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| IALA Guideline |

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EStablishing a rEGULATORY FRAMEWORK FOR VTS – REsponsibilities of a competent authority

[Establishing A Regulatory FRAMEWORK For VTS]

[ESTABLISHING AND OPERATING VTS UNDER NATIONAL LAW]

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Revisions to this document are to be noted in the table prior to the issue of a revised document.

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| **To be deleted as document matures**  **VTS Committee Task plan**  **VTS 1.1.5 Develop guidance to assist competent authorities for VTS establish an appropriate policy and regulatory framework to meet their obligations**  *To provide guidance to assist competent authorities for VTS establish an appropriate policy and regulatory framework to meet their obligations and also to ensure that VTS providers meet theirs.*  *Recommendation and/or guideline to assist competent authorities for VTS:*   * *Establish a regulatory framework for establishing and operating VTS in accordance with relevant international conventions and IMO instruments, IALA standards and national law.* * *Authorize VTS providers and establish appropriate policy and regulatory mechanisms to ensure VTS providers continue to meet their obligations.* * *Ensure that VTS training is approved and VTS personnel are certified.* * *Demonstrate conformance with IALA standards and associated recommendations, guidelines, and model courses.* * *Establish a compliance and enforcement framework with respect to violations of VTS regulatory requirements.*   *It is envisaged that such guidance would complement IALA Recommendation R0119 - Establishment of a VTS but focusing on the roles and responsibilities of a competent authority for VTS.* |

# 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* describes the purpose of VTS, the regulatory and legal framework for establishing and operating VTS, the roles and responsibilities of Contracting Governments**[[1]](#footnote-2)**, competent authorities**[[2]](#footnote-3)**, VTS providers**[[3]](#footnote-4)** and participating ships**[[4]](#footnote-5)** and the qualifications and training requirements for VTS personnel *(Section 1.2).*

Pending a country’s primary law and legal basis system the regulatory framework for VTS may differ with regards to how the responsibilities of a competent authority are implemented as described in IMO Resolution A.1158(32). For example:

1. The competent authority may delegate some, or parts of its responsibilities to VTS providers.
2. The competent authority and VTS provider may be the same entity.
3. Others?

**In such cases,** the system or structure of laws, regulations, rules, and guidelines simply need to reflect this in a manner that clearly articulates and demonstrates how the legal basis / regulatory framework gives effect to SOLAS Regulation V/12, IMO Resolution A.1158(32) and IALA Standards and associated recommendations, guidelines and model courses specifically related to the establishment and operation of VTS.

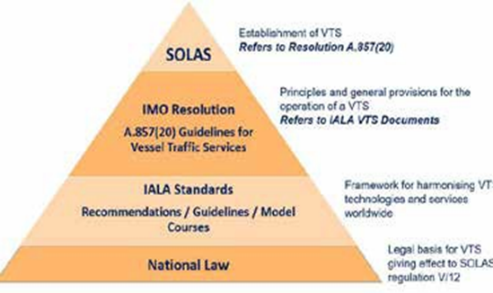
# document purpose

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. IALA standards and associated recommendations, guidelines and model courses specifically related to the establishment and operation of VTS.

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

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

| **IMO Resolution A.1158(32)** | | |
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| ***2 RECOMMEND****S 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;*  ***3 RECOMMENDS*** *Governments to encourage masters of ships navigating in an area for which a vessel traffic service is provided to make use of the service;* | | |
| **Annex to the Resolution – Section 5 Vessel Traffic Services Responsibilities** | | |
| **Contracting Government** | **Competent authority** | **VTS provider** |
| ***5.1 The Contracting Government should:***  *.1 establish a legal basis for VTS that gives effect to regulation V/12 of the Convention;*  *.2 appoint and authorize a competent authority for VTS;*  *.3 take appropriate action against a ship flying its flag that is reported not to have complied with the provisions of VTS; and*  *.4 take account of future technical and other developments recognized by the Organization relating to VTS.* | ***5.2 The competent authority for VTS 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;*  *.2 authorize VTS providers to operate VTS within a delineated VTS area;*  *.3 ensure that VTS training is approved and VTS personnel are certified; and*  *.4 establish a compliance and enforcement framework with respect to violations of VTS regulatory requirements.* | ***5.3 The VTS provider should:***  *.1 ensure that VTS conform with the regulatory framework set by the competent authority for VTS;*  *.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;*  *.3 ensure that appropriate equipment, systems and facilities for the delivery of VTS are provided;*  *.4 ensure that VTS are adequately staffed and that VTS personnel are appropriately trained and qualified; and*  *.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.* |

Further information on the international regulatory and legal framework is provided in the IALA VTS Manual and IALA *Guideline G1150 Establishing, Planning and Implementing a VTS*.

