouling agent (or primer) is not taken up in the sampling procedure. The method is not recommended for silicon-based anti-fouling systems.

1.2 This method is based on a two-step analysis. The first step detects total tin as an indicator for organotin; the second step, detecting specific organotin compounds, is only necessary in the case of the first step proving positive.

#### 2 Sampling device and materials

2.1 The sampling device is constructed in a way that only the upper layer of paint is removed, thereby and should leave any underlying paint (sealer, primer etc.) intact. This result is achieved through the use of a moving disk, (eccentric rotation) which is covered by an abrasive material like quartz or glass fibre fabric. This abrasive material has to be suitable for its use as a supporting material for the removed paint.

2.2 The device fulfils the following requirements:

- .1 the device has to work independently from any stationary power supply. The device may be driven by an electrical motor (battery-driven) or may be mechanically driven by a clockwork-like spring, provided it is able to sustain the movement over the required time period;
- .2 the applied force has to be constant during the operation, and the area for paint removal has to be defined;
- .3 the abrasive material has to be inert against chemical solvents and acids and must not contain more than trace amounts of tin or tin compounds; and
- .4 the amount of paint removed after a regular operation of the device has to be shown to exceed 20 mg per sample.

2.3 The device as described in the following section has been shown to be suitable for the brief sampling procedure. Any other device may be used however, provided such a device has proven to meet all the above-mentioned requirements.

2.4 The sampling device described here consists of a polyethylene disk, on which fibre glass fabric can be mounted by the use of an O-ring. The disk is moved on an eccentrically rotating axis.

### 3 Sampling procedure

3.1 The sampling procedure should be performed in the following manner:

- .1 control samples should be taken through the entire sampling and analytical process to account for possible contamination;
- .2 the mass of the fibre glass pads is weighed with a precision of at least 1 mg. The weight should be documented for each sample;
- .3 the fabric should be moistened thoroughly with isopropanol (0.7ml per sample) immediately before sampling;
- .4 when a sample point on the hull has been selected, any fouling present should be removed with water and a soft sponge/cloth before taking a specimen of the anti-fouling system (to avoid contamination of sample). Where possible, if carried out in dry-dock, sampling should be carried out after the hull has been water-washed;
- .5 the sampling device is then held against the surface to be sampled for a period of 5 seconds, prior to the sampling device being switched on;
- .6 the sampling device is switched on, thereby removing paint by the circular motion of the fibre glass fabric against the surface of the ship;
- .7 the sampling device should be applied to the surface of the hull for a suitable period of time, such that at least 20 mg of paint is taken up by the pad. As a general rule, if the pad colour after sampling matches the colour of the hull coating a sufficient sample has been taken;
- .8 the two-step analysis procedure requires that every sample should be taken in triplicate. Two of the specimens should be labelled Specimen 'A' and Specimen 'B'. In addition a third specimen for storage/back-up should be taken. These specimens should be taken as close to each other as possible, but without overlap; and
- .9 upon completion of the sampling, the fibre glass fabric pads should be left to dry, and re-weighed.

3.2 Samples should be stored in appropriate sealed packaging, which will not react with or contaminate the sample.

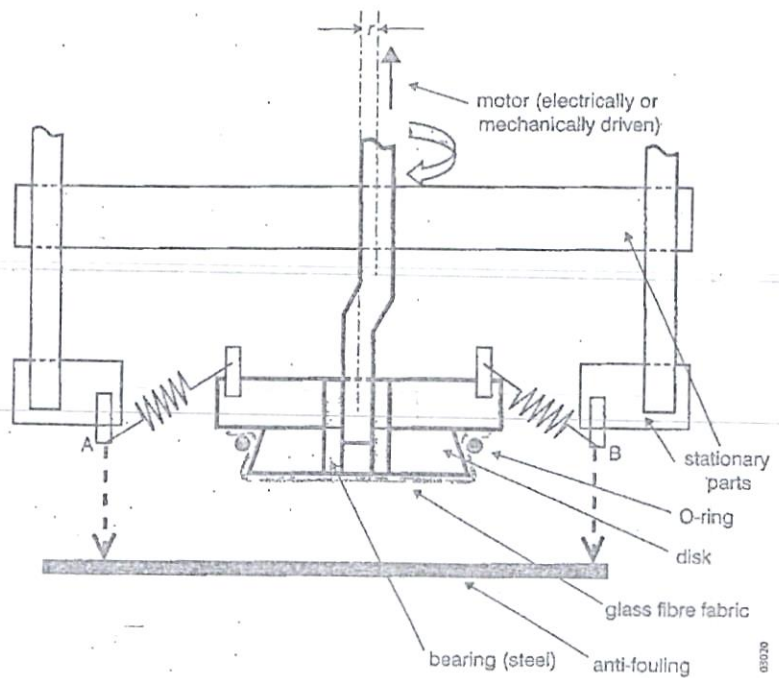


Diagram A - Schematic cross section of the sampling device

The indicated points A and B are to be pressed against the surface. The polyethylene disk, covered with the glass fibre fabric, is moved with an amplitude of  $2r$  ( $r = 1.0$  cm) on the surface.

**Specific data:**

Force applied on the paint surface:	25 N (Newton)
Effective diameter of the disk:	5 cm
Frequency of rotation:	6 rotations/s
Solvent used	isopropanol (0.8 ml per sample).

#### 4 Sampling strategy

4.1 Sampling should be conducted in accordance with paragraph 4 of the Guidelines.

4.2 For inspection purposes in most cases accessibility to all parts of the hull will not be given. A minimum number of eight independent samples should be taken from different accessible parts of the hull.

#### 5 Analytical procedure

5.1 The two components comprising the analytical procedure are illustrated in the flow diagram B. The two components, or steps, are as follows:



- .1 (Step 1) - An analysis of Specimen A for the presence of total tin; and
- .2 (Step 2) - A more cost- and time-consuming analysis of Specimen B, that is applied only when Step 1 produces positive results. This test involves organotin analysis by gas chromatography/mass spectrophotometry (GC/MS) after derivatisation and provides specific data on the respective organotin species.

#### Step 1: Investigation of total tin content in Specimen 'A'

##### Analysis of Specimen 'A'

5.2 Specimen 'A' is analysed for mass of total tin per kilogram of dry paint (or mass of tin per sample) by applying inductively coupled plasma/mass spectrometry (ICP/MS), once the material had been solubilized by digestion using aqua regia. It should be noted that any other scientifically recognized procedure for tin analysis (such as AAS, XRF and ICP-OES) is acceptable.

#### Step 2: Characterization of organotin in Specimen 'B'

##### Analysis of Specimen 'B'

5.3 Should Specimen 'A' produce positive results, organotin compounds should be identified and quantified in Specimen 'B'. Specimen 'B' may be analysed using the following procedure:

- .1 solvent extraction of Specimen 'B' as supported by sonication in an ultrasonic bath;
- .2 derivatisation with ethylmagnesium bromide;
- .3 clean-up of the extract;
- .4 analysis using high resolution gas chromatography/mass spectrophotometry (GC/MS); and
- .5 quantifications using tripropyltin as a standard.

5.5 Any equally reliable method for the chemical identification and quantification of organotin compounds is acceptable.

## 6 Threshold and tolerance range

6.1 The threshold value for the brief sampling method as described here is:

"2,500 mg tin (Sn) per kg of dry paint."

### Tolerance range

6.2 The tolerance range is 500 mg Sn/kg of dry paint (20%) in addition to the threshold value.

### Organotin containing compounds acting as biocides or catalysts

6.3 As stated in the appendix of resolution MEPC.102(48), for the purposes of defining compliance with annex 1 of the Convention, it should be noted that small quantities of organotin compounds, acting as chemical catalysts (such as mono- and di-substituted organotin compounds) are allowed, provided they are not acting as a biocide.

6.4 Inorganic impurities in the constituents of the paints should be considered.

6.5 At present neither organotin catalysts nor inorganic impurities are found at concentrations which will be close to the threshold level (2,500 mg Sn/kg of dry paint) or higher. However, organotin-containing compounds, when present in paint in order to act as a biocide, were found in concentrations up to 50,000 mg Sn/kg of dry paint. Thus the discrimination between anti-fouling systems containing organotin compounds acting as a biocide and anti-fouling systems not containing these compounds or not containing these compounds at concentrations where they act as a biocide, is reliably possible.

## 7 Definition of compliance

### Two-step procedure

7.1 The analytical verification of the compliance with the Convention is performed in a two-step procedure according to the flow-diagram (diagram B).

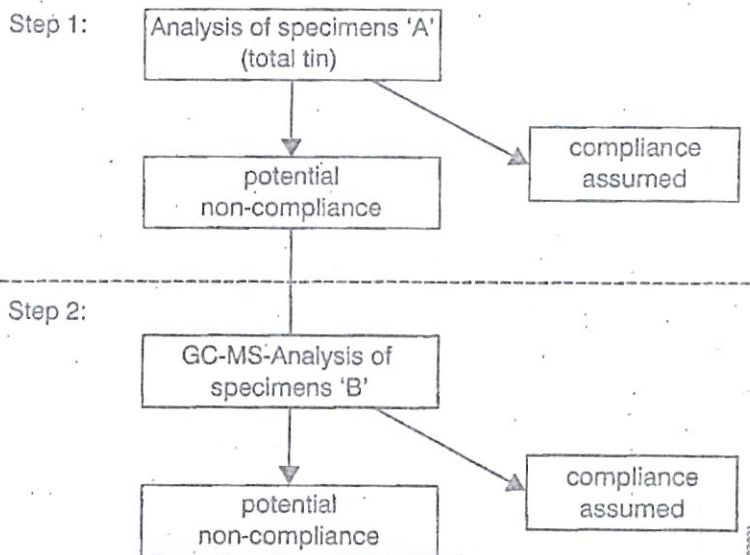


Diagram B - Flow diagram illustrating the two-step analysis procedure

**Compliance with the criteria at the 'Step 1-level'**

7.2 Compliance with the Convention is assumed when the results from the specimens 'A', analysed in step 1, meet the following:

- .1 no more than 25% of the total number of samples yield results above 2,500 milligrams total tin per kilogram dry paint (2,500 mg Sn/kg of dry paint); and
- .2 no sample of the total number of at least eight samples shows a concentration of total tin higher than the sum of threshold value plus the tolerance range, i.e. no sample must exceed the concentration 3,000 mg Sn/kg of dry paint.

