#### **APPENDIX 1**

#### FINDINGS AND OBSERVATIONS

#### IMO MEMBER STATE AUDIT SCHEME

#### Form A

FINDINGS/OBSERVATIONS NOTICE		
Member State: Bangladesh	Audit period: 13 to 22 October 2017	
Department: MOS, DOS, MMO		
Finding No.: FD-1	Observation No.:	

#### STATEMENT:

The transposition of the IMO mandatory instruments into national legislation was made by incorporation by reference; however, this did not provide effective monitoring of the amendments coming into force internationally. In addition, referencing to IMO instruments did not ensure that the texts of the mandatory instruments are available for the maritime sector and the stakeholders. In addition there were not sufficient personnel with maritime expertise to assist in the promulgation of the necessary national laws and to discharge all the responsibilities of the State.

#### **EVIDENCE**:

Non availability of text of amendments. Statements during interviews. Non availability of texts of instruments and national legislation for the shipping community.

#### APPLICABLE PROVISIONS OF THE AUDIT STANDARD AND/OR IMO INSTRUMENT:

### SOLAS 1974, article I

"General obligations under the Convention"

#### MARPOL, article 1

"General obligations under the Convention 9to be read as : article 1 of MARPOL 73 and article 1 of MARPOL Protocol 78)"

#### STCW 1978, article I

"General obligations under the Convention"

### LL 1966, article 1

"General obligation under the Convention"

### TONNAGE 1969, article 1

"General obligation under the Convention"

## COLREG 1972, article I

"General obligations"

### III Code, paragraph 4

"General - Under the general provisions of treaty law and of IMO conventions, States shall be responsible for promulgating laws and regulations and for taking all other steps which may be necessary to give those instruments full and complete effect so as to ensure safety of life at sea and protection of the marine environment"

## III Code, paragraph 8

"Initial actions - When a new or amended instrument of the Organization enters into force for a State, the Government of that State should be in a position to implement and enforce its provisions through appropriate national legislation and to provide the necessary implementation and enforcement infrastructure. This means that the Government of the State shall have [...]"

Team leader: Huseyin Cahit Yalcin

Date: 20 October 2017

Member State: Bangladesh

Date received:

FINDINGS/OBSERVATIONS NOTICE		
Member State: Bangladesh	Audit period: 13 to 22 October 2017	
Department: MOS, DOS, MMO	•	
Finding No.: FD-2	Observation No.:	

#### STATEMENT:

There was no objective evidence that the State complied with all the requirements for reporting as required by the mandatory IMO instruments to which the State is a Party (e.g. information on text of laws, orders, decrees and regulations; details of recognized organizations (ROs); provision of reception facilities). Besides, there was not a mechanism in place, including policies, to assign responsibilities and issue instructions, as necessary, to ensure collection of relevant information and communication of mandatory reports to IMO

#### **EVIDENCE:**

Non availability of methodology. Several reports were not made.

#### APPLICABLE PROVISIONS OF THE AUDIT STANDARD AND/OR IMO INSTRUMENT:

SOLAS 1974, article III

"Communication of information"

MARPOL, article 11

"Communication of information"

STCW 1978, article IV

"Communication of information"

**TONNAGE 1969, article 15** 

"Communication of information"

LL 1966, article 26

"Communication of information"

## III Code, paragraph 9

"Communication of information - The State shall communicate its strategy, as referred to in paragraph 3, including information on its national legislation to all concerned"

Team leader: Huseyin Cahit Yalcin	Date: 20 October 2017
Member State: Bangladesh	Date received:

FINDINGS/OB	SERVATIONS NOTICE
Member State: Bangladesh	Audit period: 13 to 22 October 2017
Department: MOS, DOS, MMO	
Finding No.: FD-3	Observation No.:
STATEMENT:	
State; there was no record keeping systen	al instruction dealing with the records of the n based on a documented procedure which entification, storage, protection, retrieval,
EVIDENCE:	
Non availability of evidence of a record ke	eping procedure in place
APPLICABLE PROVISIONS OF THE AUDIT	STANDARD AND/OR IMO INSTRUMENT:
III Code, paragraph 10	
of conformity to requirements and of the eff remain legible, readily identifiable and retri	established and maintained to provide evidence fective operation of the State. Records shall levable. A documented procedure shall be the identification, storage, protection, retrieval,
Team leader: Husevin Cahit Yalcin	Date: 20 October 2017

