

GUIDELINE

GNNNN

ESTABLISHING A REGULATORY FRAMEWORK FOR VTS – RESPONSIBILITIES OF A COMPETENT AUTHORITY

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Revisions to this document are to be noted in the table prior to the issue of a revised document. The latest edition of the Guideline is the only version in force unless the Guideline is explicitly revoked by the Council.

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1. INTRODUCTION

The International Maritime Organization (IMO), in its role in regulating the planning, implementation and operation of VTS, is responsible for providing guidance on their establishment, operation, qualification and training (IMO Resolution A.1158(32) Guidelines for Vessel Traffic Services [1] (Section 1.2)).

IMO Resolution A.1158(32) also describes the purpose of VTS, the regulatory and legal framework for establishing and operating VTS, the roles and responsibilities of Contracting Governments¹, competent authorities², VTS providers³ and participating ships⁴ and the qualifications and training requirements for VTS personnel.

This document has been prepared in a manner that assumes that the Contracting Government has fulfilled their responsibilities as described in IMO Resolution A.1158(32) (Refer Table 1).

This document focuses on the responsibilities of the competent authority for VTS.

2. DOCUMENT PURPOSE

IMO Resolution A.1158(32) states that the establishment of VTS is dependent on national law (Section 4.3).

The purpose of this Guideline is to assist competent authorities achieve their responsibilities associated with the establishment and operation of VTS in national law as described in:

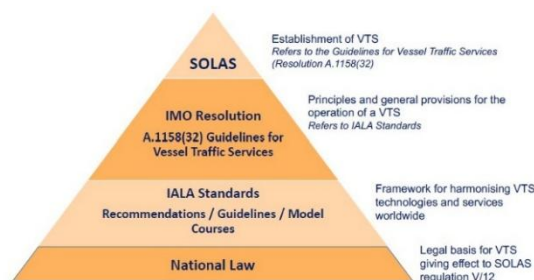
- 1 IMO Resolution A.1158(32) Guidelines for Vessel Traffic Services; and
- 2 Standards and associated recommendations, guidelines and model courses of the International Organization for Marine Aids to Navigation (IALA) specifically related to the establishment and operation of VTS.

This Guideline is associated with Recommendation R0119 Establishment of a VTS, a normative provision of Standard S1040 Vessel Traffic Services. To demonstrate compliance with Recommendation R0119, the provisions of this Guideline should be taken into account.

3. INTERNATIONAL REGULATORY AND LEGAL FRAMEWORK

Key components of the international framework include:

- International Convention for the Safety of Life at Sea (SOLAS) 1974 (Regulation V12)
- IMO Resolution A.1158(32) Guidelines for Vessel Traffic Services
- IALA Standards
- National Law



The international regulatory and legal framework for VTS is provided in the VTS Manual and Guideline G1150 Establishing, Planning and Implementing a VTS (Section 4).

¹ Signatories to SOLAS - undertake to promulgate all laws, decrees, orders and regulations which may be necessary to give the present Convention full and complete effect.

² The competent authority is "the entity made responsible by the Government for vessel traffic services" (IMO Resolution A.1158(32), Section 2).

³ The organization or entity authorized by the Government or competent authority to provide vessel traffic services (IMO Resolution A.1158(32), Section 2).

⁴ Participating ship means a ship required to participate with vessel traffic services (IMO Resolution A.1158(32), Section 2).

IMO Resolution A.1158(32) recognizes IALA as an important contributor to IMO's role in regulating the planning, implementation and operation of VTS. By providing standards and associated recommendations, guidelines and model courses specifically related to the establishment and operation of VTS, IALA contributes to achieving worldwide harmonization of VTS.