7.3 If the results in specimen 'A' indicate that no organotin acting as biocide is present, then performing step 2 is not necessary.

**Non-compliance with the criteria at the 'Step 1-level'**

7.4 A positive result (non-compliance) is indicated if provisions of paragraph 7.2 are not met.

7.5 A positive result at step 1 (specimen 'A') would indicate that step 2 should be undertaken, and those samples labelled specimen 'B' should be analysed in order to determine and characterize the organotin present (see diagram B).

**Compliance with the criteria at the 'Step 2-level'**

7.6 Compliance with the Convention is assumed when the results from the specimens 'B', analysed in step 2, meet the following requirements at the same time:

- .1 no more than 25% of the total number of samples yield results above 2,500 milligrams total tin per kilogram dry paint (2,500 mg Sn/kg of dry paint); and
- .2 no sample of the total number of at least eight samples shows a concentration of total tin higher than the sum of threshold value plus the tolerance range, i.e., no sample must exceed the concentration 3,000 mg Sn/kg of dry paint.

**Non-compliance at 'Step 2-level'**

7.7 A positive result in step 2 indicates non-compliance if the provisions of paragraph 7.6 are not met. Such results should be interpreted to mean that organotin compounds are present in the anti-fouling system at a level at which it would act as a biocide.



## Appendix to method 1

*Record sheet for the brief sampling procedure for compliance with the Convention in terms of the presence of organotin acting as a biocide in anti-fouling systems on ship hulls*

Record sheet GUIDELINES FOR BRIEF SAMPLING OF ANTI-FOULING SYSTEMS ON SHIPS - ORGANOTIN -		Record number
SECTION A: Administration		
1 Country	2 Name of port	3 Date
4 Reason for sampling: <input type="checkbox"/> Port State control <input type="checkbox"/> Survey & Certification <input type="checkbox"/> Other flag State compliance inspection		
5 Company details: 1 Name of ship: 2 Distinctive number or letters: 3 Port of registry: 4 Gross tonnage: 5 IMO number:		6 Inspecting official's details: 1 Name: 2 Comments:
SECTION B: Sampling		
1 Time sampling procedure initiated:		
2 Description of location from where samples were taken (frame number and distance from boot topping, refer to paragraph 3.2):		
3 Number of samples taken (three specimens per sample):		
4 Photographs taken of the sample points prior to sampling? <input type="checkbox"/> Yes <input type="checkbox"/> No		
5 Time sampling procedure completed:		
6 Additional comments concerning sampling procedure:		



## METHOD 2

## 1 Purpose of this method

1.1 This method provides sampling and analysis procedures to identify the presence of organotin compounds in the anti-fouling systems on ships. The method is designed such that the sampling and the first stage analysis could be carried out by ship surveyors or port State control officers (PSCOs) on the survey/inspection site, e.g. at a dry dock.

1.2 This method is based on a two-stage analysis. The first stage detects total tin as an indicator for the presence of organotin and the second stage is necessary only in the case that the first stage analysis providing a positive result to detect specific organotin compounds.

## 2 Sampling

2.1 The sampling is carried out by using abrasive paper rubbing on the surface of the anti-fouling system. This results in collection of paint fragment of the anti-fouling system from thin area, less than several micrometer in depth from the surface, which do not affect the coatings lying underneath such as sealers.

2.2 Abrasive paper is pasted on a disc of approximately 10 mm in diameter. Rubbing the surface of the anti-fouling system with the disc collects several milligrams of the sample on to the abrasive paper.

2.3 The sampling device consists of an electric motor, two (or three) rotating rods on each of which a disc is attached, and a battery for electric power supply. The discs are pressed on to the surface of ship's hull by spring coils. The disks rotate counter-clockwise while the rods turn clockwise around the centre of the device. Schematic diagram is illustrated in figure 1.

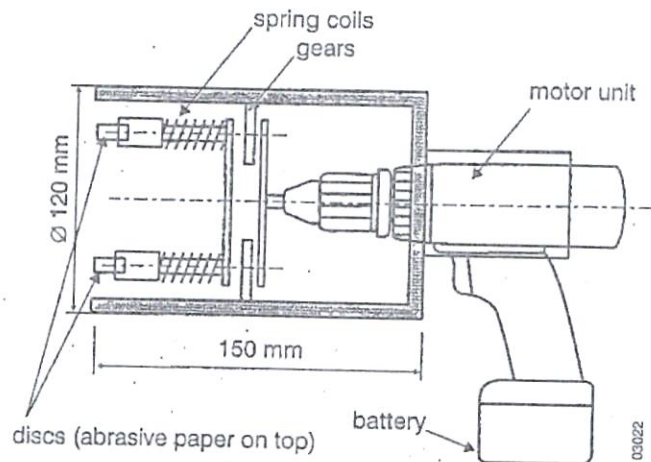


Figure 1 - Schematic diagram of sampling device



2.4 Sampling point is selected such that the anti-fouling system is intact over an area of approximately 50 cm × 50 cm or more. At each sampling point, three sets of sampling, or more if necessary, should be carried out to obtain at least six specimens.

2.5 The device is pressed on the ship's hull where it is appropriate to be sampled and held by hand. The electric motor is switched on to slide along the painted surface to lightly scrape off the fragments of the paint onto the abrasive paper. After the sample collection, each disc is removed from the device and stored in an inert container.

2.6 Sampling should normally be carried out with the sampling device. However, in the case that accessibility to the sampling point is poor, it is acceptable to collect samples with the discs by hand if necessary.

### 3 The first-stage analysis

3.1 The first-stage analysis is assumed to be carried out on the spot of the survey or inspection, e.g. dry docks and sea ports. In order to accomplish the on-site analysis, X-ray fluorescence analysis (XRF) is used in this method to detect total tin content.

3.2 Analytical characteristics, such as detection limit and accuracy, are highly dependent on the type of the instrument, i.e. type of X-ray tube, spectrometer, optical arrangement (filters or collimators), etc. Among several types of the XRF instruments, an energy-dispersive spectrometer with a silicon drift detector (SDD), which is compact in size and be able to be operated without liquid nitrogen, is preferable to the present analytical system for a field use, whereas wave-length dispersion system or solid-state detector are also available if the analysis carried out at laboratories.

3.3 Software customized for the tin analysis is prepared to assist the operator, who is assumed to be a ship surveyor or PSCO, to detect total tin in the specimens.

3.4 The customized software may in advance need a calibration curve of the characteristic X-ray intensity of tin in relation to the tin content particularly in the range of 0.1 to 0.5%.

3.5 After the preparation including the warming-up of the XRF instrument and starting-up of the computer, a specimen (sampling disc) is placed on the sample stage of the instrument. Afterwards, analysis is executed by the customized software. A single batch of analysis for one specimen normally takes 5 minutes and the result is shown on a display automatically.

3.6 Since the XRF analysis does not affect any properties of the specimens, all of the collected specimens (six to nine specimens), including those for the second analysis and storage, are able to be used for this analysis.

#### 4 Interpretation of the result at the first-stage analysis

4.1 Following the procedures above, XRF data of six, or nine, specimens are obtained for each sampling point. Omitting the maximum and minimum values from the data, an average of the tin content is calculated from the intermediate values for the representing value of the sampling point.

4.2 Compliance with the Convention is assumed when none of the tin contents (average values) from the samples do not exceed the sum of the threshold (2,500 mg per kg) and a tolerance (500 mg per kg).

4.3 When one or more average values of samples from different sampling points do not meet the above criteria, the samples should be sent to a laboratory for the second stage analysis. Regardless of the results, it is also possible to undergo the second stage analysis when the surveyor or PSCO considers that it is necessary to do so.

#### 5 Second-stage analysis

5.1 Since the second-stage analysis provides the final and definitive results of the samples, the method should be thoroughly reviewed by experts based on scientific evidence. The following is a brief summary of a tentative methodology for the second stage analysis.

5.2 The collected paint specimens are removed from the abrasive paper and total mass is measured with an electronic balance to an order of 0.1 mg. The specimens are hydrolysed with sodium hydroxide aqueous solution, extracted with organic solvent, and then derivatised with propylmagnesium bromide. After cleaning up the extract, analysis using high resolution gas chromatography/mass spectrometry (GC/MS) is carried out. For quantification analysis, tetrabutyl tin d36 is added as the internal standard.

5.3 These analyses provide the data of chemical species and their content (mg per kg of the specimens). The content of organotin is obtained in a unit of mg per kg of dry paint.

#### 6 Compliance with the Convention

6.1 Compliance with the Convention is assumed when the results from the second-stage analysis meet the following requirements at the same time:

- .1 no more than 25% of the total number of samples yield results above 2,500 milligrams tin as organic form per kilogram dry paint (2,500 mg Sn/kg of dry paint); and
- .2 no sample of the total number of specimens shows a concentration of tin as organic form higher than the sum of the threshold value plus the tolerance range, i.e., no sample must exceed the concentration 3,000 mg Sn/kg dry paint.

6.2 When the result does not meet the above criteria, it is interpreted to mean that organotin compounds are present in the anti-fouling system at a level where they would act as a biocide.

## Appendix to method 2

Record sheet for the sampling  
and analysis of anti-fouling systems  
on ship hulls – organotin compounds

		Record number
<b>Section A: Administration</b>		
1	Country	2 Location
3	Date	
4	Reason for survey inspection	
<b>5 Details of the ship</b>		
5.1	Name of ship	
5.2	Distinctive number or letters	
5.3	Gross tonnage	5.4 Year of build
5.5	Ownership or operator of ship	
5.6	Flag State	5.7 Class of ship
5.8	Authority of AFS Certificate	
5.9	Date of issue	
5.10	Date of last endorsement	
5.11	IMO number	
5.12	Name of shipmaster	
5.13	Product name of anti-fouling systems	
5.14	Name of manufacturer	
5.15	Name of shipyard where applied	
5.16	Comments	
<b>6 Inspecting official's details</b>		
6.1	Name	
6.2	Comments	



Record number

Section B: Sampling and stage 1 analysis (x-ray fluorescence analysis)

Date

Instrument I.D.

