

**MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL
FOR THE INDIAN OCEAN REGION**

The Maritime Authorities* of:

Australia	
Bangladesh	
Djibouti	
Eritrea	
Ethiopia	----- Observer
India	
Iran	
Kenya	
Maldives	
Mauritius	
Mozambique	
Myanmar	
Oman	
Seychelles	
South Africa	
Sri Lanka	
Sudan	
Tanzania	
Yemen	

Hereinafter referred to as “ **the Authorities** ”

Recognizing the need to increase maritime safety and the protection of the marine environment and the importance of improving living and working conditions on board ships;

Noting with appreciation the progress achieved in these fields, in particular by the International Maritime Organisation (IMO) and the International Labour Organisation (ILO) and mindful especially of IMO Resolution A682(17), concerning Regional Co-operation in the Control of Ships and discharge.

Mindful that the principal responsibility for the effective application of standards laid down in international instruments rests upon the authorities of the State whose flag a ship is entitled to fly;

Recognizing nevertheless that effective action by port States is required to prevent the operation of substandard ships;

Recognizing also the need to avoid distorting competition between ports;

* **Maritime Authorities** are the national maritime administrations designated for the implementation of this Memorandum (see Annex 1)

Convinced of the necessity, for these purposes, of an improved and harmonized system of port State control and of strengthening co-operation and the exchange of information;

Have reached the following understanding:

Section 1 Commitments

- 1.1 Each Authority will give effect to the provisions of the present Memorandum and the Annexes thereto, which constitute an integral part of the Memorandum, and take all necessary steps to ratify/accede instruments relevant to the purposes of this Memorandum.
- 1.2 Each Authority will establish and maintain an effective system of Port State Control with a view to ensuring that, without discrimination as to flag, foreign merchant ships visiting the ports of its State comply with the standards laid down in the relevant instruments defined in section 2.
- 1.3 Each Authority will achieve, within a period of 3 years from the coming into effect of the Memorandum an annual total inspections corresponding to at least 10% of the estimated number of individual foreign merchant ships, hereinafter referred to as "ships", which entered the ports of its State during *the previous calendar year*. The Committee established pursuant to Section 7.1 will monitor the overall inspection activity and its effectiveness throughout the region. The Committee will also adjust the target inspection rate based on experience gained and progress made in the implementation of the Memorandum of Understanding.
- 1.4 Each Authority will consult, co-operate and exchange information with the other Authorities in order to further the aims of the Memorandum.

Section 2 Relevant instruments

- 2.1 For the purposes of the Memorandum "relevant instruments" are the following instruments:
 - The International Convention on Load Lines, 1966;
 - The International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
 - The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78);
 - The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 78);
 - The Convention on the International Regulations for Preventing Collisions at Sea, 1972;

- The International Convention on Tonnage Measurement of Ships, 1969;
- The Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147),

together with the Protocols and amendments to these conventions and related codes of mandatory status as and when they enter into force.

- 2.2 With respect to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention 147). Each Authority will apply the instructions in *Annex 2* for the application of ILO publication "Inspection of Labour Conditions on board Ship: Guidelines for procedure".
- 2.3 Each Authority will apply those relevant instruments which are in force and to which its State is a Party. In the case of amendments to a relevant instrument, each Authority will apply those amendments which are in force and which its State has accepted. An instrument so amended will then be deemed to be the "relevant instrument" for that Authority.
- 2.4 When inspecting a ship flying the flag of a State not party to a Convention or to a "relevant instrument" as amended for the purposes of port State control, the Authorities which are party to such Convention or "relevant instrument", as amended, shall ensure that the treatment given to such ship and its crew is not more favourable than that given to ships flying the flag of a State which is party to that Convention or "relevant instrument".
- 2.5 In the case of non-convention sized ships, the Authorities will apply those requirements of the relevant instruments which are applicable and will to the extent that a relevant instrument does not apply take such action as may be necessary to ensure that those ships are not clearly hazardous to safety, health or the environment, having regard, in particular to Section 5 of Annex 2.

Section 3 Inspection Procedures, Rectification and Detention *

- 3.1 In implementing *this* Memorandum, the Authorities will carry out inspections which will consist of at least a visit on board a ship in order to check the validity of the certificates and documents and furthermore satisfy themselves that the crew and the overall condition of the ship, its equipment, machinery spaces and accommodation and hygienic condition on board, meet the provisions of the relevant instruments.
- 3.2.1 Whenever there are clear grounds for believing that the condition of a ship or its *equipment* or crew does not substantially meet the requirements of a relevant instrument a more detailed inspection shall be carried out, including further checking of compliance with on-board operational requirements.
- 3.2.2 Clear grounds exist when the Port State Control Officer (PSCO) finds evidence, which in his professional judgement warrants a more detailed inspection of *the* ship, *its* equipment *and* or *its* crew. The Authorities will regard as clear ground, inter alia; those set out in Annex 3.

* Reference is made to IMO Assembly resolution *A.787(19)* on Procedures for port State control as may be amended by IMO.

- 3.2.3 Nothing in these procedures should be construed as restricting the powers of the Authorities to take measures within its jurisdiction in respect of any matter to which the relevant instruments relate.
- 3.2.4 The relevant procedures and guidelines for the inspection of ships specified in Annex 2 shall also be applied.
- 3.3 In selecting ships for inspection, the Authorities shall give priority to the following ships :
- Ships visiting a port of a State, the authority of which is a signatory to the Memorandum, for the first time or after an absence of 12 months or more;
 - Ships which have been permitted to leave the port of a State, the Authority of which is a signatory to the Memorandum, on the condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period;
 - Ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation;
 - Ships whose statutory certificates on the ship's construction and equipment, have not been issued in accordance with the relevant instruments;
 - Ships carrying dangerous or polluting goods, which have failed to report all relevant information concerning the ship's particulars, the ship's movements and concerning the dangerous or polluting goods being carried to the competent authority of the port and coastal State;
 - Ships which have been suspended from their class for safety reasons in the course of the preceding six months.
- 3.4 The Authorities will seek to avoid inspecting ships, which have been inspected within the previous 6 months by other Authorities unless there are clear grounds for inspection. These procedures are not applicable to ships listed under clause 3.3, which may be inspected whenever the Authority deems appropriate.
- 3.5.1 Inspections will be carried out only by a person, duly authorised by its Authority to carry out port State inspections and responsible to that Authority, who fulfils the requirements of paragraph 3.5.3 and the qualification criteria specified in Annex 4.
- 3.5.2 The PSCO carrying out Port State Control may be assisted by a person with the required expertise when such expertise cannot be provided by his Authority.
- 3.5.3 The PSCO carrying out Port State Control and the person assisting him shall have no personal or commercial interest either in the port of inspection or in the ships inspected, nor shall the PSCO be employed or undertake work on behalf of non-governmental organizations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.

