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| IALA Guideline |

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[Establishing a Policy and Legal Framework for VTS]

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# document purpose

The purpose of this document is to assist governments and competent authorities to establish/maintain/suspend VTS under national law[[1]](#footnote-1) in accordance with relevant international conventions, IMO and IALA documents.

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| This Guideline is associated with IALA Recommendation *R0119 - Establishment of a VTS*.  Recommendation R0119 provides the framework to assist competent authorities for VTS and VTS providers when arranging for the establishment of a VTS. The Recommendation is a normative provision of IALA Standard 1040 Vessel Traffic Services and should be observed if compliance with this Standard is claimed.  To demonstrate compliance with the Recommendation the practices described in the associated Guidelines should be taken into account |

## Using this Guideline

The Guideline should be read in conjunction with:

IALA Standards relating to VTS :

* 1040 - Vessel Traffic Services.
* 1010 - AtoN Planning and Service Requirements.
* 1050 - Training and Certification.
* 1070 - Information Services.

and Guidelines:

* IALA Guideline *G1150 Establishing, Planning, and Implementing a VTS,* which provides the broad framework for implementing practices specified in IALA *Recommendation R0119 Establishment of a VTS*.
* IALA Guideline *G1101 – Auditing and Assessing VTS* which provides guidance for competent authorities and VTS providers to meet their obligations under SOLAS for the establishment and operation of a VTS. In particular, for auditing and assessing a VTS and the subsequent on-going assessment and evaluation.
* IALA Guideline *G1115 – Preparing for an IMO Member State Audit Scheme (IMSAS) on Vessel Traffic Services* which provides guidance for Contracting Governments and competent authorities to meet the objectives of an IMO Member State Audit Scheme (IMSAS) with respect to the implementation and delivery of VTS and to demonstrate they are fulfilling their responsibilities under the general provisions of treaty law and IMO conventions for promulgating laws and regulations.
* IALA Guideline *G 1014 - Accreditation of VTS training organisations and approval to deliver VTS model courses*.
* IALA Guideline G1018 – *Risk management*
* IALA Guideline G1045 – *Staffing levels at VTS Centres*

# Introduction

VTS around the world is organized differently.

In some countries the VTS providers are private entities and in others the VTS providers are governmental.

Regardless of whether the VTS provider is governmental/public or private the CA must ensure an efficient level of services and Sufficient ability to operate independently in terms of budget, staff and operation.

The Contracting Government/Competent Authority/VTS provider or Competent Authority and VTS provider may be one in the same. Guidance on addressing Governance issues, whether perceived or real, may be useful to ensure mechanisms can be considered to clearly define the responsibilities, roles and relations and minimise any potential conflict in interest with regards to authorisation.

# international REGULATORY AND LEGAL FRAMEWORK

A diagram of a pyramid

Description automatically generatedThe international regulatory and legal framework for establishing and operating VTS includes the following components:

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

It is a basic principle of international law that a State party to a Convention must ensure that its own domestic law and practice are consistent with what is required by the treaty. How a State may do this may vary according to the constitutional and legal systems of individual countries. For example:

o In some countries, once it is ratified at the international level, the Convention may automatically form part of national law. In other words, the Convention would be directly enforceable by national courts and other implementing authorities.

o In some other countries, the legislature might have to adopt an act of ratification at the national level. This may have the effect of incorporating the Convention into domestic law. However, even when parliaments ratify the Convention (national ratification), many provisions might still require legislative action before they come into force. This depends, in part, on how specific the Convention’s obligations are: the more specific the obligation, the less likely that implementing legislation will be needed.

o In other cases, including many common-law countries, only those provisions of the treaty that are directly incorporated into national law will give rise to enforceable rights and duties.

## International Convention for the Safety of Life at Sea (SOLAS) 1974

The SOLAS Convention is generally regarded as the most important of all international treaties concerning the safety of merchant ships. SOLAS Chapter V (Safety of Navigation) identifies certain navigation safety services which should be provided by Contracting Governments.

VTS is recognised internationally as a navigational safety measure through the International Convention on the Safety of Life at Sea 74/78 (SOLAS). In particular, the provisions in SOLAS Chapter V (Safety of Navigation) Regulation 12 provides for Vessel Traffic Services and states that:

* *“Vessel Traffic Services (VTS) contribute to safety of life at sea, safety and efficiency of navigation and protection of the marine environment, adjacent shore areas, work sites and offshore installations from possible adverse effects of maritime traffic.”*
* *“Governments may establish VTS when, in their opinion, the volume of traffic or the degree of risk justifies such services”.*

SOLAS also states that contracting Governments planning and implementing VTS shall, wherever possible, follow the guidelines developed by the IMO.

Under the general provisions of treaty law and of IMO Conventions, States are 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.