Sample/Location	Specimen I.D.	Sampling disc	Content of tin (mg/kg)	max	min	Average	
A	A1	<input type="checkbox"/> abrasives		<input type="checkbox"/>	<input type="checkbox"/>	Average _____ mg/kg	
	A2	<input type="checkbox"/> metal		<input type="checkbox"/>	<input type="checkbox"/>		
	A3	<input type="checkbox"/> others		<input type="checkbox"/>	<input type="checkbox"/>		
		A4	<input type="checkbox"/> abrasives		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> > 2,500 mg/kg <input type="checkbox"/> > 3,000 mg/kg
		A5	<input type="checkbox"/> metal		<input type="checkbox"/>	<input type="checkbox"/>	
		A6	<input type="checkbox"/> others		<input type="checkbox"/>	<input type="checkbox"/>	
		A7	<input type="checkbox"/> abrasives		<input type="checkbox"/>	<input type="checkbox"/>	
		A8	<input type="checkbox"/> metal		<input type="checkbox"/>	<input type="checkbox"/>	
		A9	<input type="checkbox"/> others		<input type="checkbox"/>	<input type="checkbox"/>	
B	B1	<input type="checkbox"/> abrasives		<input type="checkbox"/>	<input type="checkbox"/>	Average _____ mg/kg	
	B2	<input type="checkbox"/> metal		<input type="checkbox"/>	<input type="checkbox"/>		
	B3	<input type="checkbox"/> others		<input type="checkbox"/>	<input type="checkbox"/>		
		B4	<input type="checkbox"/> abrasives		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> > 2,500 mg/kg <input type="checkbox"/> > 3,000 mg/kg
		B5	<input type="checkbox"/> metal		<input type="checkbox"/>	<input type="checkbox"/>	
		B6	<input type="checkbox"/> others		<input type="checkbox"/>	<input type="checkbox"/>	
		B7	<input type="checkbox"/> abrasives		<input type="checkbox"/>	<input type="checkbox"/>	
		B8	<input type="checkbox"/> metal		<input type="checkbox"/>	<input type="checkbox"/>	
		B9	<input type="checkbox"/> others		<input type="checkbox"/>	<input type="checkbox"/>	
C	C1	<input type="checkbox"/> abrasives		<input type="checkbox"/>	<input type="checkbox"/>	Average _____ mg/kg	
	C2	<input type="checkbox"/> metal		<input type="checkbox"/>	<input type="checkbox"/>		
	C3	<input type="checkbox"/> others		<input type="checkbox"/>	<input type="checkbox"/>		
		C4	<input type="checkbox"/> abrasives		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> > 2,500 mg/kg <input type="checkbox"/> > 3,000 mg/kg
		C5	<input type="checkbox"/> metal		<input type="checkbox"/>	<input type="checkbox"/>	
		C6	<input type="checkbox"/> others		<input type="checkbox"/>	<input type="checkbox"/>	
		C7	<input type="checkbox"/> abrasives		<input type="checkbox"/>	<input type="checkbox"/>	
		C8	<input type="checkbox"/> metal		<input type="checkbox"/>	<input type="checkbox"/>	
		C9	<input type="checkbox"/> others		<input type="checkbox"/>	<input type="checkbox"/>	

Guidelines for brief sampling

Sample/Location	Specimen I.D.	Sampling disc	Content of tin (mg/kg)	max	min	Average
D	D1	<input type="checkbox"/> abrasives		<input type="checkbox"/>	<input type="checkbox"/>	Average _____ mg/kg
	D2	<input type="checkbox"/> metal		<input type="checkbox"/>	<input type="checkbox"/>	
	D3	<input type="checkbox"/> others		<input type="checkbox"/>	<input type="checkbox"/>	
	D4	<input type="checkbox"/> abrasives		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> > 2,500 mg/kg
	D5	<input type="checkbox"/> metal		<input type="checkbox"/>	<input type="checkbox"/>	
	D6	<input type="checkbox"/> others		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> > 3,000 mg/kg
	D7	<input type="checkbox"/> abrasives		<input type="checkbox"/>	<input type="checkbox"/>	
	D8	<input type="checkbox"/> metal		<input type="checkbox"/>	<input type="checkbox"/>	
	D9	<input type="checkbox"/> others		<input type="checkbox"/>	<input type="checkbox"/>	

<input type="checkbox"/> Stage II required	<input type="checkbox"/> _____ samples out of _____ are above 2,500 mg/kg	<input type="checkbox"/> Compliant
	<input type="checkbox"/> Sample _____ is above 3,000 mg/kg	
Sampled by		Analysed by
Signature		Signature





**Resolution MEPC.105(49)**

*Adopted on 18 July 2003*

**GUIDELINES FOR INSPECTION  
OF ANTI-FOULING SYSTEMS ON SHIPS**

THE MARINE ENVIRONMENT PROTECTION COMMITTEE,

RECALLING Article 38(a) of the Convention on the International Maritime Organization concerning the functions of the Marine Environment Protection Committee conferred upon it by the international conventions for the prevention and control of marine pollution,

RECALLING ALSO that the International Conference on the Control of Harmful Anti-fouling Systems for Ships, 2001, held in October 2001, adopted the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001 (the AFS Convention) together with four Conference resolutions,

RECALLING FURTHER that Article 11 of the AFS Convention prescribes that ships to which this Convention applies may, in any port, shipyard, or offshore terminal of a Party, be inspected by officers authorized by that Party for the purpose of determining whether the ship is in compliance with this Convention,

NOTING that Article 3(3) of the AFS Convention prescribes that Parties to this Convention shall apply the requirements of this Convention as may be necessary to ensure that no more favourable treatment is given to ships of non-Parties to this Convention,

NOTING ALSO that Article 11(2) of the AFS Convention refers to the guidelines to be developed by the Organization and Conference resolution 2 urges the Organization to develop these guidelines as a matter of urgency for them to be adopted before the entry into force of the Convention,

NOTING FURTHER that through resolutions MEPC.102(48) and MEPC.104(49) the Organization has developed "Guidelines for survey and certification of anti-fouling systems on ships" and "Guidelines for brief sampling of anti-fouling systems on ships, respectively, and

HAVING CONSIDERED the draft Guidelines for inspection of anti-fouling systems on ships pursuant to the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001, prepared by the Subcommittee on Flag State implementation at its eleventh session,

1. ADOPTS the Guidelines for inspection of anti-fouling systems on ships pursuant to the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001, as set out in the annex to this resolution;
2. INVITES Governments to apply the Guidelines as soon as possible, or when the Convention becomes applicable to them; and
3. RECOMMENDS that the Guidelines be adopted as amendments to resolution A.787(19) on Procedures for port State control, as further amended by resolution A.882(21) once the AFS Convention has entered into force and that the Guidelines be reviewed on a regular basis.

## Annex

### *Guidelines for inspection of anti-fouling systems on ships*

#### PART 1

Port State control inspections of anti-fouling systems on ships are governed by Article 11 of the AFS Convention. The process for conducting these inspections is described below. The flow diagram in the Appendix to this annex also describes the AFS port State inspection process.

#### SUB-PART 1

#### INSPECTION OF INTERNATIONAL ANTI-FOULING SYSTEM (IAFS) CERTIFICATE OR DECLARATION ON ANTI-FOULING SYSTEM

#### 1 Ships required to carry an IAFS Certificate or Declaration on Anti-Fouling System

- .1 On boarding and introduction to the master or responsible ship's officer, the port State control officer (PSCO) should examine the IAFS Certificate or Declaration on Anti-Fouling System, and the attached Record of Anti-Fouling Systems, if appropriate.
- .2 The IAFS Certificate carries the information on the particulars of the ship and a series of checkboxes to indicate if an anti-fouling system controlled under annex I of AFS 2001 has or has not been applied, removed or been covered with a sealer coat, and if an anti-fouling system controlled under annex I of AFS 2001 was applied on the ship prior to or after the date specified in AFS 2001.
- .3 As a preliminary check, the validity of the IAFS Certificate should be confirmed by verifying that the IAFS Certificate is properly completed and signed/endorsed by the Administration, or by a recognized organization (RO) and stating that the required survey has been performed. In reviewing the IAFS Certificate, particular attention should be given to verifying that the initial survey matches the dry dock period listed in the ship's log(s) and that only one box should be marked.

- .4 The Record of Anti-Fouling Systems should be inspected to ensure that the records are attached to the IAFS Certificate and are up to date. The most recent Record must correlate with the correct checkbox on the front of the IAFS Certificate.

## 2 Ships of non-Parties to AFS 2001

- .1 As ships of non-Parties to AFS 2001 are not entitled to an IAFS Certificate, the PSCO should look for documentation that contains all of the information in the IAFS Certificate. The records described in resolution MEPC.102(48), paragraphs 5.2.2 and 5.3.2 can be used as examples of this types of documentation. If the ship has such documentation, the PSCO may take its content into account in the evaluation of that ship's compliance.
- .2 In all other respects the PSCO should be guided by the procedures for ships referred to in paragraph 1 above (Ships required to carry an IAFS Certificate).

### SUB-PART 2

#### BRIEF SAMPLING OF ANTI-FOULING SYSTEMS ON SHIPS

1 In addition to reviewing the IAFS Certificate, the AFS 2001 specifies that the inspection may also include a brief sampling of the ship's anti-fouling system. The sampling must not affect the integrity, structure, or operation of the anti-fouling system, taking into account the guidelines contained in resolution MEPC.104(49).

2 If a brief sampling is conducted, the time to process the results shall not be used as a basis for preventing the movement and departure of the ship.

### PART 2

#### MORE THOROUGH INSPECTION

1 If the results of the inspection, observations on board, or other information leads to clear grounds for believing that the ship is in violation of the AFS 2001, or if the anti-fouling system does not correspond substantially with the particulars of the IAFS Certificate, a more thorough inspection may be carried out taking into account any of the following steps.

- 2 Inspection of additional documentation, to include:
  - .1 ship's logs, including entries regarding:
    - .1 date of last repair, drydock or application of anti-fouling system, date of departure from location;
    - .2 current port and date of arrival; and
    - .3 ship's position at or near the time the boarding took place; and
  - .2 inspection of additional documentation described in paragraphs 5.2.2 and 5.2.3 of resolution MEPC.102(48).