In summary, the responsibilities of Contracting Governments, competent authorities and VTS providers, as described in IMO Resolution A.1158(32) include:

Table 1 - Responsibilities of Contracting Governments, competent authorities and VTS providers

Annex to the Resolution – Section 5 Vessel Traffic Services Responsibilities		
Contracting Government	Competent authority	VTS provider
<p>5.1 The Contracting Government should:</p> <p>.1 establish a legal basis for VTS that gives effect to regulation V/12 of the Convention;</p> <p>.2 appoint and authorize a competent authority for VTS;</p> <p>.3 take appropriate action against a ship flying its flag that is reported not to have complied with the provisions of VTS; and</p> <p>.4 take account of future technical and other developments recognized by the Organization relating to VTS.</p>	<p>5.2 The competent authority for VTS should:</p> <p>.1 establish a regulatory framework for establishing and operating VTS in accordance with relevant international conventions and IMO instruments, IALA standards and national law;</p> <p>.2 authorize VTS providers to operate VTS within a delineated VTS area;</p> <p>.3 ensure that VTS training is approved and VTS personnel are certified; and</p> <p>.4 establish a compliance and enforcement framework with respect to violations of VTS regulatory requirements.</p>	<p>5.3 The VTS provider should:</p> <p>.1 ensure that VTS conform with the regulatory framework set by the competent authority for VTS;</p> <p>.2 set operational objectives for VTS that are consistent with improving the safety and efficiency of ship traffic and the protection of the environment. The objectives set should be routinely evaluated to demonstrate that they are being achieved;</p> <p>.3 ensure that appropriate equipment, systems and facilities for the delivery of VTS are provided;</p> <p>.4 ensure that VTS are adequately staffed and that VTS personnel are appropriately trained and qualified; and</p> <p>.5 ensure that information regarding requirements and procedures of VTS and the categories of ships required to participate in VTS are promulgated in appropriate nautical publications.</p>

As stated in the table above, the Contracting Government should establish a national legal basis for VTS that gives effect to regulation V/12 of the Convention. This includes, giving effect to IMO Resolution A.1158(32) and related IALA Standards.

Further, establishing a national legal basis for VTS Contracting Governments should take into account the IMO Instruments Implementation Code (III Code).

This national system or structure of laws regulations, rules and policies should reflect how the responsibilities of the competent authority for VTS are implemented nationally. How these responsibilities are met may differ between countries. For example:

- 1 The competent authority and VTS provider may be the same entity.
- 2 The competent authority may delegate some, or parts of its tasks or responsibilities to VTS providers.
- 3 Responsibility to delineate a VTS area, may be either the competent authority or the VTS provider.

4. COMPETENT AUTHORITY – RESPONSIBILITIES

Section 5.2 of IMO Resolution A.1158(32) describes four responsibilities for the competent authority. These are:

- 1 Regulatory framework - establishing a regulatory framework for establishing and operating VTS in accordance with relevant international conventions and IMO instruments, IALA standards and national law.

- 2 Authorization of VTS providers - authorizing VTS providers to operate VTS within a delineated VTS area.
- 3 Approval of VTS training and certification of VTS personnel - ensuring that VTS training is approved and VTS personnel are certified.
- 4 Compliance and Enforcement - establishing a compliance and enforcement framework with respect to violations of VTS regulatory requirements.

4.1. REGULATORY FRAMEWORK

A regulatory framework is the comprehensive system or structure of laws, regulations, rules and guideline that governs a specific sector or activity. It outlines how laws and regulations are organized, applied and enforced to achieve certain objectives.