## IMO Resolution A.1158(32) Guidelines for Vessel Traffic Services

Resolution A.1158(32) describes the purpose of VTS, the regulatory and legal framework for establishing and operating VTS, the roles and responsibilities of Contracting Governments, competent authorities, VTS providers and participating ships and the qualifications and training requirements for VTS personnel.

Specifically, the Resolution:

* *RECOMMENDS* *Contracting Governments and Members of the Organization which are not Contracting Governments to the Convention to take into account the Guidelines contained in the annex when planning and implementing vessel traffic services in accordance with regulation V/12 of the Convention.*
* Highlights that the establishment of VTS is dependent on national law:
  + *4.3 The establishment of VTS is dependent on national law and relevant international conventions, recognizing factors such as the volume of traffic, degree of risk, and geographical and environmental conditions.*
* Recognizes IALA as an important contributor to IMO's role and responsibilities relating to VTS *(*Paragraph 1.3*).* Specifically, this includes:
  + Reference to IALA standards and associated recommendations, guidelines and model courses specifically related to the establishment and operation of VTS to contribute to achieving worldwide harmonization of VTS (Paragraph 9.1); and
  + Stating that the regulatory framework established for VTS the competent authority should be in accordance with IALA Standards, as well as relevant international conventions and IMO instruments, and national law (Paragraph 5.2.1).

## IALA Standards

To achieve world-wide harmonization and improvement of VTS, IALA has developed a document structure to be used in order to develop and publish documents specifically related to the development, implementation and operation of VTS. The principal components to the IALA document structure include:

* **Standards** - An IALA Standard is a part of a framework, the implementation of which by all coastal states will harmonise Marine Aids to Navigation worldwide.
* **Recommendations** - IALA Recommendations specify what practices should be carried out in order to comply with a Recommendation, and may be referenced, in full or in part, in an IALA Standard.
* **Guidelines** - IALA Guidelines describe how to implement practices normally specified in a Recommendation.
* **Model Courses** - IALA Model Courses are training documents which define the level of training and knowledge needed to reach levels of competence defined by IALA.

## National Law

States are responsible for promulgating laws and regulations and for taking all other steps which may be necessary to establish/running/suspending VTS in the national law.

# Establishing VTS in national law

## Responsibilities of Contracting Governments

According to the IMO Resolution A.1158(32) Contracting Government should:

.**1 establish a legal basis for VTS that gives effect to regulation V/12 of the SOLAS Convention;**

The Contracting Government should establish a legal framework that enable the operation of VTS. This should include rules on the establishment, maintenance, provision, and suspension of VTS in accordance with international standards and the specific regulation V/12 of SOLAS. The legal basis should define the scope and the responsibility of VTS, ensuring that the VTS providers can effectively manage maritime traffic to enhance safety and protect the marine environment.

Contracting Government of coastal State could consider establishing compliance and enforcement framework with respect to violations of VTS regulatory requirements.

If the CA and VTS provider is the same entity - make sure that the audits of VTS providers are carried out independently. This is the responsibility of the contracting government.

**.2 appoint and authorize a competent authority for VTS;**

A specific authority or agency should be designated to oversee the operation and administration of VTS. This authority should have the required expertise, resources, and mandate to ensure the effective management of vessel traffic by VTS provider within a delineated area.

**.3 take appropriate action against a ship flying its flag that is reported not to have complied with the provisions of VTS;**

If a ship registered under the flag of the Contracting Government fails to comply with VTS provisions, the government should investigate and take necessary actions. This might include enforcement such as penalties, fines, or other measures to ensure compliance and deter future violations.

**.4 take account of future technical and other developments recognized by IMO relating to VTS.**

The government should take into consideration new technologies, practices, and standards recommended or recognized by the International Maritime Organization (IMO) or other authoritative bodies in order to keep the VTS effective, efficient, and in line with international best practices.

## Responsibilities of Competent Authorities

According to the IMO Resolution A.1158(32) competent authorities should:

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

The regulatory framework should define the scope of VTS operations, requirements for operating VTS, services provided and responsibilities for VTS providers. It should also detail procedures for coordination with allied services. Developing the regulatory framework competent authorities should consider involving stakeholders as e.g marine operators to ensure that the framework is practical and addresses the needs of the involved parties.

Competent authorities should consider establishing regulations and procedures to perform audits, assessments and/or inspections of VTS providers[[2]](#footnote-2).

The competent authority may conduct an audit to determine if:

* + a new VTS provider should be issued an authorisation
  + a VTS provider is complying with the conditions of their authorisation; or
  + a VTS provider conducting recurrent training is complying with IALA guidance.

**.2 authorize VTS providers to operate VTS within a delineated VTS area;**

Competent authorities should establish national requirements for authorization of VTS providers to operate within a delineated area and implement a process to evaluate the operational capabilities, technological requirements, staff qualifications and safety standards to ensure that the authorized VTS providers meet the said requirements. This could include inspections, audits and performance assessments.