Date received:

Member State: Bangladesh

FINDIN	IGS/OBSERVATIONS NOTICE	
Member State: Bangladesh	Audit period: 13 to 22 October 2017	
Department: MOS, DOS, MMO		
Finding No.: FD-4	Observation No.:	
STATEMENT:		
the adequacy of the measures which	o demonstrate that the State continually improves h are taken to give effect to those conventions and des, measures to identify and eliminate the cause r recurrence had not been taken	
EVIDENCE:		
Non availability of related records or legislation		
iton availability of related records c	or legislation	
non availability of related records c	or legislation	
non availability of related records c	or legislation	
Non availability of related records c	or legislation	
Non availability of related records c	or legislation	
	AUDIT STANDARD AND/OR IMO INSTRUMENT:	
APPLICABLE PROVISIONS OF THE III Code, paragraph 11 "Improvement - States shall continual taken to give effect to those conv	AUDIT STANDARD AND/OR IMO INSTRUMENT:  Ily improve the adequacy of the measures which are entions and protocols which they have accepted rigorous and effective application and enforcement or	

"Improvement - Further, the State shall take action to identify and eliminate the cause of any non-conformities in order to prevent recurrence, including [...]"

# III Code, paragraph 14

"Improvement - The State shall determine action needed to eliminate the causes of potential non conformities' in order to prevent their occurrence"

Team leader: Huseyin Cahit Yalcin	Date: 20 October 2017
Member State: Bangladesh	Date received:

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Member State: Bangladesh	Audit period: 13 to 22 October 2017
Department: DOS, MMO	
Finding No.: FD-5	Observation No.:
STATEMENT:	
The Administration did not implement plegislation and guidance which would assiof the requirements of all safety and polluto which the State is a Party.	ist in the implementation and enforcement
EVIDENCE:	
Absence of policies in this regard	
APPLICABLE PROVISIONS OF THE AUDIT	STANDARD AND/OR IMO INSTRUMENT:
III Code, paragraph 15	
"Implementation - In order to effectively dischastates shall []"	arge their responsibilities and obligations, flag
Team leader: Huseyin Cahit Yalcin	Date: 20 October 2017
Member State: Bangladesh	Date received:

FINDINGS/OBSERVATIONS NOTICE		
Member State: Bangladesh	Audit period: 13 to 22 October 2017	
Department: DOS, MMO		
Finding No.: FD-6	Observation No.:	

### STATEMENT:

The Administration had not established resources and processes capable of administering a safety and environmental protection programme, which includes: Administrative instructions to effectively implement the international IMO instruments and their amendments to which the State is a Party; An independent audit and inspection programme to the entity which issue the required certificates and documentation to the ships entitled to fly the flag of the State, in order to ensure compliance with the requirements of the applicable international instruments; and Provisions to address those requirements that are left "to the satisfaction of the Administration" established in the relevant mandatory IMO instruments to which the State is a Party.

#### **EVIDENCE:**

Analysis of national legislation and no availability of detailed administrative instructions. Statements made during the interviews.

### APPLICABLE PROVISIONS OF THE AUDIT STANDARD AND/OR IMO INSTRUMENT:

## III Code, paragraph 16.1

"Administrative instructions to implement applicable international rules and regulations as well as developing and disseminating any interpretative national regulations that may be needed including certificates issued by a classification society, which is recognized by the flag State in accordance with the provisions of SOLAS regulation XI-1/1, and which certificate is required by the flag State to demonstrate compliance with structural, mechanical, electrical, and/or other requirements of an international convention to which the flag State is a party or compliance with a requirement of the flag State's national regulations"

### III Code, paragraph 16.2

"Compliance with the requirements of the applicable international instruments, using an audit and inspection programme, independent of any administrative bodies issuing the required certificates and relevant documentation and/or of any entity which has been delegated authority by the State to issue the required certificates and relevant documentation"