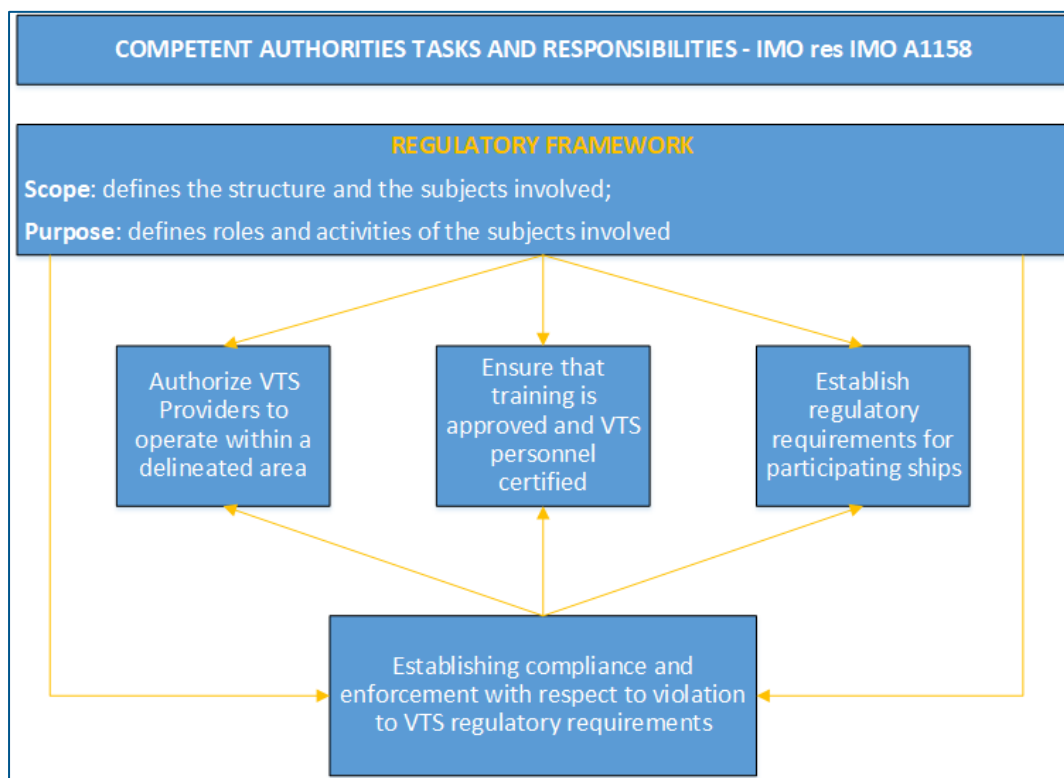
Generally, characteristics of a regulatory framework include:

- Scope: A regulatory framework tends to be broad and includes not only the rules and regulations themselves but also the institutions, enforcement mechanisms and processes involved in overseeing compliance. It provides the overall structure for the regulatory system.
- Purpose: The purpose of a regulatory framework is to ensure that the legal and regulatory rules are applied consistently and effectively. It defines the roles of different actors (e.g. regulatory bodies, government agencies and the individuals/entities involved) and provides the systems for monitoring, compliance and enforcement.

Establishing a regulatory framework for VTS involves creating detailed rules, procedures and responsibilities to implement and operate the VTS effectively. The regulatory framework lays out what the VTS should do in day-to-day operations and how vessels interact with it. An overview is provided in Figure 1.

In many cases, the framework may also clarify the roles and responsibilities of the competent authority and VTS providers under national law.

Figure 1 Regulatory Framework for VTS



4.2. AUTHORIZATION OF VTS PROVIDERS

IMO Resolution A.1158(32) states that the competent authority should “authorize VTS providers to operate VTS within a delineated VTS area”.

The regulatory framework established by the competent authority should prescribe the requirements for the authorization of VTS providers. Elements that should be taken into account in the regulatory framework for authorizing VTS providers are described below.

4.2.1. APPLICATION TO BE A VTS PROVIDER

The regulatory framework should provide the mechanism for entities to apply to be a VTS provider. Elements to consider in establishing the framework include:

- The process for applying to be a VTS provider.
- Information required to enable the competent authority to assess an application, such as:
 - The proposed VTS area.
 - The proposed operational objectives for the proposed VTS and how those objectives will contribute to the safety and efficiency of ship traffic and the protection of the environment.
 - How the applicant will meet the responsibilities of a VTS provider that are mentioned in paragraph 5.3 of IMO Resolution A.1158(32).
 - How the applicant can meet the responsibilities of a VTS provider mentioned in the normative provisions of Standards S1010, S1040, S1050 and S1070, applicable to the establishment and operation of VTS.
- Risk assessment for the proposed VTS area:

IMO Resolution A.1158(32) states that the need for VTS should be assessed and reviewed through risk assessment (Refer to Section 7.2).

In some countries the regulatory framework may not provide for entities to apply to be a VTS provider and solely provide for the competent authority to determine where a VTS is required.

4.2.2. AUTHORIZATION

The regulatory framework should provide mechanisms for the competent authority to authorize a VTS provider. Elements that should be taken into account include:

- How the responsibilities of a VTS provider mentioned in paragraph 5.3 of the IMO Resolution A.1158(32) can be met (i.e. by applicants)/ are being met (i.e. by existing providers).
- How the responsibilities of a VTS provider mentioned in the normative provisions of Standards S1010, S1040, S1050 and S1070 can be met/ are being met.
- Any other provisions required by the competent authority.