3.5.4 Each PSCO shall carry a personal document in the form of an identity card issued by his authority indicating that the PSCO is authorised to carry out inspections. Reference is made to Annex 5.

3.6.1 On completion of an inspection the master of *the* ship shall be provided by the PSCO with a document in the form specified in Annex 6 to this Memorandum, giving the results of the inspection and details of any decision taken by the PSCO and of the corrective action to be taken by the master, owner or operator.

3.6.2 *Each Authority will endeavour to ensure the rectification of all deficiencies detected. On the condition that all possible efforts have been made to rectify all deficiencies, other than those referred to in 3.6.3, the ship may be allowed to proceed to a port where any such deficiencies can be rectified. The provisions of 3.8.1 apply accordingly.*

In exceptional circumstances where, as a result of the initial control and a more detailed inspection, the overall condition of a ship and its equipment, also taking the crew and its living and working conditions into account, are found to be substandard, the Authority may suspend an inspection.

The suspension of an inspection may continue until the responsible parties have taken the steps necessary to ensure that the ship complies with the requirements of the relevant instruments.

Prior to suspending an inspection, the authority will have recorded detainable deficiencies in the areas set out in Appendix 1 of IMO Resolution A.787(19) and ILO Convention deficiencies as appropriate.

In cases where the ship is detained and an inspection is suspended, the Authority will, as soon as possible, notify all responsible parties. The notification will include information about the detention. Furthermore, it shall state the inspection is suspended until the Authority has been informed that the ship complies with all relevant requirements.

3.6.3 In the case of deficiencies which are clearly hazardous to safety, health or the environment the Authority will detain the ship or will stop the operation in relation to which the deficiencies have been revealed. The detention order or the stoppage of the operation shall not be lifted until the hazard is removed, except under the conditions provided for in 3.8.1 below.

3.6.4 When exercising his professional judgement as to whether or not a ship should be detained, the PSCO shall be guided by the criteria set out in Annex 2.

3.7 In the event that a ship is detained, the Authority shall immediately notify the flag State concerned and its Consul or, in his absence, its nearest diplomatic representative of the action taken. Where relevant, the organisation responsible for the issue of the certificate(s) shall also be informed.

3.8.1 *Where deficiencies which caused a detention as referred to in paragraph 3.6.3 cannot be remedied in the port of inspection, the Authority may allow the ship concerned to proceed to the nearest appropriate repair yard available, as chosen by the master and*

agreed to by the Authority, provided that the conditions determined by the Authority and agreed by the competent Authority of the flag State are complied with. Such conditions will ensure that the ship can proceed without risk to the safety and health of the passengers and crew, or risk to other ships, or without being an unreasonable threat of harm to the marine environment. In such circumstances the Authority will notify the Authority of the ship's next port of call, the parties mentioned in paragraph 3.7 and any other authority as appropriate. The authority receiving such notification will inform the notifying Authority of action taken.

- 3.8.2 *If a ship referred to in paragraph 3.8.1 proceeds to sea without complying with the conditions agreed to by the authority of the port of inspection:*
- 1 *that Authority will immediately alert all other Authorities; and*
 - 2 *the ship will be detained at any port of the Authorities which have accepted the Memorandum, until the master has provided evidence to the satisfaction of the Authority of the port State, that the ship fully complies with all reasonable requirements of the relevant instruments.*
- If a ship referred to in paragraph 3.8.1 does not proceed to the nominated repair port, the Authority of the repair port will immediately alert port of inspection and it will inform IOMOU Secretariat to announce the other MOU's Secretariats.*
- 3.9 The provisions of Section 3.7 and 3.8 are without prejudice to the requirements of relevant instruments or procedures established by international organisations concerning notification and reporting procedures relating to port State control.
- 3.10 When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects rights created by provisions of relevant instruments relating to compensation for undue detention or delay.
- 3.11 In case the master, owner or agent of the ship notifies the port State control Authorities prior to, upon arrival or whilst the vessel is in the port, of any damage, breakdown or deficiency to the ship, its machinery and equipment, which is intended to be repaired or rectified before the ship sails from that port, the detention should be issued only if deficiencies justifying *detention* are found after the master has given notification that the ship was ready for inspections. The same procedure applies when the port State control Authorities are notified that the ship is scheduled to be surveyed at the port with respect to flag, statutory or class requirements.
- 3.12 In exceptional circumstances, when a ship on its way to a specified repair yard needs to call at a port for temporary repairs for safety reasons, it may be allowed into that port. All commercial operations are forbidden, except the unloading of its cargo or bunkers if required for safety reasons. The ship may be allowed to proceed to the specified repair yard only if the flag State of the ship has issued statutory certificates to the ship restricting their validity to that specific voyage, and the Port State is satisfied that such ship shall not pose undue risk to safety of ship, or to the environment or cause undue hardship to the crew.
- 3.13 The owner or the operator of a ship will have the right of appeal against a detention to higher administrative Authority or to the Court of competent jurisdiction, according to the law in each country. However, an appeal shall not cause the detention to be suspended.