## III Code, paragraph 16.5

"The development, documentation and provision of guidance concerning those requirements found in the relevant international instruments that are to the satisfaction of the Administration"

Team leader: Huseyin Cahit Yalcin Date: 20 October 2017

Member State: Bangladesh Date received:

FINDINGS/OBSERVATIONS NOTICE		
Member State: Bangladesh	Audit period: 13 to 22 October 2017	
Department: DOS, MMO		
Finding No.: FD-7	Observation No.:	

#### STATEMENT:

The Administration had not set up any detailed national criteria for recognition and authorization of classification societies and there was no evidence to confirm that the ROs were provided with all the appropriate instruments of national legislation and interpretations, thereof giving effect to the provisions of the conventions to which the State is a Party. Furthermore, an oversight programme with adequately qualified resources has not been set up and implemented for monitoring for ROs in order to ensure that its international obligations were fully met.

#### **EVIDENCE:**

Non availability of objective evidence. Statements during interviews

#### APPLICABLE PROVISIONS OF THE AUDIT STANDARD AND/OR IMO INSTRUMENT:

### SOLAS 1974, regulation XI-1/1

"Authorization of recognized organizations"

RO Code, part 2, section 8

"Authorization of RO"

## III Code, paragraph 18.1

"Determine that the recognized organization has adequate resources in terms of technical, managerial and research capabilities to accomplish the tasks being assigned, in accordance with the required standards for recognized organizations acting on behalf of the Administration set out in the relevant instruments of the Organization"

### III Code, paragraph 20

"Delegation of authority - The flag State shall establish or participate in an oversight programme with adequate resources for monitoring of, and communication with, its recognized organization(s) in order to ensure that its international obligations are fully met, by [...]"

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Member State: Bangladesh	Date received:

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Member State: Bangladesh	Audit period: 13 to 22 October 2017	
Department: MOS, DOS, MMO		
Finding No.: FD-8	Observation No.:	

### STATEMENT:

An effective enforcement structure to secure observance of international rules and standards by ships entitled to fly the flag of the State and by entities and persons under its jurisdiction was not completely in place: The fines were not sufficiently deterrent and the authorities were unable to prove the proper or consistent applications. Sufficient numbers of qualified flag State personnel were not available. A control and monitoring programme to provide for the collection of statistical data, prompt actions to carry out casualty investigation and timely response to deficiencies was not developed.

#### **EVIDENCE**:

Statements during the interviews. No examples of enforcement for the past three years.

#### APPLICABLE PROVISIONS OF THE AUDIT STANDARD AND/OR IMO INSTRUMENT:

### III Code, paragraph 22.5

"Providing, in national laws and regulations, for penalties of adequate severity to discourage violation of international rules and standards by ships entitled to fly its flag"

## III Code, paragraph 22.6

"Instituting proceedings, after an investigation has been conducted, against ships entitled to fly its flag, which have violated international rules and standards, irrespective of where the violation has occurred"

### III Code, paragraph 23

"Enforcement - A flag State shall develop and implement a control and monitoring programme, as appropriate, in order to [...]"

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Member State: Bangladesh	Date received:

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Member State: Bangladesh	Audit period: 13 to 22 October 2017
Department: DOS, MMO	
Finding No.: FD-9	Observation No.:
STATEMENT:	<u> </u>
surveyors are not complete or well struct not implemented a documented system for	ibilities, authority and interrelationship of ured. Furthermore, the Administration had references that the qualification and continuous updating with regard to the task they are authorized
EVIDENCE:	
Lack of methodology for a training system	. Analysis of available legislation.
APPLICABLE PROVISIONS OF THE AUDIT	STANDARD AND/OR IMO INSTRUMENT:
III Code, paragraph 28	
	all define and document the responsibilities, o manage, perform and verify work relating to
III Code, paragraph 35	
	plement a documented system for qualification knowledge as appropriate to the tasks they are
Team leader: Huseyin Cahit Yalcin	Date: 20 October 2017

Date received:

Member State: Bangladesh

FINDINGS/OBSERVATIONS NOTICE	
Member State: Bangladesh	Audit period: 13 to 22 October 2017
Department: DOS, MMO	
Finding No.: FD-10	Observation No.:

#### STATEMENT:

The Administration did not implement the majority of the provisions of the Casualty Investigation Code including but not limited to: Insufficient regulations for conducting impartial and objective casualty investigations. Availability of trained and impartial casualty investigators to carry out objective investigations. No arrangements for cooperative investigation with other member States. Availability of the final investigation report to the public and the shipping industry.