4.2.3. ASSESSMENT OF VTS PROVIDERS

The regulatory framework should provide mechanisms for the competent authority to conduct assessments of VTS providers / VTS applicants to determine:

- The requirements mentioned in Section 4.2.2 are being met (i.e. existing VTS provider where an authority expires, Refer Section 4.2.7) / can be met (i.e. an applicant).

- A VTS provider conducting recurrent revalidation training is doing so in accordance with Model Course C0103/5 Revalidation training for VTS personnel.

The regulatory framework should also prescribe the means the competent authority may use to undertake an assessment, such as:

- Compliance audits
- Inspections
- Compliance checks
- Provision of regular reports on how they are complying with their VTS obligations

In some countries the legal basis/ regulatory framework for VTS may provide for the competent authority to also be a VTS provider. In such cases the regulatory framework should take into account the above.

4.2.4. CONDITIONS

The regulatory framework should provide mechanisms for the competent authority to apply conditions to the authorization. For example:

- The VTS provider needs to continue to meet the responsibilities of a VTS provider that are mentioned in paragraph 5.3 IMO Resolution A.1158(32).
- The VTS provider should conform with the practices that are mentioned in the applicable normative provisions of Standards S1010, S1040, S1050 and S1070.
- The VTS provider also needs to comply with any additional requirements made by the competent authority.

4.2.5. ISSUE OF AUTHORIZATION

The regulatory framework should provide mechanisms for how the competent authority approves an authorization and who may approve the authorization.

4.2.6. FORM OF AUTHORIZATION

The regulatory framework should describe the form of authorization (e.g. Certificate, national register) and the information this should include, such as:

- the name of the VTS provider.
- a description of the VTS area(s).
- the operational objectives of the VTS to be provided.
- additional conditions by the competent authority.

4.2.7. DURATION OF AUTHORIZATION

The competent authority should determine whether the authorization should be granted for a limited time period.

Where the competent authority decides to grant the authorization for a limited period, e.g. 5 years, this should be reflected in the authorization, for example:

- commences on the day it is issued; and
- expires at the earlier of:
 - 5 years after the day it is issued; or
 - the day it is cancelled.

4.2.8. AMENDMENT OF AUTHORIZATION

The regulatory framework should provide the mechanism for the competent authority to amend an authorization on its own initiative or by application of the VTS provider. For example:

- On its own initiative – Elements to take into account include, for example:
 - Changing conditions imposed on authorization.
 - Imposing further conditions on the authorization.
 - Changing details in the authorization that are no longer accurate.
 - Including any other details the competent authority considers necessary.
- Application by a VTS provider – The VTS provider should provide sufficient information for the competent authority to assess the application, such as:
 - The grounds for the application and
 - The proposed amendments, e.g. extension of the VTS area.

4.2.9. SUSPENSION OR CANCELLATION OF AN AUTHORIZATION

The regulatory framework should provide the mechanism for the competent authority to suspend or cancel an authorization.

Consideration should be given to ensuring any potential implications for navigational safety associated with cancellation or suspension are mitigated.

Key elements for consideration include:

- If the conditions that apply to the authorization have not been complied with.
- If the risk assessment no longer requires VTS, e.g. due to the changing traffic circumstances, the VTS provider or the competent authority may initiate cancellation.

4.2.10. RECURRENT TRAINING

Model Course C0103/5 Revalidation process for VTS Qualifications and Certification training for VTS personnel provides for VTS providers to conduct revalidation training.

The regulatory framework should provide the mechanism for the competent authority to:

- Approve a VTS provider to conduct recurrent training in accordance with Model Course C0103/5 Revalidation process for VTS Qualifications and Certification.
- Conduct assessments of VTS providers conducting revalidation training to ensure the provider is capable of conducting the course.

4.2.11. COMPLIANCE AND ENFORCEMENT

The regulatory framework should provide for compliance and enforcement with respect to suspension or cancellation of an authorization (Section 5.2.5) with regards to a VTS provider not complying with the conditions of its authorization (Section 5.2.2).