Should an inspection reveal deficiencies warranting detention of a ship, all costs relating to inspections subsequent to the first shall be covered by the shipowner or the operator. The detention shall not be lifted until full payment has been made or a sufficient guarantee has been given for the reimbursement of the costs.

Section 4 Provision of Information

- 4.1 Each Authority will report on its inspections under the Memorandum and their results, in accordance with the procedures specified in Annex 8.
- 4.2 The Authorities will supply the following information to the Secretariat:
- a) Number of PSCOs working on their behalf on port State inspections;
 - b) Number of individual ships entering their ports *during the calendar year*.
- 4.3 *Arrangements will be made for the exchange of inspection information with other regional organisations working under similar Memorandum of Understanding.*

Section 5 Operational Violations

The Authorities will upon the request of another Authority endeavour to secure evidence relating to suspected violations of the requirements on operation matters of Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, relating thereto. In case of suspected violations involving the discharge of harmful substances, an Authority will, upon the request of another Authority, visit in port the ship suspected of such a violation in order to obtain information and, where appropriate, to take a sample of any alleged pollutant. In the cases referred to in this article, the requesting Authority should state that the Flag State of the ship has already been notified of the alleged violation.

Section 6 Training Programmes and Seminars

The Authorities will endeavour to establish appropriate training programmes and seminars.

Section 7 Organisation

- 7.1 A Committee composed of a representative of each of the Authorities that are party to the Memorandum will be established. A representative of the International Maritime Organisation and of the International Labour Organisation will be invited to participate without vote in the work of the Committee. Representatives of the maritime Authorities of other States of the Region and, subject to the provisions of Section 10, any other Organisation or Authority which the Committee may deem appropriate, may be accorded the status of observer without vote.
- 7.2 The Committee will meet once a year and at such other times as it may decide.

7.3 The Committee will :

- carry out the specific tasks assigned to it under the Memorandum;
- promote by all means necessary, including seminars for surveyors, the harmonization of procedures and practices relating to the inspection, rectification, detention and the application of 2.4;
- develop and review guidelines for carrying out inspections under the Memorandum;
- develop and review procedures, including those related to the exchange of information;
- keep under review other matters relating to the operation and the effectiveness of the Memorandum;
- promote by all means necessary the harmonization of the operation and effectiveness of this Memorandum with those of similar agreements for other Regions;
- adopt the budget and work out the contributions of every Party to the Memorandum.

7.4 Except where provided otherwise (in section 9), the Committee will take its decisions acting on simple majority.

7.4A *Deleted*

7.5 A Secretariat will be established in accordance with the following principles:

- a) the Secretariat will be a non-profit making body located in Goa, India;
- b) the Secretariat will be totally independent from any maritime administration or organisation;
- c) the Secretariat will be governed by and be accountable to the Committee;
- d) the Secretariat will have a bank account into which all dues and contributions are made;
- e) the Secretariat will operate from the established bank account in accordance with the budget determined by the Committee;
- f) the Secretariat will have a financial year commencing on 1st January.

- 7.6 The Secretariat, acting under the *direction* of the Committee and within the limits of the resources made available to it, will :
- prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;
 - facilitate the exchange of information, carry out the procedures outlined in Annex 10 and prepare reports as may be necessary for the purposes of the Memorandum;
 - carry out such other work as may be necessary to ensure the effective operation of the Memorandum.
- 7.7 *An Indian Ocean Computerised Information System (IOCIS) is established for the purpose of exchanging information on port State inspections, in order to:*
- .1 *make available to Authorities information on inspection of ships in other regional ports to assist them in their selection of foreign flag ships to be inspected and their exercise of port State control on selected ships: and*
 - .2 *provide effective information exchange facilities regarding port State control in the region.*
 - .3 *make worldwide coverage database with other MOU's*
- 7.8 *The function and operational procedures of the IOCIS are specified in "Annex 8."*

Section 8 Financial Mechanism

The costs of running the Secretariat and the Information Centre will be financed by :

- the financial contribution of Parties to the Memorandum; and
- gifts and subscriptions, if any, by donor countries or organisations.

Each Party to the Memorandum undertakes to settle its financial contribution to the costs for running the Secretariat and the Information Centre, in conformity with the decisions and procedures adopted by the Committee.

Section 9 Amendments

- 9.1 Any Authority, which has accepted the Memorandum, may propose amendments to the Memorandum.
- 9.2 In the case of proposed amendments to sections of the Memorandum, the following procedure will apply:
- a) *The proposed amendment will be submitted to the Secretariat at least eight weeks before the Committee meets.
The Secretariat will circulate the proposed amendment to all the Authorities participating in the Memorandum at least six weeks before the Committee meets.*

Authorities have the right to indicate their acceptance or modification or objection to the proposed amendment to the Secretariat at least one week before the Committee meets.

The Secretariat will table the acceptance, modification or objection before the Committee and the Committee will consider the submission in its deliberations.

- b) Amendments will be adopted by a two-thirds majority of the representatives of the Authorities participating in the Memorandum. Each Authority is entitled to only one vote. If so adopted an amendment will be communicated by the Secretariat to the Authorities for acceptance.
- c) An amendment so adopted will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption. ***Provided that no objection are received from Authorities constituting more than 1/3rd members of the Memorandum, within this period for adoption of such amendments. In such case it shall be deemed that the amendments has not been accepted.***
- d) An amendment will take effect 60 days after it has been accepted or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee.

9.3 In the case of proposed amendments to Annexes of the Memorandum the following procedure will apply :

- a) the proposed amendment will be submitted through the Secretariat for consideration by the Authorities;
- b) the amendment will be deemed to have been accepted at the end of a period of three months from the date on which it has been communicated by the Secretariat unless an Authority requests in writing that the amendment should be considered by the Committee. In the latter case the procedure specified in 9.2 will apply;
- c) the amendment will take effect 60 days after it has been accepted or at the end of any period determined unanimously by the Authorities.