# About this document

This document has been prepared in a manner that:

1. Recognizes that it is the responsibility of the Contracting Government establish the legal basis for VTS that gives effect to regulation V/12 of the Convention (*Refer* IMO *Resolution A.1158(32), Section 5.1*).
2. Recognizes that 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 (*Refer SOLAS,* IMO *Resolution A.1158(32), Section 4.3*).
3. Assumes that, Contracting Governments:
   * Have taken into account applicable IMO instruments and refer to relevant international guidance prepared and published by appropriate international organizations (Refer IMO Resolution A.1158(32), Section 1.4).
   * Have fulfilled their responsibilities as described in IMO Resolution A.1158(32) (Section 5.1). That is:

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

A legal basis is the fundamental legal authority or foundation justification for a specific action, often coming from primary laws (Constitutions, Statutes, Case Law, etc), Treaties and International Agreements. It refers to the specific law, statute, or legal provision established by the Contracting Government that gives authority for an action, policy, or regulation. In summary:

* + It's foundational and specific.
  + It answers questions such as: “What law allows this?” and “What is the head of power to do this?”
  + It is often cited in legal documents to justify decisions or actions.

With regards to VTS, the legal basis provides the overarching powers / provisions to authorize the creation and operation of VTS through primary laws, international treaties and requires compliance with the VTS regulatory framework.

The legal basis should also provide the framework for sections .2, .3 and .4 below.

***.2 appointed and authorized a competent authority for VTS;***

That is, under the legal basis established for VTS, the Contracting Government should appoint and authorize a competent authority for VTS.

*Note, in some countries, more than one competent authority may be appointed.*

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

That is, the legal basis established for VTS should provide for taking appropriate action against a ship flying its flag that is reported not to have complied with the provisions of VTS.

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

That is, the legal basis established for VTS provides for taking into account future technical and other developments recognized by the Organization relating to VTS.

1. Recognizes the interrelationship between policy, legislation, regulation and governance in establishing an effective and functional legal and regulatory framework in national law.

This document should be read in association with IALA *Guideline G1150 Establishing, Planning and Implementing a VTS.*

# 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.*

## Regulatory framework

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

In the case of VTS, the regulatory framework established by the competent authority provides for establishing and operating VTS in accordance with relevant international conventions and IMO instruments, IALA standards and national law. It defines how laws and legal provisions are to be applied, enforced, and followed.

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 or 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.

In summary, a regulatory framework consists of detailed rules and mechanisms for implementing and enforcing laws in specific areas.

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

### Authority / powers

The regulatory framework should clearly define the authority / power to provide for VTS. Elements that should be taken into account should include, for example:

* Who has the authority / power to make regulations relating to VTS, or any authorization to delegate, and giving effect to national law, including amending or repealing regulations.
* Providing for regulations to be made for giving effect to SOLAS Regulation V/12 and IMO Resolution A.1158(32).
* Provisions for the authorization of operating a VTS area and regulations that may be made accordingly.
* That regulations may provide for the imposition of penalties for contravening a provision of the regulations.

## 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.

### 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 vessel traffic service 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 IALA Standards 1010, 1040, 1050 and 1070.
* Risk assessment for the proposed VTS area.

### Authorization

The regulatory framework should provide the mechanism for competent authorities to assess an application to be a VTS provider and their authorization. Elements that should be taken into account include:

* How the applicant will meet the responsibilities of a VTS provider mentioned in paragraph 5.3 of the IMO Resolution A.1158(32) and national law.
* How the applicant can meet the responsibilities of a VTS provider mentioned in the normative provisions of IALA Standards 1010, 1040, 1050 and 1070.
* How the competent authority assesses an application. For example, this may include the use of compliance audits, inspections, etc.
* Mechanisms for authorizing the VTS provider. For example, is this by a certificate, instrument of authority, national register, etc.
* The form of authorization - Authorisation may take various forms depending on national legislative framework (e.g. a license, a permit, publication in national guidance). Element to be included on the form may include for example:
* the name of the VTS provider.
* a description of the VTS area(s).
* the operational objectives of the vessel traffic service(s) to be provided.
* additional conditions by the competent authority.