3 If appropriate, spot check dates of last hull coating matches date in drydock?

4 If the IAFS Certificate is not properly completed, information on the following questions may be pertinent:

- .1 "When was the last time the ship's anti-fouling system was applied?";
- .2 "If the anti-fouling system is controlled under Annex 1 to AFS 2001 and was removed, what was the name of the facility and date of the work performed?";
- .3 "If the anti-fouling system is controlled under Annex 1 of AFS 2001 and has been covered by a sealer coat, what was the name of the facility and date applied?";
- .4 "What is the name of the anti-fouling/sealer products and the manufacturer or distributor for the existing anti-fouling system?"; and
- .5 "If the current anti-fouling system was changed from the previous system, what was the type of anti-fouling system and name of the previous manufacturer or distributor?";

5 Performing additional verification, for example, more comprehensive sampling and analysis of the ship's anti-fouling system. Such sampling and analysis will likely be more detailed and comprehensive than the brief inspection that may be carried out during the initial port State control inspection, and may involve the use of laboratories and detailed scientific testing procedures. Refer to the guidelines in resolution MEPC.104(49) when conducting these additional samples or analyses.

6 Additional information available to the PSCO, depending on the circumstances of the case, such as reports of recent previous violations or alleged contraventions received from other port States.

### PART 3

#### PORT STATE ACTION IN RESPONSE TO ALLEGED CONTRAVENTIONS

1 Article 11(4) of AFS 2001 allows Parties to inspect ships on request of another Party, if a request for an investigation is received and sufficient evidence that the ship is operating or has operated in violation of the Convention is provided. Article 12(2) permits port States conducting inspection to furnish the Administration of the ship concerned such information and evidence as may be in its possession that a violation has occurred. Experience has shown that information furnished to the flag State is often inadequate to enable the flag State to cause proceedings to be brought in respect of the alleged violation of the AFS 2001 requirements. This part is intended to identify information which is often needed by a flag State for the prosecution of such possible violations.

2 It is recommended that in preparing a port State report on deficiencies, where contravention to AFS 2001 requirements is involved, the authorities of the coastal or port State be guided by the itemized list of possible evidence as shown in part 2. It should be borne in mind in this connection that:

- .1 the report aims to provide the optimal collation of obtainable data; however, even if all the information cannot be provided, as much information as possible should be submitted; and
- .2 it is important for all the information included in the report to be supported by facts which, when considered as a whole, would lead the port or coastal State to believe a contravention had occurred.

3 In addition to the port State report on deficiencies, a report should be completed by a port or coastal State, on the basis of the itemized list of possible evidence. It is important that these reports are supplemented by documents such as:

- .1 a statement by the PSCO of the suspected non-conforming anti-fouling system. In addition to the information required in part 2, the statement should include considerations which lead the PSCO to carry out a more detailed inspection;
- .2 statements concerning any sampling procedures of the anti-fouling system. These should include: location of the vessel at the time it was sampled as well as an indication of where the sample was taken from the hull, including the vertical distance from the boot topping, the time of sampling, identity of person(s) taking the samples, and receipts identifying the persons having custody and receiving transfer of the samples;
- .3 reports of analyses of any samples taken of the anti-fouling system; the reports should include the results of the analyses, a description of the method employed, reference to or copies of scientific documentation attesting to the accuracy and validity of the method employed, the names of persons performing the analyses and their experience and a description of the quality assurance measures of the analyses;
- .4 a statement by the PSCO on board together with the PSCO's rank and organization;
- .5 statements by persons being questioned;
- .6 statements by witnesses;
- .7 photographs of the hull and sample areas; and
- .8 copy of the IAFS Certificate, including copies of relevant pages of the Record of Anti-fouling Systems, log books, MSDS or similar, declaration of compliance from the anti-fouling system manufacturer, invoices from the shipyard and other dry dock records pertaining to the anti-fouling system, etc.

4. All observations, photographs and documentation should be supported by a signed verification of their authenticity. All certifications, authentications or verifications should be executed in accordance with the laws of the State which prepares them. All statements should be signed and dated by the person making the statement. The names of the persons signing statements should be printed in legible script above or below the signature.

5. The reports referred to under paragraphs 2 and 3 of this part should be sent to the flag State. If the coastal State observing the contravention and the port State carrying out the investigation on board are not the same, the State carrying out the latter investigation should also send a copy of its findings to the State which initiated the investigation.

#### PART 4

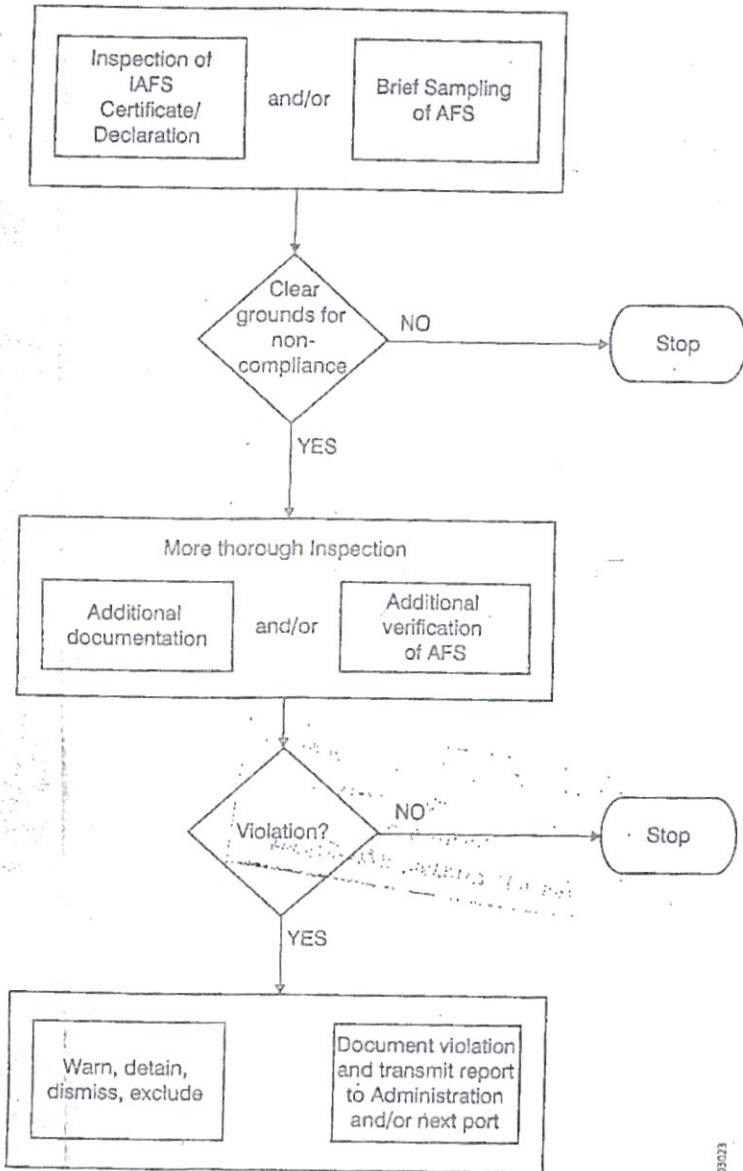
#### RESPONSIBILITIES OF PORT STATE TO NOTIFY THE CONTRAVENTION TO THE FLAG STATE

1. Article 11(3) of AFS 2001 states that any time a ship is warned or detained, or is dismissed or excluded from a port for violation of the Convention, the Party taking such action shall immediately inform the flag Administration of the ship concerned. The form in appendix 5 should be used to inform the flag Administration. In the event that the deficiencies identified by the PSCO cannot be corrected in the port of inspection and the ship is allowed to sail from that port, the guidance in paragraph 4.7.3 and the forms in appendices 6 and 7 should be used.





### Appendix AFS port State inspection process



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**Explanatory Notes:**

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the Certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry "Duration of Security" must stipulate the date on which such security takes effect.
5. The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.



**CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY  
IN RESPECT OF CIVIL LIABILITY FOR BUNKER OIL POLLUTION  
DAMAGE**

Issued in accordance with the provisions of article 7 of the  
International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001

Name of Ship	Distinctive Number or letters	IMO Ship Identification Number	Port of Registry	Name and full address of the principal place of business of the registered owner.

This is to certify that there is in force in respect of the above-named ship a policy of insurance or other financial security satisfying the requirements of article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001.

Type of Security .....

Duration of Security .....

Name and address of the insurer(s) and/or guarantor(s)

Name .....

Address .....

.....

This certificate is valid until .....

Issued or certified by the Government of .....

.....

(Full designation of the State)

**OR**

*The following text should be used when a State Party avails itself of article 7(3)*

The present certificate is issued under the authority of the Government of .....(full designation of the State) by.....(name of institution or organization)

At ..... On .....

(Place) (Date)

.....  
(Signature and Title of issuing or certifying official)

ARTICLE 19

**Languages**

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this twenty-third day of March two thousand and one.

IN WITNESS WHEREOF the undersigned being duly authorised by their respective Governments for that purpose have signed this Convention.

## ARTICLE 16

### Revision or amendment

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.
2. The Organization shall convene a conference of the States Parties for revising or amending this Convention at the request of not less than one-third of the States Parties.

## ARTICLE 17

### Depositary

1. This Convention shall be deposited with the Secretary-General.
2. The Secretary-General shall:
  - (a) inform all States which have signed or acceded to this Convention of:
    - (i) each new signature or deposit of instrument together with the date thereof;
    - (ii) the date of entry into force of this Convention;
    - (iii) the deposit of any instrument of denunciation of this Convention together with the date of the deposit and the date on which the denunciation takes effect; and
    - (iv) other declarations and notifications made under this Convention.
  - (b) transmit certified true copies of this Convention to all Signatory States and to all States which accede to this Convention.

## ARTICLE 18

### Transmission to United Nations

As soon as this Convention comes into force, the text shall be transmitted by the Secretary-General to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.



shall be construed as referring to the territorial unit respectively in which the ship is registered and which issues or certifies the certificate;

- (c) references in this Convention to the requirements of national law shall be construed as references to the requirements of the law of the relevant territorial unit; and
- (d) references in articles 9 and 10 to courts, and to judgements which must be recognized in States Parties, shall be construed as references respectively to courts of, and to judgements which must be recognized in, the relevant territorial unit.

#### ARTICLE 14

##### **Entry into Force**

1. This Convention shall enter into force one year following the date on which 18 States, including five States each with ships whose combined gross tonnage is not less than 1 million, have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General.

2. For any State which ratifies, accepts, approves or accedes to it after the conditions in paragraph 1 for entry into force have been met, this Convention shall enter into force three months after the date of deposit by such State of the appropriate instrument.