Section 10 Administrative Provisions

10.1 The Memorandum is without prejudice to the rights and obligations under any international Instrument.

10.2 A maritime authority of a State of the Region may accede to the Memorandum provided it complies with the criteria specified in Annex 9.

10.3 Authorities meeting the requirements specified in Annex 9 may become parties of the Memorandum by:

- a) signature without any reservations as to acceptance, or
- b) signature subject to acceptance, followed by acceptance.

MOU.Rev1.Oct 2000

The Memorandum remains open for signature, at the Headquarters of the Secretariat from 5 June 1998 to 22 January 1999.

- 10.4 Acceptance or accession will be effected by a written communication by the Authority to the Secretariat.
- 10.5 The Secretariat will inform the Maritime Authorities who have signed the Memorandum of any signature or written communication, or of acceptance or accession and of the date on which such an event has taken place.
- 10.6 This Memorandum will enter into force for each Authority 90 days from the date of acceptance or accession.
- 10.7 Any maritime authority or organisation wishing to participate as an observer will submit in writing an application to the Committee and will be accepted as an observer subject to the unanimous consent of the representatives of the Authorities present and voting at the Committee meeting.
- 10.8 Any Authority may withdraw from the Memorandum by providing the Committee with 60 days notice in writing.
- 10.9 The English text is the official version of the Memorandum.

ANNEX 1

LIST OF MARITIME ADMINISTRATIONS 'MARITIME AUTHORITIES'

AUSTRALIA

General Manager,
Ship Inspection Group,
Australian Maritime Safety Authority,
GPO Box 2181,
Canberra City ACT 2601.

Tel: 61 2 6279 5048
Fax: 61 2 6279 5058

BANGLADESH

Director General of Shipping,
Department of Shipping,
8th Floor,
BITWA Bhaban,
141-143 Motijheel C/A,
Dhaka - 1000

Tel: 880 2 9550867 / 955128
Fax: 880 2 9565589 / 868122

DJIBOUTI

Director of Maritime Affairs Dept.,
Ministere des Transports et Telecommunications,
P.O.Box 59,
Djibouti.

Tel: 253-35 34 75 / 35 32 08
Fax: 253-351538

ERITREA

Director General,
Department of Maritime Transport,
Ministry of Transport and Communications,
P.O.Box 679,
Asmara.

Tel: 00291 1 1213 17/58/59
Fax: 00291 1 1213 16/127048

ETHIOPIA

General Manager,
Ethiopian Shipping Lines,
P.O.Box 2572,
Addis Ababa.

Tel: 251 1 514 204
Fax: 251 1 515 263

INDIA

Director General of Shipping,
Directorate General of Shipping,
Jahaz Bhavan,
Walchand Hirachand Marg,
Mumbai - 400 001.

Tel: 91-22-2613151
Fax: 91-22-2613655

IRAN

Director General,
Safety and Marine Environment Protection,
Ports and Shipping Organisation - Iran,
751 Enghelab Avenue,
Tehran.

Tel: 98 21 8896374
Fax: 98 21 8809555

KENYA

The Permanent Secretary,
Ministry of Information Transport & Communications,
P.O.Box 52692,
Nairobi.

Tel: 254 2 729 200
Fax: 254 2 726 362

MALDIVES

Director General of Maritime Affairs,
Ministry of Transport and Civil Aviation,
Huravee Building,
Ameeru Ahmed Magu,
Male (20-05)

Tel: 960 323811 / 323991/3
Fax: 960 323994

MAURITIUS

Director of Shipping,
Ministry of Public Infrastructure, Land Transport & Shipping,
4th Floor,
New Government Centre,
Port Louis.

Tel: 230 201 2115
Fax: 230 201 3417

MOZAMBIQUE

Director,
SAFMAR,
Av. Marques do Pombal No. 297,
P.O.Box 4317,
Maputo,
Mozambique.

Tel: 258 1 420552
Fax: 258 1 424007

MYANMAR

Director General,
Department of Marine Administration,
6th Storey Building,
Strand Road,
Yangon.

Tel: 951-282605/28906 1
Fax: 095-1-285935

OMAN

Director General,
Directorate of Ports & Maritime Affairs,
Ministry of Communication,
P.O.Box 684; PC 113,
Muscat - Oman.

Tel: 968 708384 / 704881
Fax: 968 702044

SEYCHELLES

Legal Adviser,
Port & Marine Services Division,
Ministry of Environment & Transport,
P.O.Box 47,
Victoria,
Mahe.

Tel: 00248 224701
Fax: 00248 224004

SOUTH AFRICA

The South African Maritime Safety Authority,
P.O. Box 13186,
Hatfield 0028,
Pretoria

Tel: 27(0) 12 342 3049
Fax: 27(0) 12 342 3160

SRI LANKA

Director of Merchant Shipping,
Ministry of Shipping & Shipping Development,
43-89, York St.
Colombo 1.

Tel: 94 1 441 294
Fax: 94 1 435 160

SUDAN

Sudan Seaports Corporation,
Port Sudan Quays,
Port Sudan.

Tel: 249 311 22625/24103/22547
Fax: 249 311 31276

TANZANIA

Permanent Secretary,
Ministry of Communications and Transport,
P.O.Box 9144,
Dar-es-Salaam,
(Attn. Head, Maritime Transport)

Tel: 255 22 2114427
Fax: 255 22 212 2268

YEMEN

The Chairman,
Public Corporation for Maritime Affairs,
P.O.Box 19395,
Sanaa.

Tel: 967 1 419914
Fax: 967 1 414645

ANNEX 2

GUIDELINES FOR SURVEYORS TO BE OBSERVED IN THE INSPECTION OF INTERNATIONAL SHIPPING

Contents

Section 1 General

- 1.1 Guidelines to be observed in the inspection of foreign ships
- 1.2 Principles governing rectification of deficiencies or detention of a ship
- 1.3 Application of the clause of “no more favourable treatment”.