The establishment of a VTS may be determined by the contracting government/competent authority. This could be initiated by an application by an entity (e.g. port authority) depending on national law. In either case it must meet the national requirements for VTS providers.

If applicable, the competent authority could follow the next steps:

### Application for authorisation

The competent authority could provide a mechanism for entities to apply to be a VTS provider.

Key elements that should be included in the application from the VTS provider:

* A risk assessment that indicates the need for VTS
* A cost and benefit analysis
* The delineation of the proposed VTS area
* Staff and equipment
* Contingency plan
* ISO certification – quality management

### Issue of a permit/authorisation

When issuing an authorisation the competent authority may impose conditions which could include the following terms

• operation in accordance with the IALA documents

• operation in coordination with other relevant stakeholders (e.g. other VTS providers, ports, pilots)

### Form of authorisation

Authorisation may require various forms depending on national legislative framework (e.g. a license, a permit, publication in national guidance).

Key elements that should be included :

* the name of the VTS provider.
* a description of the VTS area.
* the operational objectives of the vessel traffic service to be provided.
* the additional conditions of the competent authority.

### duration of authorisation

The competent authority determines whether the authorisation should be granted for a limited or unlimited time period.

If the competent authority decides to grant the authorisation for a limited period (e.g. 5 years) this should be reflected in the authorisation, 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.

If the competent authority decides to grant the authorisation for an unlimited period the VTS should be assessed on a regular basis, for example with an audit programme.

### Amendment of authorisation

The competent authority should be empowered to amend an authorisation on its own initiative or by application of the VTS provider.

Considerations include:

* + to change conditions imposed on the authorisation/permit; or
  + to impose further conditions on the authorisation/permit; or
  + to change/include any other details the competent authority considers necessary; or
  + to change the boundary of the VTS area.

An application by a VTS provider should:

* + set out the grounds for the application
  + include a new risk assessment
  + describe the proposed amendment.

Engagement should be made with other stakeholders that may have an interest in the proposed amendment.

Whenever an amendment is made the competent authority should ensure that key elements from xxx (application for authorisation) are met.

### Suspension or cancellation of an of authorisation/permit

The competent authority should be empowered to suspend or cancel an authorisation.

Key elements for consideration:

* If the conditions that apply to the authorisation 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 can initiate cancellation.

**.3 ensure that VTS training is approved and VTS personnel are certified;**

The competent authority should ensure that

* Arrangements are in place for the establishment and approval of training programmes, taking into account available model courses[[3]](#footnote-3) and that these meet international standards.
* VTS personnel are trained and certificated to perform their duties[[4]](#footnote-4).
* If external training organization is used, a formal endorsement process is in place for accreditation[[5]](#footnote-5) of such organization so that they operate under a quality management system[[6]](#footnote-6).

**.4 establish a compliance and enforcement framework with respect** **to violations of VTS regulatory requirements.**

The competent authority should ensure compliance with and enforcement of regulatory provisions for which they are empowered to prevent violations of VTS regulatory requirements. This could include

* oversight function of VTS providers monitoring vessels
* ensuring that they are equipped with necessary means to track and record vessels movement and interaction with VTS using available technology.

~~The accreditation of registered training organisations as VTS training organisations through the issue of certificates of accreditation.~~

## Other Considerations

### IMSAS

The IMO Member State Audit Scheme (IMSAS) provides a Member State with a comprehensive and objective assessment of how effectively it administers and implements those mandatory IMO instruments which are covered by the scheme, i.e. SOLAS.

The scheme addresses issues such as:

* conformance in enacting appropriate legislation for the IMO instruments to which a Member State is a Party;
* the implementation and enforcement of the applicable laws and regulations by the Member State;
* the delegation of authority to Recognised Organisations (ROs);
* the related control and monitoring mechanism of the survey and certification processes by the Member
* States.

*IALA Guideline 1115 – Preparing for an IMO Member State Audit Scheme (IMSAS) on Vessel Traffic Services*

1. IMO Resolution A.1158(32) States:

   *4.3 The establishment of VTS is dependent on national law and relevant international conventions, recognizing factors such as the volume of traffic, degree of risk, and geographical and environmental conditions.”.* [↑](#footnote-ref-1)
2. See IALA Guideline G1101 Auditing and assessing a VTS [↑](#footnote-ref-2)
3. Model Courses C0103-1 “Operator training”; C0103-2 “Supervisor training”; C0103-4 “OJT instructor” [↑](#footnote-ref-3)
4. Recurrent training should be carried out at regular intervals and is part of a structured training programme thereby enabling continual professional development and resulting in the maintenance of the VTS qualification. (G1156). [↑](#footnote-ref-4)
5. reference to G1014 “Accreditation of VTS training organisations and approuval to deliver VTS model courses”; [↑](#footnote-ref-5)
6. Under this process an audit may review all aspects of the operation of a VTS training organisation that are relevant to the delivery of vessel traffic service courses. [↑](#footnote-ref-6)