#### ARTICLE 15

##### **Denunciation**

1. This Convention may be denounced by any State Party at any time after the date on which this Convention comes into force for that State.

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

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

## ARTICLE 12

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

1. This Convention shall be open for signature at the Headquarters of the Organization from 1 October 2001 until 30 September 2002 and shall thereafter remain open for accession.
2. States may express their consent to be bound by this Convention by:
  - (a) signature without reservation as to ratification, acceptance or approval;
  - (b) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or
  - (c) accession.
3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.
4. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to this Convention with respect to all existing State Parties, or after the completion of all measures required for the entry into force of the amendment with respect to those State Parties shall be deemed to apply to this Convention as modified by the amendment.

## ARTICLE 13

### States with more than one system of law

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.
2. Any such declaration shall be notified to the Secretary-General and shall state expressly the territorial units to which this Convention applies.
3. In relation to a State Party which has made such a declaration:
  - (a) in the definition of "registered owner" in article 1(4), references to a State shall be construed as references to such a territorial unit;
  - (b) references to the State of a ship's registry and, in relation to a compulsory insurance certificate, to the issuing or certifying State,

## ARTICLE 9

### **Jurisdiction**

1. Where an incident has caused pollution damage in the territory, including the territorial sea, or in an area referred to in article 2(a)(ii) of one or more States Parties, or preventive measures have been taken to prevent or minimise pollution damage in such territory, including the territorial sea, or in such area, actions for compensation against the shipowner, insurer or other person providing security for the shipowner's liability may be brought only in the courts of any such States Parties.
2. Reasonable notice of any action taken under paragraph 1 shall be given to each defendant.
3. Each State Party shall ensure that its courts have jurisdiction to entertain actions for compensation under this Convention.

## ARTICLE 10

### **Recognition and enforcement**

1. Any judgement given by a Court with jurisdiction in accordance with article 9 which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognised in any State Party, except:
  - (a) where the judgement was obtained by fraud; or
  - (b) where the defendant was not given reasonable notice and a fair opportunity to present his or her case.
2. A judgement recognised under paragraph 1 shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.

## ARTICLE 11

### **Supersession Clause**

This Convention shall supersede any Convention in force or open for signature, ratification or accession at the date on which this Convention is opened for signature, but only to the extent that such Convention would be in conflict with it; however, nothing in this article shall affect the obligations of States Parties to States not party to this Convention arising under such Convention.



11. A State Party shall not permit a ship under its flag to which this article applies to operate at any time, unless a certificate has been issued under paragraphs 2 or 14.
12. Subject to the provisions of this article, each State Party shall ensure, under its national law, that insurance or other security, to the extent specified in paragraph 1, is in force in respect of any ship having a gross tonnage greater than 1000, wherever registered, entering or leaving a port in its territory, or arriving at or leaving an offshore facility in its territorial sea.
13. Notwithstanding the provisions of paragraph 5, a State Party may notify the Secretary-General that, for the purposes of paragraph 12, ships are not required to carry on board or to produce the certificate required by paragraph 2, when entering or leaving ports or arriving at or leaving from offshore facilities in its territory, provided that the State Party which issues the certificate required by paragraph 2 has notified the Secretary-General that it maintains records in an electronic format, accessible to all States Parties, attesting the existence of the certificate and enabling States Parties to discharge their obligations under paragraph 12.
14. If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authority of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limit prescribed in accordance with paragraph 1. Such a certificate shall follow as closely as possible the model prescribed by paragraph 2.
15. A State may, at the time of ratification, acceptance, approval of, or accession to this Convention, or at any time thereafter, declare that this article does not apply to ships operating exclusively within the area of that State referred to in article 2(a)(i).

## ARTICLE 8

### Time limits

Rights to compensation under this Convention shall be extinguished unless an action is brought thereunder within three years from the date when the damage occurred. However, in no case shall an action be brought more than six years from the date of the incident which caused the damage. Where the incident consists of a series of occurrences, the six-years' period shall run from the date of the first such occurrence.

5. The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authorities issuing or certifying the certificate.

6. An insurance or other financial security shall not satisfy the requirements of this article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2 of this article, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5 of this article, unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this article.

7. The State of the ship's registry shall, subject to the provisions of this article, determine the conditions of issue and validity of the certificate.

8. Nothing in this Convention shall be construed as preventing a State Party from relying on information obtained from other States or the Organization or other international organisations relating to the financial standing of providers of insurance or financial security for the purposes of this Convention. In such cases, the State Party relying on such information is not relieved of its responsibility as a State issuing the certificate required by paragraph 2.

9. Certificates issued or certified under the authority of a State Party shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as certificates issued or certified by them even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the insurance certificate is not financially capable of meeting the obligations imposed by this Convention.

10. Any claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security for the registered owner's liability for pollution damage. In such a case the defendant may invoke the defences (other than bankruptcy or winding up of the shipowner) which the shipowner would have been entitled to invoke, including limitation pursuant to article 6. Furthermore, even if the shipowner is not entitled to limitation of liability according to article 6, the defendant may limit liability to an amount equal to the amount of the insurance or other financial security required to be maintained in accordance with paragraph 1. Moreover, the defendant may invoke the defence that the pollution damage resulted from the wilful misconduct of the shipowner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the shipowner against the defendant. The defendant shall in any event have the right to require the shipowner to be joined in the proceedings.

- (a) name of ship, distinctive number or letters and port of registry;
  - (b) name and principal place of business of the registered owner;
  - (c) IMO ship identification number;
  - (d) type and duration of security;
  - (e) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established;
  - (f) period of validity of the certificate which shall not be longer than the period of validity of the insurance or other security.
3. (a) A State Party may authorize either an institution or an organization recognized by it to issue the certificate referred to in paragraph 2. Such institution or organization shall inform that State of the issue of each certificate. In all cases, the State Party shall fully guarantee the completeness and accuracy of the certificate so issued and shall undertake to ensure the necessary arrangements to satisfy this obligation.
- (b) A State Party shall notify the Secretary-General of :
- (i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognised by it;
  - (ii) the withdrawal of such authority; and
  - (iii) the date from which such authority or withdrawal of such authority takes effect.

An authority delegated shall not take effect prior to three months from the date on which notification to that effect was given to the Secretary-General.

- (c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not maintained. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.
4. The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into one of these languages and, where the State so decides, the official language of the State may be omitted.



4. With respect to ships owned by a State Party and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in article 9 and shall waive all defences based on its status as a sovereign State.

## ARTICLE 5

### **Incidents involving two or more ships**

When an incident involving two or more ships occurs and pollution damage results therefrom, the shipowners of all the ships concerned, unless exonerated under article 3, shall be jointly and severally liable for all such damage which is not reasonably separable.

## ARTICLE 6

### **Limitation of liability**

Nothing in this Convention shall affect the right of the shipowner and the person or persons providing insurance or other financial security to limit liability under any applicable national or international regime, such as the Convention on Limitation of Liability for Maritime Claims, 1976<sup>1</sup>, as amended.

## ARTICLE 7

### **Compulsory insurance or financial security**

1. The registered owner of a ship having a gross tonnage greater than 1000 registered in a State Party shall be required to maintain insurance or other financial security, such as the guarantee of a bank or similar financial institution, to cover the liability of the registered owner for pollution damage in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases, not exceeding an amount calculated in accordance with the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

2. A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship after the appropriate authority of a State Party has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This certificate shall be in the form of the model set out in the annex to this Convention and shall contain the following particulars:

---

<sup>1</sup> Treaty Series No. 13 (1990) Cm 955

2. Where more than one person is liable in accordance with paragraph 1, their liability shall be joint and several.

3. No liability for pollution damage shall attach to the shipowner if the shipowner proves that:

- (a) the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or
- (b) the damage was wholly caused by an act or omission done with the intent to cause damage by a third party; or
- (c) the damage was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

4. If the shipowner proves that the pollution damage resulted wholly or partially either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the shipowner may be exonerated wholly or partially from liability to such person.

5. No claim for compensation for pollution damage shall be made against the shipowner otherwise than in accordance with this Convention.

6. Nothing in this Convention shall prejudice any right of recourse of the shipowner which exists independently of this Convention.

#### ARTICLE 4

##### Exclusions

1. This Convention shall not apply to pollution damage as defined in the Civil Liability Convention, whether or not compensation is payable in respect of it under that Convention.

2. Except as provided in paragraph 3, the provisions of this Convention shall not apply to warships, naval auxiliary or other ships owned or operated by a State and used, for the time being, only on Government non-commercial service.

3. A State Party may decide to apply this Convention to its warships or other ships described in paragraph 2, in which case it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

10. "State of the ship's registry" means, in relation to a registered ship, the State of registration of the ship and, in relation to an unregistered ship, the State whose flag the ship is entitled to fly.

11. "Gross tonnage" means gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 of the International Convention on Tonnage Measurement of Ships, 1969<sup>1</sup>.

12. "Organization" means the International Maritime Organization.

13. "Secretary-General" means the Secretary-General of the Organization.

## ARTICLE 2

### Scope of application

This Convention shall apply exclusively:

- (a) to pollution damage caused:
  - (i) in the territory, including the territorial sea, of a State Party, and
  - (ii) in the exclusive economic zone of a State Party, established in accordance with international law, or, if a State Party has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;
- (b) to preventive measures, wherever taken, to prevent or minimize such damage.

## ARTICLE 3

### Liability of the shipowner

1. Except as provided in paragraphs 3 and 4, the shipowner at the time of an incident shall be liable for pollution damage caused by any bunker oil on board or originating from the ship, provided that, if an incident consists of a series of occurrences having the same origin, the liability shall attach to the shipowner at the time of the first of such occurrences.

---

<sup>1</sup> Treaty Series No. 50 (1982) Cmnd 8716



## ARTICLE 1

### Definitions

For the purposes of this Convention:

1. "Ship" means any seagoing vessel and seaborne craft, of any type whatsoever.
2. "Person" means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.
3. "Shipowner" means the owner, including the registered owner, bareboat charterer, manager and operator of the ship.
4. "Registered owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, "registered owner" shall mean such company.
5. "Bunker oil" means any hydrocarbon mineral oil, including lubricating oil, used or intended to be used for the operation or propulsion of the ship, and any residues of such oil.
6. "Civil Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1992, as amended.
7. "Preventive measures" means any reasonable measures taken by any person after an incident has occurred to prevent or minimize pollution damage.
8. "Incident" means any occurrence or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage.
9. "Pollution damage" means:
  - (a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and
  - (b) the costs of preventive measures and further loss or damage caused by preventive measures.

**INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR  
BUNKER OIL POLLUTION DAMAGE, 2001**

**The States Parties to this Convention,**

**RECALLING** article 194 of the United Nations Convention on the Law of the Sea, 1982<sup>1</sup>, which provides that States shall take all measures necessary to prevent, reduce and control pollution of the marine environment,

**RECALLING ALSO** article 235 of that Convention, which provides that, with the objective of assuring prompt and adequate compensation in respect of all damage caused by pollution of the marine environment, States shall co-operate in the further development of relevant rules of international law,

**NOTING** the success of the International Convention on Civil Liability for Oil Pollution Damage, 1992<sup>2</sup> and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992<sup>3</sup> in ensuring that compensation is available to persons who suffer damage caused by pollution resulting from the escape or discharge of oil carried in bulk at sea by ships,

**NOTING ALSO** the adoption of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996<sup>4</sup> in order to provide adequate, prompt and effective compensation for damage caused by incidents in connection with the carriage by sea of hazardous and noxious substances,

**RECOGNIZING** the importance of establishing strict liability for all forms of oil pollution which is linked to an appropriate limitation of the level of that liability,

**CONSIDERING** that complementary measures are necessary to ensure the payment of adequate, prompt and effective compensation for damage caused by pollution resulting from the escape or discharge of bunker oil from ships,

**DESIRING** to adopt uniform international rules and procedures for determining questions of liability and providing adequate compensation in such cases,

**HAVE AGREED** as follows:

---

<sup>1</sup> Treaty Series No. 81 (1999) Cm 4524

<sup>2</sup> Treaty Series No. 106 (1975) Cmnd 6183

<sup>3</sup> Treaty Series No. 95 (1978) Cmnd 7383

<sup>4</sup> Miscellaneous No.5 (1997) Cm 3580

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Miscellaneous No.8 (2005)

# International Convention

on Civil Liability for Bunker Oil Pollution Damage, 2001

London, 23 March 2001

[The Convention has not been ratified by the United Kingdom]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
November 2005*

Cm 6693

£5.00

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 (3) of article 30 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;
  - (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.

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.

Signatures omitted.

amendment by a Conference:

- (a) Upon the request of a Party to the present Protocol concurred in by at least one-third of the Parties, the Organization shall convene a Conference of Parties to consider amendments to the present Protocol and the Convention.
  - (b) Every amendment adopted by such a Conference by a two-thirds majority of the Parties present and voting shall be communicated by the Secretary-General of the Organization to all Parties for acceptance.
  - (c) 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 2(f) and 2(g) respectively, provided that references in these paragraphs to the expanded Maritime Safety Committee shall be taken to mean references to the Conference.
- 4 (a) A Party to the present Protocol which has accepted an amendment referred to in subparagraph 2(f)(ii) which has entered into force shall not be obliged to extend the benefit of the present Protocol in respect of the certificates issued to a ship entitled to fly the flag of a State Party which, pursuant to the provisions of that subparagraph, has objected to the amendment and has not withdrawn such an objection, in so far as such certificates relate to matters covered by the amendment in question.
- (b) A Party to the present Protocol which has accepted an amendment referred to in subparagraph 2(f)(ii) which has entered into force shall extend the benefit of the present Protocol in respect of the certificates issued to a ship entitled to fly the flag of a State Party which, pursuant to the provisions of subparagraph 2(g)(ii), has notified the Secretary-General of the Organization that it exempts itself from giving effect to the amendment.
- 5 Unless expressly provided otherwise, any amendment 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.
- 6 Any declaration of acceptance of, or objection to, an amendment or any notice given under subparagraph 2(g)(ii) shall be submitted in writing to the Secretary-General of the Organization, who shall inform all Parties to the present Protocol of any such submission and the date of its receipt.
- 7 The Secretary-General of the Organization shall inform all Parties to the present Protocol of any amendments which enter into force under this article, together with the date on which each such amendment enters into force.

#### 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.



(hereinafter referred to as "the expanded Maritime Safety Committee") on condition that at least one third of the Parties shall be present at the time of voting.

- (e) Amendments adopted in accordance with subparagraph (d) shall be communicated by the Secretary-General of the Organization to all Parties to the present Protocol for acceptance.
- (f) (i) An amendment to an article or Annex A to the present Protocol or an amendment, as between Parties to the present Protocol, to an article of the Convention, shall be deemed to have been accepted on the date on which it is accepted by two thirds of the Parties to the present Protocol.
- (ii) An amendment to Annex B to the present Protocol or an amendment, as between Parties to the present Protocol, to an Annex to the Convention, shall be deemed to have been accepted:
  - (aa) at the end of two years from the date on which it is communicated to Parties to the present Protocol 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 Parties present and voting in the expanded Maritime Safety Committee.

However, if within the specified period either more than one third of the Parties, or Parties the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of all the merchant fleets of all Parties, notify the Secretary-General of the Organization that they object to the amendment, it shall be deemed not to have been accepted.

- (g) (i) An amendment referred to in subparagraph (f)(i) shall enter into force with respect to those Parties to the present Protocol which have accepted it, six months after the date on which it is deemed to have been accepted, and with respect to each Party which accepts it after the date, six months after the date of that Party's acceptance.
- (ii) An amendment referred to in subparagraph (f)(ii) shall enter into force with respect to all Parties to the present Protocol, except those which have objected to the amendment under that subparagraph 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 Party 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 Parties present and voting in the expanded Maritime Safety Committee at the time of the adoption of the amendment.

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 for the Safety of Life at Sea, 1974 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.

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

## Article VI

### *Amendments*

1 The present Protocol and, as between the Parties to the present Protocol, the Convention may be amended by either of the procedures specified in the following paragraphs.

2 Amendment after consideration within the Organization:

- (a) Any amendment proposed by a Party to the present Protocol 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 to the Convention at least six months prior to its consideration.
- (b) Any amendment proposed and circulated as above shall be referred to the Maritime Safety Committee of the Organization for consideration.
- (c) States which are Parties to the present Protocol, 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.
- (d) Amendments shall be adopted by a two-thirds majority of the Parties to the present Protocol present and voting in the Maritime Safety Committee expanded as provided for in subparagraph (c)

2 A Party to the present Protocol shall not issue certificates in accordance with, the provisions of the International Convention on Load Lines, 1966, as adopted on 5 April 1966.

### 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 load line matters 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 provisions 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, accepted 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:



Protocol of 1988 relating to the  
International Convention on Load Lines, 1966

THE PARTIES TO THE PRESENT PROTOCOL,  
BEING PARTIES to the International Convention on Load Lines, 1966, done  
at London on 5 April 1966,

RECOGNIZING the significant contribution which is made by the above-  
mentioned Convention to the promotion of the safety of ships and property at  
sea and the lives of persons on board,

RECOGNIZING ALSO the need to improve further the technical provisions  
of the above-mentioned Convention,

RECOGNIZING FURTHER 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 these needs may best be met by the conclusion of a  
Protocol relating to the International Convention on Load Lines, 1966,

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 Annexes 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 Annexes hereto.
- 2 As between the Parties to the present Protocol, the provisions of the International Convention on Load Lines, 1966 (hereinafter referred to as "the Convention"), except article 29, 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**

*Existing certificates*

- 1 Notwithstanding any other provisions of the present Protocol, any International Load Line Certificate which is current when the present Protocol enters into force in respect of the Government of the State whose flag the ship is entitled to fly shall remain valid until it expires.

**Part 2**  
**Articles of the**  
**Protocol of 1988**  
**relating to the**  
**International Convention**  
**on Load Lines, 1966**

*Reverse of Certificate*

This is to certify that this ship continues to comply with the conditions under which this exemption was granted.

Place ..... Date .....  
*signature and/or seal of issuing authority*

Place ..... Date .....  
*signature and/or seal of issuing authority*

Place ..... Date .....  
*signature and/or seal of issuing authority*

Place ..... Date .....  
*signature and/or seal of issuing authority*

This ship continues to comply with the conditions under which this exemption was granted and the validity of this certificate is, in accordance with article 19(4)(a) of the Convention, extended until .....

Place ..... Date .....  
*signature and/or seal of issuing authority*



Conditions, if any, on which the exemption is granted under either article 6(2) or article 6(4):

.....

This certificate is valid until ..... subject where appropriate, to periodical inspections in accordance with article 14(1)(c) of the Convention.

Issued at ..... (Place of issue of certificate)

..... 19 ..... (Date of issue) ..... (Signature of official issuing the certificate) and/or (Seal of issuing authority)

If signed, the following paragraph is to be added:  
The undersigned declares that he is duly authorized by the said Government to issue this certificate.

..... (Signature)

INTERNATIONAL LOAD LINE EXEMPTION CERTIFICATE

[Official seal]

Issued under the provisions of the International Convention on Load Lines, 1966,  
under the authority of the government of

\_\_\_\_\_

(full official designation of the country)

by \_\_\_\_\_

(full official designation of the competent person  
or organization recognized under the provisions  
of the International Convention on Load Lines, 1966)

Name of ship	Distinctive number or letters	Port of registry

This is to certify that the above-mentioned ship is exempted from the provisions of the  
1966 Convention, under the authority conferred by article 6(2)/article 6(4)\* of the  
Convention referred to above.

The provisions of the Convention from which the ship is exempted under article 6(2)  
are:

.....  
.....  
.....

The voyage for which exemption is granted under article 6(4) is:

From: .....

To: .....

\* Delete whichever is inapplicable.

*Reverse of Certificate*

THIS IS TO CERTIFY that at a periodical inspection required by article 14(1)(c) of the Convention, the ship was found to comply with the relevant provisions of the Convention.

Place ..... Date .....

*signature and/or seal of issuing authority*

Place ..... Date .....

*signature and/or seal of issuing authority*

Place ..... Date .....

*signature and/or seal of issuing authority*

Place ..... Date .....

*signature and/or seal of issuing authority*

The provisions of the Convention being fully complied with by this ship, the validity of this certificate is, in accordance with article 19(2) of the Convention, extended until .....

Place ..... Date .....