Section 2 The Safety of the ship as related to SOLAS 74/78, LOADLINES 66, COLREG 72 and MARPOL 73/78

- 2.1 More detailed inspection.

Section 3 Minimum manning standards and certification

- 3.1 Introduction
- 3.2 Manning control
- 3.3 Certification control
- 3.4 Detention

Section 4 Merchant Shipping (Minimum Standards) Convention, 1976 (No.147)

Section 5 Guidelines for the Surveyors to be Observed in the Inspection of Ships of Non-convention Size and Ships of Traditional Build

Section 1 General

1.1 Guidelines to be observed in the inspection of foreign ships

The guidelines mentioned in Section 3.1 of the Memorandum refer to the relevant provisions of the following:

- a) Procedures for Port State Control (IMO Resolution A.787(19));
- b) Principles of Safe Manning (IMO resolution A.481(XII) and Annexes which are Contents of Minimum Safe manning Document (Annex 1) and guidelines for the Application of Principles of Safe Manning (Annex 2)).
- c) The provisions of the International Maritime Dangerous Goods Code.
- d) ILO publication “Inspection of labour conditions on board Ship: Guidelines for procedure”.
- e) The procedures laid down in the Annex to the Memorandum.

1.2 Principles governing rectification of deficiencies or detention of a ship

In taking a decision concerning the rectification of a deficiency or detention of a ship, the PSCO shall take into consideration the results of the detailed inspection carried out in accordance with Section 3. The PSCO shall exercise his professional judgement in determining whether to detain the ship until the deficiencies are corrected or to allow it to sail with certain deficiencies without unreasonable danger to the safety, health or the environment, having regard to the particular circumstances of the intended voyage. As regards minimum manning standards and the provisions of circumstances of the intended voyage. As regards minimum manning standards and the provisions of ILO Convention No. 147, special procedures shall be observed, set out in Section 3 and 4 of this Annex.

1.3 Application of the clause of “no more favourable treatment”

In applying Section 2.4 of the Memorandum, the following shall be observed. Ships entitled to fly the flag of a State which is not a party to a relevant instrument listed in Section 2 and thus not provided with certificates representing prima facie evidence of satisfactory conditions on board, shall receive a detailed inspection. In making such an inspection the PSCO should follow the same guidelines as provided for ships to which the relevant instruments are applicable.

The conditions of and on such a ship and its equipment and the certification of the crew, its number and composition shall be compatible with the aims of the provisions of a relevant instrument otherwise the ship shall be subject to such restrictions as are necessary to obtain a comparable level of safety.

Section 2 The safety of the ships as related to SOLAS 74/78, LOADLINES 66, COLREG 72 and MARPOL 73/78

2.1 More detailed inspection

In so far as there are clear grounds for a more detailed inspection relating to the provisions of the SOLAS Convention, the Protocol thereto, the Load Lines Convention, COLREG 72 and MARPOL 73/78, the PSCO when carrying out this inspection shall take into account the considerations given in "Procedures for Port State Control" (IMO Resolution A.787(19)), the provisions of the International Maritime Dangerous Goods Code and the provisions of Section 4 with regard to living and working conditions on board ships.

Section 3 Minimum manning standards and certification

3.1 Introduction

The guiding principle for Port State inspection of the manning of a foreign ship should be to establish conformity with the Flag State's safe manning requirements. Where this is in doubt the flag State should be consulted. Such safe manning requirements stem from:

- a) the International Convention for the Safety of Life at Sea (SOLAS) 1974
- b) the Merchant Shipping (Minimum Standards) Convention 1976 (ILO Convention 147) which inter alia refers to the ILO Convention No.53 Articles 3 and 4;
- c) the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) 1978, as amended;
- d) the Contents of Minimum Safe Manning Document (IMO Resolution A.481(XII) Annex 1);
- d) the Guidelines for the Application of Principles of Safe Manning (IMO Resolution A.481 (XII)).

Detention as port State action shall only be taken on the grounds laid down in the relevant instruments.

3.2 Manning Control

- 3.2.1 If a ship is manned in accordance with a safe manning document or equivalent document issued by the flag State, the PSCO should accept that the ship is safely manned unless the document has clearly been issued without regard to the principles contained in the relevant instruments and in the IMO Guidelines for the Application of Principles of Safe Manning. In this last case, the PSCO should act according to the procedures defined in paragraph 3.2.3.
- 3.2.2 If the actual crew number or composition does not conform to the manning document, the port State should request the flag State for advice whether or not the ship can sail with the actual number of crew and its composition. Such request should be made as quickly as possible.

The reply, if any, from the flag State should be confirmed by telex/telefax. If the actual crew number and composition is not brought into accordance with the safe manning document or the flag State does not advise that the ship could sail, the ship may be considered for detention after the criteria set out in paragraph 3.4 of this Annex have been taken into proper account.

- 3.2.3 If the ship does not carry a safe manning document or equivalent, the port State should request the flag State to specify the required number of crew and its composition and to issue a document as quickly as possible. In case the actual number or composition of the crew does not conform to the specifications received from the flag State, the procedure as contained in paragraph 3.2.2 applies. If the flag State does not respond to the request this will be considered as a clear ground for a more detailed inspection to ensure that the number and composition of the crew is in accordance with the principles laid down in paragraph 3.1. The ship shall only be allowed to proceed if it is safe to do so, taking into account the criteria for detention under paragraph 3.4. In any such case the minimum standards to be applied shall be no more stringent than those applied to ships flying the flag of the port State. The lack of a safe manning document shall be reported as a deficiency.

3.3 Certification Control

- 3.3.1 General certification control upon ships should be carried out in accordance with the procedures stipulated in Article X and in Regulation I/4 of the STCW Convention.
- 3.3.2 Certification control upon ships engaged in the carriage of liquid hazardous cargo on bulk should be more stringent. The PSCO should satisfy himself that the officers responsible for cargo handling and operation possess documentary evidence of having had the appropriate training and experience.