#### **EVIDENCE:**

Statement during interviews. Analysis of available legislation.

APPLICABLE PROVISIONS OF THE AUDIT STANDARD AND/OR IMO INSTRUMENT:

SOLAS 1974, regulation I/21

"Casualties"

SOLAS 1974, regulation XI-1/6

"Investigations of marine casualties and incidents"

Casualty Investigation Code, paragraph 6.2

"Investigation into a very serious marine casualty"

Casualty Investigation Code, paragraph 7.1

"Agreement to conduct a marine safety investigation"

Casualty Investigation Code, paragraph 7.2

"Agreement to conduct a marine safety investigation"

Casualty Investigation Code, paragraph 8.1

"Powers provided to investigator(s)"

Casualty Investigation Code, paragraph 10.1

"Cooperation in investigating"

### Casualty Investigation Code, paragraph 11.1

"Investigation not to be subject to external direction"

## Casualty Investigation Code, paragraph 14.1

"Marine safety investigation reports – communication to IMO"

#### Casualty Investigation Code, paragraph 14.2

"Marine safety investigation reports – communication to IMO"

## Casualty Investigation Code, paragraph 14.4

"Marine safety investigation reports – available to public and shipping industry"

### III Code, paragraph 38

"Flag State investigations - Marine safety investigations shall be conducted by impartial and objective investigators, who are suitably qualified and knowledgeable in matters relating to the casualty. Subject to any agreement on which State or States will be the marine safety investigating State(s), the flag State shall provide qualified investigators for this purpose, irrespective of the location of the casualty or incident"

### III Code, paragraph 41

"Flag State investigations - Ship casualties shall be investigated and reported in accordance with the relevant international instruments, taking into account the Casualty Investigation Code, as may be amended, and guidelines developed by the Organization"

Team leader: Huseyin Cahit Yalcin Date: 20 October 2017

Member State: Bangladesh Date received:

FINDINGS	S/OBSERVATIONS NOTICE	
Member State: Bangladesh	Audit period: 13 to 22 October 2017	
Department: DOS, MMO		
Finding No.: FD-11	Observation No.:	
STATEMENT:		
performance in respect of administr	ne Administration to periodically evaluate its rative processes, procedures and resources d responsibilities under the mandatory IMO	
EVIDENCE:		
Analysis of documentation. Statements of interviews.		
Analysis of documentation. Statements of interviews.		
APPLICABLE PROVISIONS OF THE AU	JDIT STANDARD AND/OR IMO INSTRUMENT:	
III Code, paragraph 42		
respect to the implementation of admir	, on a periodic basis, evaluate its performance with nistrative processes, procedures and resources ired by the international instruments to which it is a	
III Code, paragraph 43		
"Evaluation and ravious Magazina to ave	pluste the performance of flee States shall include	

"Evaluation and review - Measures to evaluate the performance of flag States shall include, inter alia, port State control detention rates, flag State inspection results, casualty statistics, communication and information processes, annual loss statistics (excluding constructive total losses (CTLs)) and other performance indicators as may be appropriate, in order to determine whether staffing, resources and administrative procedures are adequate to meet its flag State obligations"

Team leader: Huseyin Cahit Yalcin	Date: 20 October 2017
Member State: Bangladesh	Date received:

FINDINGS/OBSERVATIONS NOTICE		
Member State: Bangladesh	Audit period: 13 to 22 October 2017	
Department: DOS, BN, BCG		
Finding No.: FD-12	Observation No.:	
STATEMENT:		
The SAR regulations for details of the impl SAR plan was not approved or communica	ementation were not available and national ated to IMO.	
EVIDENCE:		
Statements during interviews		
APPLICABLE PROVISIONS OF THE AUDIT	STANDARD AND/OR IMO INSTRUMENT:	
SOLAS 1974, regulation V/7.1		
"Search and rescue services – necessary arrangements"		
SOLAS 1974, regulation V/7.2		
"Search and rescue services – Plan for coope	erartion"	
III Code, paragraph 47		
"Implementation - A coastal State shall ensure that its legislation, guidance and procedures are established for the consistent implementation and verification of its rights, obligations and responsibilities contained in the relevant international instruments to which it is a party"		
Team leader: Huseyin Cahit Yalcin	Date: 20 October 2017	
Member State: Bangladesh	Date received:	