4.3. APPROVAL OF VTS TRAINING AND CERTIFICATION OF VTS PERSONNEL

The international framework for training and certification of VTS personnel is provided in:

- IMO Resolution A.1158(32) - personnel should only be considered competent when appropriately trained and qualified for their VTS duties. This includes:
 - satisfactorily completing generic VTS training approved by the competent authority;
 - satisfactorily completing on-the-job training at the VTS where the personnel are employed;
 - undergoing periodic assessments and revalidation training to ensure competence is maintained; and
 - being in possession of appropriate certification.
- Standard 1050 Training and Certification – The Standard specifies practices associated with:
 - Training and certification of VTS personnel in Recommendation R0103 - Training and Certification of VTS Personnel and associated Guidelines and model courses).
 - Accreditation, competency, certification and revalidation in Recommendation R0149 - Accreditation of Training Organisations and associated Guidelines).

To ensure international consistency in the qualification and training of VTS personnel, organizations providing training should be accredited by the competent authority and individual model courses provided should be approved.

The regulatory framework established by the competent authority should prescribe the requirements for the accreditation of VTS training organizations and approval of their model courses. Elements that should be taken into account are provided in the following sections.

4.3.1. APPLICATION TO BE A VTS TRAINING ORGANIZATION

The regulatory framework should provide mechanism for entities to apply to be a VTS training organisation. Elements to consider is establishing the framework include:

- The process for applying to be a VTS training organization.
- The qualifications and experience of their instructors.
- The model courses to be provided.
- How the applicant considers it can meet the responsibilities of a VTS training organisation that are mentioned in the normative provisions of Standard 1050.

In some countries the competent authority may also be the training organization. In such cases the elements listed above should be taken into account.

4.3.2. ACCREDITATION OF VTS TRAINING ORGANIZATIONS

The regulatory framework should provide mechanisms for the competent authority to accredit VTS training organizations and approve their model courses. Elements to take into account include:

- How the training organization / applicant can meet the responsibilities of a VTS training organisation that are mentioned in the normative provisions of Standard 1050.
- Any other provisions required by the competent authority, for example, national training frameworks.

4.3.3. ISSUE OF AUTHORIZATION

The regulatory framework should provide mechanisms for how the competent authority approves an accreditation and who may approve the accreditation.

4.3.4. CONDITIONS

The regulatory framework should provide mechanisms for the competent authority to apply conditions to the accreditation. For example, the training organisation should:

- operate in accordance with the normative provisions of Standard S1050;
- comply with any additional requirements made by the competent authority.

4.3.5. FORM OF ACCREDITATION

The regulatory framework should describe the form of accreditation (e.g. Certificate, register) and the information this should include, such as:

- The name of the VTS training organisation.
- The vessel traffic service model courses that the VTS training organisation may provide;
- The conditions that attach to the certificate of accreditation.

4.3.6. DURATION OF THE ACCREDITATION

The competent authority should determine whether the accreditation should be granted for a limited time period.

Where the competent authority decides to grant the accreditation for a limited period (e.g. 5 years) this should be reflected in the accreditation, for example:

- commences on the day it is issued; and
- expires at the earliest of:
 - 5 years after the day it is issued; or
 - the day it is cancelled.

4.3.7. AMENDMENT

The regulatory framework should provide the mechanism for the competent authority to amend an accreditation on its own initiative or by application of the VTS training organization. For example:

- On its own initiative - Considerations include:
 - to change conditions imposed on accreditation;
 - to impose further conditions on the accreditation;
 - to change details in the accreditation that are no longer accurate; or
 - to include any other details the competent authority considers necessary.
- An application by a VTS training organization – The training organization should provide sufficient information for the competent authority to assess the application, such as:
 - the grounds for the application; and
 - the proposed amendments.

4.3.8. SUSPENSION OR CANCELLATION

The regulatory framework should provide the mechanism for the competent authority to suspend or cancel the accreditation of a VTS Training Organization.

Key elements for consideration include:

- Suspension or cancellation of accreditation if the competent authority considers that a condition that applies to the certificate of accreditation has not been complied with.
- A VTS training organisation seeks to cancel its accreditation.

4.3.9. COMPLIANCE AND ENFORCEMENT

The regulatory framework should provide for compliance and enforcement with respect to suspension or cancellation of an accreditation where a VTS training organization is not complying with the conditions of its accreditation.