*signature and/or seal of issuing authority*



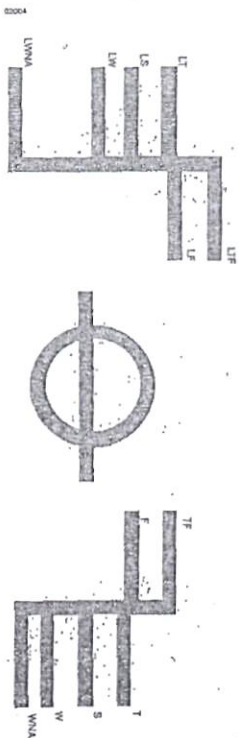


Freeboard from deck line	Load line
Tropical . . . . . mm (inches) (T)	. . . . . mm (inches) above (S)
Summer . . . . . mm (inches) (S)	Upper edge of line through centre of ring
Winter . . . . . mm (inches) (W)	. . . . . mm (inches) below (S)
Winter North Atlantic . . . . . mm (inches) (WNA)	. . . . . mm (inches) below (S)
Timber tropical . . . . . mm (inches) (LT)	. . . . . mm (inches) above (LS)
Timber summer . . . . . mm (inches) (LS)	. . . . . mm (inches) above (S)
Timber winter . . . . . mm (inches) (LW)	. . . . . mm (inches) below (LS)
Timber winter North Atlantic . . . . . mm (inches) (LWNA)	. . . . . mm (inches) below (LS)

NOTE: Freeboards and load lines which are not applicable need not be entered on the certificate.

Allowance for fresh water for all freeboards other than timber . . . . . mm (inches). For timber freeboards . . . . . mm (inches).

The upper edge of the deck line from which these freeboards are measured is . . . . . mm (inches) . . . . . deck at side.



Date of initial or periodical survey . . . . .

This is to certify that this ship has been surveyed and that the freeboards have been assigned and load lines shown above have been marked in accordance with the International Convention on Load Lines, 1966

This certificate is valid until . . . . . subject to periodical inspections in accordance with article 14(1)(c) of the Convention.

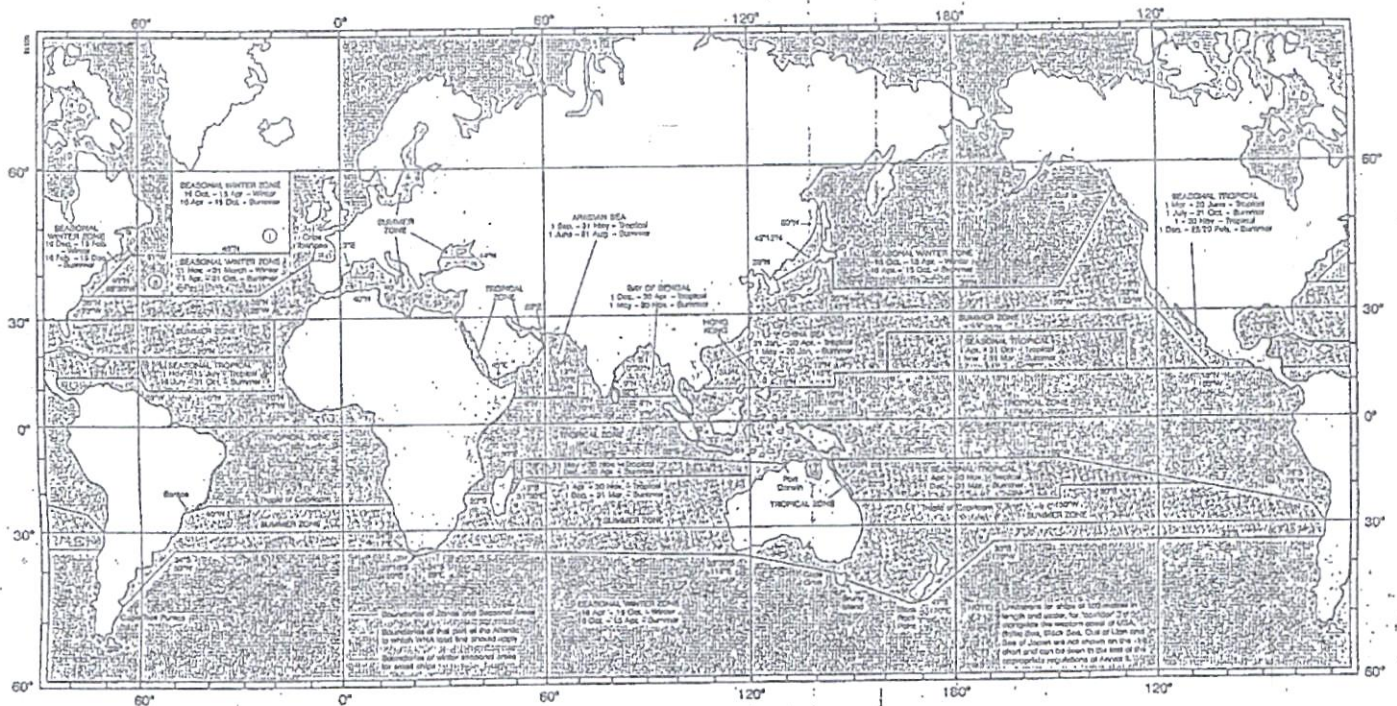


Chart of Zones and Seasonal Areas



# Annex III Certificates

## INTERNATIONAL LOAD LINE CERTIFICATE (1966)

(Official seal)

Issued under the provisions of the International Convention on Load Lines, 1966,  
under the authority of the government of

\_\_\_\_\_

(full official designation of the country)

by

\_\_\_\_\_

(full official designation of the competent person  
or organization recognized under the provisions  
of the International Convention on Load Lines, 1966)

Name of ship	Distinctive number or letters	Port of registry	Length (L) as defined in article 2(8)

Freeboard assigned as:

- A new ship
- An existing ship

Type of ship

- Type 'A'
- Type 'B'
- Type 'B' with reduced freeboard
- Type 'B' with increased freeboard

on the south by the parallel of latitude 40° N from longitude 3° E to the west coast of Sardinia;

on the east by the west and north coasts of Sardinia from latitude 40° N to longitude 9° E, thence by the meridian of longitude 9° E to the south coast of Corsica, thence by the west and north coasts of Corsica to longitude 9° E and thence by the rhumb line to Cape Sicié

is a Winter Seasonal Area.

*Seasonal periods:*

WINTER: 16 December to 15 March

SUMMER: 16 March to 15 December

**(4) Sea of Japan**

This sea south of latitude 50° N is included in the Summer Zones.

However, for ships of 100 m (328 feet) and under in length, the area between the parallel of latitude 50° N and the rhumb line from the east coast of Korea at latitude 38° N to the west coast of Hokkaido, Japan, at latitude 43°12' N is a Winter Seasonal Area.

*Seasonal periods:*

WINTER: 1 December to 28/29 February

SUMMER: 1 March to 30 November

**Regulation 52**

*The Winter North Atlantic Load Line*

The part of the North Atlantic referred to in regulation 40(6) (annex I) comprises:

- (a) that part of the North Atlantic Winter Seasonal Zone II which lies between the meridians of 15° W and 50° W;
- (b) the whole of the North Atlantic Winter Seasonal Zone I, the Shetland Islands to be considered as being on the boundary.

**Regulation 50**  
**Summer Zones**

The remaining areas constitute the Summer Zones.

However, for ships of 100 m (328 feet) and under in length, the area bounded on the north and west by the east coast of the United States; on the east by the meridian of longitude 68°30' W from the coast of the United States to latitude 40° N and thence by the rhumb line to the point latitude 36° N, longitude 73° W; on the south by the parallel of latitude 36° N is a Winter Seasonal Area.

*Seasonal periods:*

WINTER: 1 November to 31 March  
SUMMER: 1 April to 31 October

**Regulation 51**  
**Enclosed seas**

(1) **Baltic Sea**

This sea bounded by the parallel of latitude of The Skaw in the Skagerrak is included in the Summer Zones.

However, for ships of 100 m (328 feet) and under in length, it is a Winter Seasonal Area.

*Seasonal periods:*

WINTER: 1 November to 31 March  
SUMMER: 1 April to 31 October

(2) **Black Sea**

This sea is included in the Summer Zones.

However, for ships of 100 m (328 feet) and under in length, the area north of latitude 44° N is a Winter Seasonal Area.

*Seasonal periods:*

WINTER: 1 December to 28/29 February  
SUMMER: 1 March to 30 November

(3) **Mediterranean**

This sea is included in the Summer Zones.

However, for ships of 100 m (328 feet) and under in length, the area bounded on the north and west by the coasts of France and Spain and the meridian of longitude 3° E from the coast of Spain to latitude 40° N.



(6) In the North Pacific

(a) An area bounded

on the north by the parallel of latitude  $25^{\circ}$  N;  
on the west by the meridian of longitude  $160^{\circ}$  E;  
on the south by the parallel of latitude  $13^{\circ}$  N;  
on the east by the meridian of longitude  $130^{\circ}$  W.

*Seasonal periods:*

TROPICAL: 1 April to 31 October  
SUMMER: 1 November to 31 March

(b) An area bounded

on the north and east by the west coast of the American continent;  
on the west by the meridian of longitude  $123^{\circ}$  W from the coast of  
the American continent to latitude  $33^{\circ}$  N and by the rhumb line  
from the point latitude  $33^{\circ}$  N, longitude  $123^{\circ}$  W, to the point  
latitude  $13^{\circ}$  N, longitude  $105^{\circ}$  W;  
on the south by the parallel of latitude  $13^{\circ}$  N.

*Seasonal periods:*

TROPICAL: 1 March to 30 June and 1 November to 30 November  
SUMMER: 1 July to 31 October and 1 December to 28/29 February.

(7) In the South Pacific

(a) The Gulf of Carpentaria south of latitude  $11^{\circ}$  S.

*Seasonal periods:*

TROPICAL: 1 April to 30 November  
SUMMER: 1 December to 31 March

(b) An area bounded

on the north and east by the southern boundary of the Tropical  
Zone;  
on the south by the Tropic of Capricorn from the east coast of  
Australia to longitude  $150^{\circ}$  W, thence by the meridian of  
longitude  $150^{\circ}$  W to latitude  $20^{\circ}$  S and thence by the parallel of  
latitude  $20^{\circ}$  S to the point where it intersects the southern  
boundary of the Tropical Zone;  
on the west by the boundaries of the area within the Great Barrier  
Reef included in the Tropical Zone and by the east coast of  
Australia.