Member State: Bangladesh	Date received:
Team leader: Huseyin Cahit Yalcin	Date: 20 October 2017
	STANDARD AND/OR IMO INSTRUMENT:  Deriodically evaluate its performance in respect oligations under the applicable international
APPLICABLE PROVISIONS OF THE ALIDIT	STANDARD AND/OR IMO INSTRUMENT:
Analysis of documentation. Non availability	y of records.
EVIDENCE:	
	of periodic performance evaluation of its of verifying compliance with its obligations which it is a Party.
STATEMENT:	I
Finding No.: FD-13	Observation No.:
Department: DOS, MMO, BN, BCG, Port Authorities, BND	
Member State: Bangladesh	Audit period: 13 to 22 October 2017
FINDINGS/OB	SERVATIONS NOTICE

Team leader: Huseyin Cahit Yalcin	Date: 20 October 2017
	at its legislation, guidance and procedures are n and verification of its rights, obligations and
ADDI ICADI E DDOVICIONO OF THE AUDIT	CTANDADD AND/OD IMO INCTDUMENT.
Analysis of documentation and records. Ve	erbal statements during interviews.
EVIDENCE:	
An effective port State control system with policies, guidance, procedures was not est	legislation, assignment of responsibilities, ablished for the consistent implementation nternational instruments to which the State
STATEMENT:	
Finding No.: FD-14	Observation No.:
Department: DOS, MMO	
Member State: Bangladesh	Audit period: 13 to 22 October 2017
FINDINGS/OB	SERVATIONS NOTICE

FINDINGS/OBSERVATIONS NOTICE	
Member State: Bangladesh	Audit period: 13 to 22 October 2017
Department: Port Authorities, DOS, MMO, DEO	
Finding No.: FD-15	Observation No.:
STATEMENT:	
Although the State is Party to all MARPOL annexes, its ports were found not to be equipped with the appropriate reception facilities or equivalent arrangements for the reception of Annexes II, IV and VI. Besides, regulatory structure was not fully established and the requirements for communication of the relevant information to IMO was not fulfilled. (MARPOL, annex II, regulation 18.1; MARPOL, annex V, regulation 8.1; III Code, paragraph 56.1).	
EVIDENCE:	
Statements during interviews. Checking of documentation.	
APPLICABLE PROVISIONS OF THE AUDIT	STANDARD AND/OR IMO INSTRUMENT:
MARPOL, Annex II, regulation 18.1	
"Reception facilities and cargo unloading term	inal arrangements"
MARPOL, Annex IV, regulation 12.1	
"Provision of reception facilities"	
MARPOL, Annex VI, regulation 17.2	
"Reception facilities as referred to in the parag	graph – communication to IMO"
III Code, paragraph 56.1	
"Provision of appropriate reception facilities regulated under the instruments of the Organiz	
Team leader: Huseyin Cahit Yalcin	Date: 20 October 2017
Member State: Bangladesh	Date received:

FINDINGS/OBSERVATIONS NOTICE	
Audit period: 13 to 22 October 2017	
Observation No.:	
The maritime administration has not implemented the IMDG Code, the IMSBC Code and related amendments. The dangerous goods handling practices in ports were found not adequately regulated, controlled or supervised by the competent authorities.	
Statements of interviews. Checking of documentation.	
APPLICABLE PROVISIONS OF THE AUDIT STANDARD AND/OR IMO INSTRUMENT:	
"Requirements for the carriage of dangerous goods"	
"Requirements for the carriage of dangerous goods in solid form in bulk"	
ment of the period of time for keeping records	
ssary measures to ensure their observance of and fulfilling their obligations"	
Date: 20 October 2017	
Date received:	