### Duration of authorization

The competent authority should determine 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 authorization

The regulatory framework should provide the mechanism for the competent authority 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/ VTS sub areas.

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.

### Suspension or cancellation of an authorization

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

Key elements for consideration include:

* 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 may initiate cancellation.

### Assessment of VTS Providers and Applicants

The regulatory framework should provide the mechanism for the competent authority to conduct assessments for VTS to determine if:

* An applicant meets the requirements mentions in Sections 5.2.1;
* An application should be approved (Section 5.2.2);
* A VTS provider is complying with the conditions of its authorization (Section 5.2.2); or
* A VTS provider conducting recurrent training in accordance with IALA *Model Course V-103/5 Revalidation process for VTS Qualifications and Certification*.

The framework should also:

1. Provide for the competent authority to review all aspects of the operation of a VTS provider that are relevant to its provision of a vessel traffic service.
2. Prescribe mechanisms to undertake an assessment, such as:
   * Compliance audits – <intro text>
   * Inspections – <intro text>
   * Compliance checks – <intro text>
   * Provision of regular reports on how they are complying with their VTS obligations – <intro text>.
3. Describe how any suspension or cancellation of an authorization is to be achieved.

### Recurrent Training

<to follow>

### 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).

### Other considerations

<to follow if required>

## 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.
* **IALA Standard 1050 Training and Certification** – The Standard specifies practices associated with:
  + Training and certification of VTS personnel in *IALA Recommendation R0103 - Training and Certification of VTS Personnel* and associated Guidelines and model courses).
  + Accreditation, competency, certification and revalidation in *IALA Recommendation O-149 - Accreditation of Training Organisations* and associated Guidelines*)*.

Specifically, to ensure international consistency in the qualification and training of VTS personnel, organizations providing training should be accredited by the competent authority and individual IALA 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 below.

### 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 IALA Standard 1050.

### Accreditation of VTS Training Organizations

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

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

### Issue of Accreditation

The regulatory framework should provide mechanisms for how the competent authority should assess how the applicant meets the responsibilities of a VTS training organisation that are mentioned in the normative provisions of IALA Standard 1050 or any other requirement specified by the competent authority.

### 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 IALA Standard 1050;
* renew, at regular intervals, their registration as a registered training organisation; and
* comply with any additional requirements made by the competent authority.

### Form of accreditation

<to follow>

### Term

<to follow>

### Amendment

<to follow>

### 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.

### 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).

## Patricipating 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 associated with:

### Reporting requirements

The master, if requested by a VTS provider, should give a report or information about the vessel’s identity or passage including, for example:

* + the vessel’s identity, position and condition.
  + the vessel’s course and speed.
  + the vessel’s attributes, cargo and communication methods.
  + the vessel’s route before entering the VTS area and the time and location of its entry into the VTS area.
  + the vessel’s route or intended route after leaving the VTS area.
  + the time and location or intended time and location of leaving the VTS area.
  + the vessel’s last and next ports of call.
  + conditions of the VTS area relevant to the safety of shipping or pollution of the environment.

### Information, warning and advice

The master should take into account the information provided, or advice and warnings, issued by the VTS.

### Instruction

The master should comply with instructions given to the ship by the VTS unless contradictory safety or marine environment protection reasons exist.

### Compliance and Enforcrment

The regulatory framework should provide penalty and offence provisions for a master not complying with Section 5.4.1 – 5.4.3 above.

## Other Considerations

<to follow if required>

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. [↑](#footnote-ref-2)
2. The competent authority is “the entity made responsible by the Government for vessel traffic services” (IMO *Resolution A.1158(32*), Section 2.2). [↑](#footnote-ref-3)
3. The organization or entity authorized by the Government or competent authority to provide vessel traffic services (IMO *Resolution A.1158(32*), Section 2.3). [↑](#footnote-ref-4)
4. Participating ship means a ship required to participate with vessel traffic services. [↑](#footnote-ref-5)