*Seasonal periods:*

TROPICAL: 1 April to 30 November  
SUMMER: 1 December to 31 March

The Bay of Bengal north of the northern boundary of the Tropical Zone.

*Seasonal periods:*

TROPICAL: 1 December to 30 April  
SUMMER: 1 May to 30 November

(4) In the South Indian Ocean

(a) An area bounded

on the north and west by the southern boundary of the Tropical Zone and the east coast of Madagascar;  
on the south by the parallel of latitude 20° S;  
on the east by the rhumb line from the point latitude 20° S, longitude 50° E, to the point latitude 15° S, longitude 51°30' E, and thence by the meridian of longitude 51°30' E to latitude 10° S.

*Seasonal periods:*

TROPICAL: 1 April to 30 November  
SUMMER: 1 December to 31 March

(b)

An area bounded

on the north by the southern boundary of the Tropical Zone;  
on the east by the coast of Australia;  
on the south by the parallel of latitude 15° S from longitude 51°30' E to longitude 120° E and thence the meridian of longitude 120° E to the coast of Australia;  
on the west by the meridian of longitude 51°30' E.

*Seasonal periods:*

TROPICAL: 1 May to 30 November  
SUMMER: 1 December to 30 April

(5) In the China Sea

An area bounded

on the west and north by the coasts of Viet Nam and China from latitude 10° N to Hong Kong;  
on the east by the rhumb line from Hong Kong to the Port of Sual (Luzon Island) and the west coasts of the Islands of Luzon, Samar, and Leyte to latitude 10° N;  
on the south by the parallel of latitude 10° N.

Hong Kong and Sual are to be considered as being on the boundary of the Seasonal Tropical Area and Summer Zone.

*Seasonal periods:*

TROPICAL: 21 January to 30 April  
SUMMER: 1 May to 20 January

Coquimbo and Santos are to be considered as being on the boundary line of the Tropical and Summer Zones.

**(3) Areas to be included in the Tropical Zone**

The following areas are to be treated as included in the Tropical Zone:

- (a) The Suez Canal, the Red Sea and the Gulf of Aden, from Port Said to the meridian of longitude 45° E.
- Aden and Berbera are to be considered as being on the boundary line of the Tropical Zone and the Seasonal Tropical Area.
- (b) The Persian Gulf to the meridian of longitude 59° E.
- (c) The area bounded by the parallel of latitude 22° S from the east coast of Australia to the Great Barrier Reef, thence the Great Barrier Reef to latitude 11° S. The northern boundary of the area is the southern boundary of the Tropical Zone.

**Regulation 49**  
*Seasonal tropical areas*

The following are Seasonal Tropical Areas:

**(1) In the North Atlantic**

An area bounded

on the north by the rhumb line from Cape Catoche, Yucatan, to Cape San Antonio, Cuba, the north coast of Cuba to latitude 20° N and thence the parallel of latitude 20° N to longitude 20° W; on the west by the coast of the American continent; on the south and east by the northern boundary of the Tropical Zone.

*Seasonal periods:*

TROPICAL: 1 November to 15 July  
SUMMER: 16 July to 31 October

**(2) In the Arabian Sea**

An area bounded

on the west by the coast of Africa, the meridian of longitude 45° E in the Gulf of Aden, the coast of South Arabia and the meridian of longitude 59° E in the Gulf of Oman; on the north and east by the coasts of Pakistan and India; on the south by the northern boundary of the Tropical Zone.

*Seasonal periods:*

TROPICAL: 1 September to 31 May  
SUMMER: 1 June to 31 August



longitude 170° W, and thence the parallel of latitude 33° S to the west coast of the American continent.

*Seasonal periods:*

WINTER: 16 April to 15 October  
SUMMER: 16 October to 15 April

**Regulation 48**

*Tropical Zone*

**(1) Northern boundary of the Tropical Zone**

The northern boundary of the Tropical Zone is

the parallel of latitude 13° N from the east coast of the American continent to longitude 60° W, thence the rhumb line to the point latitude 10° N, longitude 58° W, thence the parallel of latitude 10° N to longitude 20° W, thence the meridian of longitude 20° W to latitude 30° N and thence the parallel of latitude 30° N to the west coast of Africa, from the east coast of Africa the parallel of latitude 8° N to longitude 70° E, thence the meridian of longitude 70° E to latitude 13° N, thence the parallel of latitude 13° N to the west coast of India; thence the south coast of India to latitude 10° 30' N on the east coast of India, thence the rhumb line to the point latitude 9° N, longitude 82° E, thence the meridian of longitude 82° E to latitude 8° N, thence the parallel of latitude 8° N to the west coast of Malaysia, thence the coast of South-East Asia to the east coast of Viet Nam at latitude 10° N, thence the parallel of latitude 10° N to longitude 145° E, thence the meridian of longitude 145° E to latitude 13° N and thence the parallel of latitude 13° N to the west coast of the American continent.

Saigon is to be considered as being on the boundary line of the Tropical Zone and the Seasonal Tropical Area.

**(2) Southern boundary of the Tropical Zone**

The southern boundary of the Tropical Zone is

the rhumb line from the Port of Santos, Brazil, to the point where the meridian of longitude 40° W intersects the Tropic of Capricorn; thence the Tropic of Capricorn to the west coast of Africa; from the east coast of Africa the parallel of latitude 20° S to the west coast of Madagascar, thence the west and north coasts of Madagascar to longitude 50° E, thence the meridian of longitude 50° E to latitude 10° S, thence the parallel of latitude 10° S to longitude 98° E, thence the rhumb line to Port Darwin, Australia, thence the coasts of Australia and Wessel Island eastwards to Cape York, thence the parallel of latitude 11° S to the west side of Cape York; from the east side of Cape York the parallel of latitude 11° S to longitude 75° W, and thence the rhumb line to the point latitude 26° S, longitude 75° W, and thence the rhumb line to the west coast of the American continent at latitude 30° S.

(2) **North Atlantic Winter Seasonal Area**

The boundary of the North Atlantic Winter Seasonal Area is

the meridian of longitude  $68^{\circ}30' W$  from the coast of the United States to latitude  $40^{\circ} N$ , thence the rhumb line to the southernmost intersection of the meridian of longitude  $61^{\circ} W$  with the coast of Canada and thence the east coasts of Canada and the United States.

*Seasonal periods:*

For ships over 100 m (328 feet) in length:

WINTER: 16 December to 15 February  
SUMMER: 16 February to 15 December

For ships of 100 m (328 feet) and under in length:

WINTER: 1 November to 31 March  
SUMMER: 1 April to 31 October

(3) **North Pacific Winter Seasonal Zone**

The southern boundary of the North Pacific Winter Seasonal Zone is

the parallel of latitude  $50^{\circ} N$  from the east coast of the USSR to the west coast of Sakhalin, thence the west coast of Sakhalin to the southern extremity of Cape Kril'on, thence the rhumb line to Wakkanai, Hokkaido, Japan, thence the east and south coasts of Hokkaido to longitude  $145^{\circ} E$ , thence the meridian of longitude  $145^{\circ} E$  to latitude  $35^{\circ} N$ , thence the parallel of latitude  $35^{\circ} N$  to longitude  $150^{\circ} W$  and thence the rhumb line to the southern extremity of Dall Island, Alaska.

*Seasonal periods:*

WINTER: 16 October to 15 April  
SUMMER: 16 April to 15 October

**Regulation 47**  
*Southern Winter Seasonal Zone*

The northern boundary of the Southern Winter Seasonal Zone is

the rhumb line from the east coast of the American continent at Cape Tres Puntas to the point latitude  $34^{\circ} S$ , longitude  $50^{\circ} W$ , thence the parallel of latitude  $34^{\circ} S$  to longitude  $17^{\circ} E$ , thence the rhumb line to the point latitude  $35^{\circ}10' S$ , longitude  $20^{\circ} E$ , thence the rhumb line to the point latitude  $34^{\circ} S$ , longitude  $28^{\circ} E$ , thence along the rhumb line to the point latitude  $35^{\circ}30' S$ , longitude  $118^{\circ} E$ , and thence the rhumb line to Cape Grim on the north-west coast of Tasmania; thence along the north and east coasts of Tasmania to the southernmost point of Bruny Island, thence the rhumb line to Black Rock Point on Stewart Island, thence the rhumb line to the point latitude  $47^{\circ} S$ , longitude

## Annex II

### Zones, areas and seasonal periods

The zones and areas in this annex are, in general, based on the following criteria:

SUMMER - not more than 10% winds of force 8 Beaufort (34 knots) or more.

TROPICAL - not more than 1% winds of force 8 Beaufort (34 knots) or more. Not more than one tropical storm in 10 years in an area of 5° square in any one separate calendar month.

In certain special areas, for practical reasons, some degree of relaxation has been found acceptable.

A chart is attached to this annex to illustrate the zones and areas defined below.

#### Regulation 46

##### Northern Winter Seasonal Zones and Area

###### (1) North Atlantic Winter Seasonal Zones I and II

(a) The North Atlantic Winter Seasonal Zone I lies within the meridian of longitude 50° W from the coast of Greenland to latitude 45° N, thence the parallel of latitude 45° N to longitude 15° W, thence the meridian of longitude 15° W to latitude 60° N, thence the parallel of latitude 60° N to the Greenwich Meridian, thence this meridian northwards.

##### Seasonal periods:

WINTER: 16 October to 15 April

SUMMER: 16 April to 15 October

(b) The North Atlantic Winter Seasonal Zone II lies within the meridian of longitude 68°30' W from the coast of the United States to latitude 40° N, thence the rhumb line to the point latitude 36° N, longitude 73° W, thence the parallel of latitude 36° N to longitude 25° W and thence the rhumb line to Cape Toriñana.

Excluded from this zone are the North Atlantic Winter Seasonal Zone I and the Baltic Sea bounded by the parallel of the latitude of The Skaw in the Skagerrak.

##### Seasonal periods:

WINTER: 1 November to 31 March

SUMMER: 1 April to 31 October



*International Convention on Load Lines, 1966*

- (4) The Tropical Timber Freeboard shall be obtained by deducting from the Summer Timber Freeboard one forty-eighth of the moulded summer timber draught.
- (5) The Fresh Water Timber Freeboard shall be computed in accordance with regulation 40(7) based on the summer timber load waterline.