Member State: Bangladesh	Date received:
Team leader: Huseyin Cahit Yalcin	Date: 20 October 2017
	rried out only by authorized and qualified port the relevant procedures adopted by the
III Code, paragraph 61	
	carry out port State control, a port State shall control programme consistent with the relevant
III Code, paragraph 60	
to those conventions no more favourably than	ments obligate port States to treat non-parties n those that are parties. This means that port truments on parties, as well as on non-parties"
III Code, paragraph 59	
APPLICABLE PROVISIONS OF THE AUDIT	STANDARD AND/OR IMO INSTRUMENT:
Checking of documentation. Verbal statem	ents.
EVIDENCE:	
authorities. Furthermore, the port State co	tment" was not officially considered by the ntrol programme of the State was not fully opted by the IMO. A proper qualifications s not in place.
STATEMENT:	
Finding No.: FD-17	Observation No.:
Department: DOS, MMO	
Member State: Bangladesh	Audit period: 13 to 22 October 2017
FINDINGS/OB	SERVATIONS NOTICE

FINDINGS/OB	SERVATIONS NOTICE
Member State: Bangladesh	Audit period: 13 to 22 October 2017
Department: DOS, MMO, Port Authorities	
Finding No.: FD-18	Observation No.:
STATEMENT:	<u> </u>
	of periodic performance evaluation of its fverifying compliance with its obligations which it is a Party.
EVIDENCE:	
Checking of documentation and records. V	erbal statements.
APPLICABLE PROVISIONS OF THE AUDIT	STANDARD AND/OR IMO INSTRUMENT:
III Code, paragraph 63	
"Evaluation and review - A port State shall per exercising its rights and meeting its obligati Organization"	iodically evaluate its performance in respect of ons under the applicable instruments of the
Team leader: Husevin Cahit Yalcin	Date: 20 October 2017

Member State: Bangladesh

FINDINGS/OBSERVATIONS NOTICE	
Member State: Bangladesh	Audit period: 13 to 22 October 2017
Department: MOS, DOS	
Finding No.:	Observation No.: OB-1
STATEMENT:	
The State had recently developed and adopted an overall policy document; however, it was not comprehensive enough to provide a basis for the State to fully meet its obligations and responsibilities under the applicable mandatory IMO instruments. Besides, a methodology to monitor and assess that the strategy ensures the effective implementation and enforcement of the applicable mandatory instruments, as well as a mechanism for continuous review in order to ensure improvement of the overall organizational performance and capability as a flag, port and coastal State had not been established  EVIDENCE:	
Analysis of the submitted policy documen	t.
APPLICABLE PROVISIONS OF THE AUDIT	STANDARD AND/OR IMO INSTRUMENT:
III Code, paragraph 3	
"Strategy - In order to meet the objective of th	is Code, a State is recommended to []"
Team leader: Huseyin Cahit Yalcin	Date: 20 October 2017
Member State: Bangladesh	Date received:

FINDINGS/OBSERVATIONS NOTICE	
Member State: Bangladesh	Audit period: 13 to 22 October 2017
Department: DOS, MMO	
Finding No.:	Observation No.: OB-2
STATEMENT:	
The Administration could not guarantee that the investigators who conducted investigations of marine casualties were suitably qualified and knowledgeable in matters relating to casualty. Besides, the scope of the investigations was not clearly specified	
EVIDENCE:	
Statements during interview. Checking of documentation.	
APPLICABLE PROVISIONS OF THE AUDIT STANDARD AND/OR IMO INSTRUMENT:	
III Code, paragraph 39	
"Flag State investigations - The flag State is recommended to ensure that individual investigators have working knowledge and practical experience in those subject areas pertaining to their normal duties. Additionally, in order to assist individual investigators in performing duties outside their normal assignments, the flag State is recommended to ensure ready access to expertise in the following areas, as necessary []"	
III Code, paragraph 40	
"Flag State investigations - It is recommended that any accident involving personal injury necessitating absence from duty of three days or more and any deaths resulting from occupational accidents and casualties to ships of the flag State shall be investigated, and the results of such investigations made public"	
Team leader: Huseyin Cahit Yalcin	Date: 20 October 2017

Date received:

Member State: Bangladesh