No exemption from the carriage of such documentary evidence should be accepted. Where a deficiency is found the master should be informed and the deficiency rectified. With regard to appropriate training, reference is made to chapter V of the STCW Convention, to resolutions 10,11 and 12 adopted by the International Convention on Training, Certification and Watchkeeping of Seafarers 1978 and to the relevant sections of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk.

3.4 Detention

Before detaining a ship under paragraph 3.2 or 3.3 of this Annex, the following circumstances should be considered:

- a) length and nature of the intended voyage or service;
- b) whether or not the deficiency poses a danger to ship, persons on board or the environment;
- c) whether or not appropriate rest periods of the crew can be observed;
- d) size and type of ship and equipment provided;
- e) nature of cargo.

The absence of a Deck or Engineer Officer required to be certificated should not be grounds for detention whether the absence is in accordance with any exceptional provisions approved by the flag State.

Section 4 Merchant Shipping (Minimum Standards) Convention, 1976 (No.147)

4.1 Inspections on board ships under the Merchant Shipping (Minimum Standards) Convention 1976 (ILO Convention NO.147) shall relate to:

- a) the Minimum Age Convention, 1973 (No.138); or the Minimum Age (Sea) Convention (Revised, 1936(No.58)), or the Minimum Age (Sea) Convention, 1920 (No.7);
- b) the Medical Examination (Seafarers) Convention, 1946 (No.73);
- c) the Prevention of Accidents (Seafarers) Convention, 1970 (No.134) (Articles 4 and 7);
- d) the Accommodation of Crews Convention (Revised), 1949 (No.92);
- e) the Food and Catering (Ship's Crews) Convention, 1946 (No.68) (Article 5);
- f) the Officers' Competency Certificates Convention, 1936 (No.53) (Articles 3 and 4).

Inspection regarding certificates of competency is dealt with in Section 3 of this Annex. In the exercise of control functions the PSCO, in the light of his general impression of the ship, will have to use his professional judgement to decide whether the ship shall receive a more detailed inspection. All complaints regarding conditions on board should be investigated thoroughly and action taken as deemed necessary by the circumstances. He shall also use his professional judgement to determine whether the conditions on board give rise to a hazard to the safety or health of the crew which necessitates the rectification of conditions, and may if necessary detain the ship until appropriate corrective action is taken.

4.2 In so far as there are clear grounds for a more detailed inspection relating to the Provisions of ILO Convention No.147, the PSCO when carrying out an inspection shall take into account the previous paragraph in this section and the considerations given in the ILO publication "Inspection of Labour Conditions on board Ship: guidelines for procedure".

4.3 The Conventions relevant in the framework of the provisions of paragraph 4.4 are:

- a) the Seamen's Articles of Agreement Convention, 1926 (No.22);
- b) the Repatriation of Seamen Convention, 1926 (No.23);
- c) the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No.55); or the Sickness Insurance (Sea) Convention, 1936 (No.56); or the Medical Care and Sickness Benefits Convention, 1969 (No.130);
- d) the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87);
- e) the Right to Organise and Collective Bargaining Convention, 1949 (No.98).

- 4.4 If the PSCO receives a complaint to the effect that the standards laid down in the Conventions listed in paragraph 4.3 are not met, the matter should be reported to the nearest maritime, consular or diplomatic representation of the flag State for further action. If deemed necessary, the appropriate Authority may prepare a report to the flag State, if possible with evidence, with a copy to the ILO.
- 4.5 Those parts of the ILO publication "Inspection of Labour Conditions on board Ship: Guidelines for procedure" which deal with:
- a) control procedures for national flag ships;
 - b) vocational training;
 - c) officer's certificates of competency;
 - d) hours of work and manning;

should not be considered as relevant provisions for the inspection of ships but as information to PSCOs only.

Section 5 Guidelines for Surveyors to be Observed in the Inspection of Ships of Non-Convention Size and Ships of Traditional Build

1 Ships of non-convention size

- 1.1 The following is a guide for the application of Section 2.5 in respect of cargo ships of non convention sized ships.
- 1.2 To the extent a relevant instrument is not applicable to a ship below 500 gross tonnage, the PSCO shall be guided by the provisions of the "Safety Regulations for Non-Convention Sized Ships" *.

2 Ships of traditional build

- 2.1 The following is a guide for the application of Section 2.5 in respect of ships of traditional build.
- 2.2 To the extent a relevant instrument is not applicable to a ship of traditional build, the PSCO's task will be to assess whether the ship is of an acceptable standard in regard to safety, health or the environment. In making that assessment, the PSCO shall take due account of such factors as the length and nature of the intended voyage or service, the size and type of the ship, the equipment provided and the nature of the cargo.
- 2.3 In the exercise of his functions under paragraph 2.2, the PSCO should be guided by any certificates and other documents issued by the flag State. The PSCO will, in the light of such certificates and documents and in his general impression of the ship, use his professional judgement in deciding whether and in what respects the ship shall receive a more detailed inspection, taking into account the factors mentioned in pa, the PSCO shall, to the extent he deems necessary, pay attention to the items listed in paragraph 2.4. The list is not considered exhaustive but is intended to give an exemplification of relevant items.

* as developed and approved by the Committee at its first session.

2.4 Items of general importance

2.4.1 Items related to the conditions of assignment of load lines:

- weathertight (or watertight as the case may be) integrity of exposed decks;
- hatches and closing appliances;
- weathertight closures to openings in superstructures;
- freeing arrangements;
- side outlets;
- ventilators and air pipes;
- stability information.

2.4.2 Other items related to the safety of life at sea:

- life-saving appliances;
- fire-fighting appliances;
- general structural conditions (i.e. hull, deck, hatch covers etc.);
- main machinery and electrical installations;
- navigational equipment including radio installations.

2.4.3 Items related to the prevention of pollution from ships:

- means for the control of discharge of oil and oily mixtures, e.g. oily water separating or other equivalent means (tank(s)) for retaining oil, oily mixtures, oil residues;
- presence of oil in the engine room bilges.