4.4. REQUIREMENTS FOR PARTICIPATING SHIPS

IMO Resolution A.1158(32), Section 6 describes the responsibilities of participating ships:

In a VTS area, participating ships should:

- .1 provide reports or information required by VTS;
- .2 take into account the information provided, or advice and warnings issued by VTS;
- .3 comply with the requirements and instructions given to the ship by VTS unless contradictory safety or marine environment protection reasons exist; and
- .4 report any pollution or dangers to navigation to VTS.

Elements that should be taken into account in establishing the regulatory framework include provisions for ships to meet these responsibilities

4.4.1. REPORTING REQUIREMENTS

The regulatory framework should provide the mechanism to require participating ships to give a report or information about the vessel's identity or passage. The mechanism could be provided by national law and/or IMO adopted mandatory Ship Reporting Systems associated with VTS.

4.4.2. INFORMATION, WARNING, ADVICE AND INSTRUCTION

The regulatory framework should provide the mechanism for participating ships to take into account the information provided and to comply with instructions given to the ship (as described in SMCP) by the VTS unless contradictory safety or marine environment protection reasons exist.

4.4.3. COMPLIANCE AND ENFORCEMENT

The regulatory framework should provide for penalty and offence provisions for a participating ship not complying with Section 4.4.1 – 4.4.3 above.

The competent authority should establish a framework with regards to flag State reporting, particularly on the responsibilities and how reporting is achieved. Further information on establishing a compliance and enforcement framework for participating ships in a VTS area is provided in Annex A.

ANNEX A COMPLIANCE AND ENFORCEMENT FRAMEWORK FOR PARTICIPATING SHIPS IN A VTS AREA

Competent authorities should establish a legal basis in national legislation for enforcing violations of VTS regulatory requirements. Enforcement provisions must be taken in accordance with national jurisdiction and international obligations, including those arising from IMO Resolution A.1158(32).

Competent authorities may utilize existing legislative examples, which include provisions on vessel obligations, reporting requirements and deviation from VTS instructions.

A.1. VESSEL OBLIGATIONS

According to the IMO resolution A.1158(32), participating ships in a VTS area should:

- .1 provide reports or information required by VTS;
- .2 take into account the information provided, or advice and warnings issued, by VTS;
- .3 comply with the requirements and instructions given to the ship by VTS unless contradictory safety or marine environment protection reasons exist; and
- .4 report any pollution or dangers to navigation to VTS.

A.2. MONITORING AND DETECTION OF NON-COMPLIANCE

Competent authorities should ensure the VTS provider has suitable means to detect potential violations, which may include:

- Identify behaviour that indicates non-compliance with regulatory requirements.
- Use of surveillance, communication logs and tracking systems appropriate to the VTS. Equipment guidance can be found in G1111.
- Recording all communications, sensor images and DST notifications.

A.3. DOCUMENTATION AND INFORMATION MANAGEMENT

Data handling, storage and retention periods must comply with national requirements and relevant policies on personal data and evidential material. Competent authorities should ensure documents which may be used as evidence for potential enforcement action are clearly defined. Sources may include VTS operator logs, track data, audio recordings, historical reports or synopsis records.

Failure to retain or access relevant VTS data within the necessary timeframe can result in the loss of evidential material, which may prevent the competent authority from initiating or completing enforcement action. Procedures should be clearly defined to the VTS provider.

A.4. COMPLIANCE AND ENFORCEMENT MEASURES

Measures should be proportionate and aligned with national law. Measures may include:

- Issuing information and educational guidance
- Verbal or written warnings
- Administrative actions or fines

- Referral to maritime or police authorities for further action.

Criteria for selecting measures should consider the nature of the violation, its safety impact and whether repeated non-compliance has occurred.

The framework should reflect jurisdictional limits and procedures for addressing non-compliance by foreign flagged vessels. Competent authorities should define circumstances under which a report is made to the vessel's flag State when a non-compliance occurs.

A.5. COMMUNICATION WITH FLAG STATES

When contacting a flag State, the competent authority should provide clear information supported by evidence. Contact information for flag States can be found in the IMO Global Integrated Shipping Information System (GISIS).