2.5 In the case of deficiencies which are considered to safety. Health or the environment the PSCO shall take such action, which may include detention as may be necessary, having regard to the factors mentioned in paragraph 2.2, to ensure that the deficiency is rectified or that the ship, if allowed to proceed to another port, does not present a clear hazard to safety, health or the environment.

ANNEX 3

FACTS REGARDED AS “CLEAR GROUNDS”

The Authorities will regard as “clear grounds” inter alia the following:

1. A report or notification by another Authority;
2. Report or complaint by the master, a crew member, or any person or organisation with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless the Authority concerned deems the report or complaint to be manifestly unfounded. The identity of the person logging the report or the complaint must not be revealed to the master or the shipowner of the ship concerned;
3. Other indications which may warrant a more detailed or an expanded inspection, having regard in particular to Annex 2.

For the purposes of control on compliance with on-board operational requirements, specific “clear grounds” are the following:

1. Evidence of operational short comings revealed during port State control procedures in accordance with SOLAS 74, MARPOL 73/78 and STCW 1978;
2. Evidence of cargo and other operations not being conducted safely or in accordance with IMO guidelines;
3. Involvement of the ship in incidents due to failure to comply with operational requirements;
4. Evidence, from the witnessing of a fire and abandon ship drill, that the crew are not familiar with essential procedures;
5. Absence of an up-to-date muster list;
6. Indications that the relevant crew members are unable to communicate appropriately with each other, or with other persons on board, or that the ship is unable to communicate with the shore-based authorities either in a common language or in the language of those authorities.

ANNEX 4

QUALIFICATION CRITERIA FOR PORT STATE CONTROL OFFICERS

1. In pursuance of the provisions of 3.5 of the Memorandum. The port State control Officers must be properly qualified and authorised by the Authority to carry out port State control inspections.
2. A properly qualified port State control Officer must have completed a minimum of one year's service as a flag State surveyor dealing with surveys and certification in accordance with the relevant instruments and be in possession of:
 - .1 a certificate of competency as master, enabling that person to take command of a ship as specified in STCW, as amended, or
 - .2 a certificate of competency as chief engineer, enabling that person to take up that task on board a ship as specified in STCW, as amended, or
 - .3 has passed an examination as a naval architect, mechanical engineer or an engineer related to the maritime fields and worked in that capacity for at least 5 years, or
 - .4 has an equivalent qualification as determined by the Administration.

The port State control Officers mentioned under 1 and 2 above must have served for a period of not less than five years at sea as officer in the deck or engine department.

3. Alternatively, a port State control Officer is deemed to be properly qualified if that person:
 - .1 holds a relevant university degree or an equivalent training, and
 - .2 has been trained and qualified at a school for ship safety *inspectors*, and
 - .3 has served at least two years as a Flag State Surveyor dealing with surveys and certification in accordance with the relevant instruments.
4. A properly qualified Port State control officer must be able to communicate orally and in writing with seafarers in the English language.
5. A properly qualified Port State Control officer must have appropriate knowledge of the provisions of the relevant instruments and of the relevant procedures on port State control.
6. Port State control officers not fulfilling the above criteria are also accepted if they are employed for Port State Control by the Authority prior to the Memorandum coming into force for that Authority.

ANNEX 5

REQUIREMENTS FOR THE IDENTITY CARD FOR PORT STATE CONTROL OFFICERS

The identity card shall contain at least the following information:

- a) name of issuing Authority;
- b) full name of the holder of the identity card;
- c) an up-to-date picture of the holder of the identity card;
- d) the signature of the holder of the identity card;
- e) a statement to the effect that the holder of the identity card is authorised to carry out inspections in accordance with national legislation.

If the main language used on the identity card is not English, it must include a translation into that language.

The format of the identity card is left to the discretion of the competent Authorities.

ANNEX 6

**REPORT OF INSPECTION IN ACCORDANCE WITH
INDIAN OCEAN MEMORANDUM OF UNDERSTANDING ON
PORT STATE CONTROL**

FORM A

Reporting Authority Address Telephone Telefax	Copy to: Master Head Office PSCO If ship is detained, copy to: Flag State Recognised Organisation, if applicable
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1.Reporting authority of.....2.Name of ship.....
 3.Flag of ship.....4.Type of ship.....5.Call sign.....
 6.IMO Number.....7.Gross tonnage.....8.Deadweight (where applicable).....
 9.Year of build.....10.Date of inspection.....11.Place of inspection.....
 12.Classification society.....13.Date of release from detention.....
 14.Particulars of owners/operators (delete as appropriate).....
 15.Name and signature of the Master to certify that the information under 14 is correct:
 Name.....Signature.....

16.Relevant certificate(s)

a. Title	b. Issuing authority	c. Dates of issue and validity
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

d. Information on last intermediate or annual survey

Date	Surveying Authority	Place
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

17 Expanded inspection Yes/No

18 Deficiencies Yes/No (see attached Form B)

19 Ship Detained Yes/No***)

20 Detainable Deficiencies Yes/No

21 Supporting documentation Yes/No (see Annex)

District office..... Name
(duly authorized PSCO of reporting authority)

Telephone
 Telefax

This report must be retained on board for period of two years and must be available for consultation by Port State Control Officers at all times

- *) **This inspection report has been issued solely for the purposes of informing the master and the port States that an inspection by the port State, mentioned in the heading, has taken place. This inspection report cannot be construed as a seaworthiness certificate in excess of the certificate the ship is required to carry.**
- ***) **To be completed in the event of a detention.**
- ***) **Masters, shipowners and/or operators are advised that detailed information on a detention may be subject to future publication.**

(Reverse side of Form B)

Codes for action taken

Code

00 no action taken
10 deficiency rectified
15 rectify deficiency at next port
16 rectify deficiency within 14 days
17 master instructed to rectify deficiency before departure
30 ship detained
35 detention raised
36 ship allowed to sail
40 next port informed
45 next port informed to re-detain
50 flag administration/consul/flag maritime authority informed
55 flag administration/maritime authority consulted
60 region authority informed
70 classification society informed
80 temporary substitution of equipment
85 investigation of contravention of discharge provisions (MARPOL)
95 letter of warning issued
96 letter of warning withdrawn
99 other (specify in clear text)

ANNEX 7

EXCHANGE OF MESSAGES BY REGION AUTHORITIES IN ACCORDANCE WITH
SECTION 3.8 OF THE MEMORANDUM

*Deleted as per Amendment Procedure during Fourth Meeting
at Colombo on 3rd September 2001*

Annex 7 - Page 2

**REPORT OF DEFICIENCIES
NOT FULLY RECTIFIED OR ONLY PROVISIONALLY REPAIRED**

*Deleted as per Amendment Procedure during Fourth Meeting
at Colombo on 3rd September 2001*

ANNEX 8

INFORMATION SYSTEM ON INSPECTIONS

1. To assist Authorities in their selection of foreign flag ships to be inspected in their ports it is necessary to have at the disposal of Authorities up to date information of inspection of an individual foreign flag ship in one of the other regional ports within the preceding six months.
2. For that purpose the authorities undertake to provide an Information Centre, preferably by means of computerised data transmission, with information on ships inspected in the national ports, basing themselves on the information set out in Annex 6 to the Memorandum. The insertion of information into the inspection files should preferably be realised by means of direct, computerised input on a daily basis.
3. For the purpose of exchanging rapid information, the information system shall embrace a communication facility which allows for a direct, computerised exchange of messages between individual Authorities, including the notifications as referred to in Section 3.8 of the Memorandum and the exchange of information on operational violations as referred to in Section 5 of the Memorandum.
4. The information as in paragraphs 2 and 3 above shall be handled in a standardized form and in accordance with standardization as set out in the guide for users of the information system provided by the Information Centre.
5. The Information Centre will organise the processing of information as in paragraph 2 above so as to ensure that inspection data are easily accessible both for purposes of consultation and updating in accordance with procedures as set out in the guide for users of the information system provided by the Information Centre.
6. The telex or facsimile facilities shall continue to be an alternative system of exchanging information to which a standardised form applies as set out in the Appendix to this Annex.
7. Information for administrative purpose, such as statistical information, will be provided by the Secretariat under the guidance of the Committee. This will be based on data provided by the Information Centre.
8. The information system indicated in the foregoing paragraphs will be implemented as long as the Memorandum takes effect. Studies to monitor and, where necessary, to improve the quality of the system will be carried out on a continuous basis.
9. Whenever deficiencies are found which lead to the detention of a ship, the Port State Authority will send a copy of the report, as referred to in Annex 3 to the Memorandum, to the flag Administration concerned.

Appendix to Annex 8

TELEX OR FACSIMILE FORM FOR SHIPS INSPECTED

Report of inspection

- 1 name of issuing country
 - 2 name of ship
 - 3 flag of ship
 - 4 type of ship
 - 5 call sign
 - 6 IMO number
 - 7 Gross tonnage
 - 8 Year of build
 - 9 Date of inspection (format: dd-mm-yy)
 - 10 Place of inspection
 - 11 Relevant certificates*
 - a) title of certificate
 - b) issuing authority
 - c) date of issue and expiry (format : dd-mm-yy/dd-mm-yy)
 - d) last intermediate survey (format : dd-mm-yy/authority/place)
-
- 1 deficiencies (yes/no)
 - 2 ship delayed/detained (yes/no)
 - 3 nature of deficiencies** (format : def: def: def:)
 - 4 action taken# (format : def: def: def:)

* to be repeated for each relevant certificate.

** including reference to the relevant Conventions if shown on the document left on board.

may alternatively be added to the particulars under 15 (nature of deficiencies) if the action taken has a direct relation to the corresponding deficiency. Deficiency and action(s) taken must be separated by a slat (/) (format: 15. Def/at/at; def/at/at; 16. See 15).

ANNEX 9

QUALITATIVE CRITERIA FOR ADHERENCE TO THE MEMORANDUM IN ACCORDANCE WITH ADMINISTRATIVE PRIORITIES OF THE MEMORANDUM

Qualitative criteria

A Maritime Authority of a State may adhere as a full member, provided that all of the following qualitative criteria have been met:

1. Such Maritime Authority shall explicitly subscribe to the commitments under the Memorandum with a view to contributing to the common endeavour to eliminate the operations of sub-standard ships:
2. Such Maritime Authority shall take all necessary measures to encourage the ratification of all relevant instruments in force.
3. Such Maritime Authorities shall have sufficient capacity, logistically and substantially, to appropriately enforce compliance with international maritime standards regarding maritime safety, pollution prevention and living and working conditions on board with regard to ships entitled to fly its flag, which shall include the employment of properly qualified *Flag State Surveyors* acting under the responsibility of its Administration, to be demonstrated to the satisfaction of the Committee referred to in section 7.1 of the Memorandum.
4. Such Maritime Authority shall have sufficient capacity, logistically and substantially, to comply in full with all provisions and activities specified in the Memorandum in order to enhance its commitment, which shall include the employment of properly qualified port State Control officers acting under the responsibility of its Administration, to be demonstrated to the satisfaction of the Committee referred to in Section 7.1 of the Memorandum.
5. Such Maritime Authority shall, as of its effective date of membership, establish an on-line connection to the information system referred to in Annex 8.
6. Such Maritime Authority shall sign a financial agreement for paying its share in the operating cost of the Memorandum and shall, as of its effective date pay its financial contribution to the budget as approved by the Committee referred to in 7.1 of the Memorandum.

Assessment of compliance with the above conditions shall only be valid for each individual case and shall not create a precedent for any future cases, neither for the Authorities present under the Memorandum nor for the potential new signatory.

ANNEX 10

FUNCTIONS OF THE SECRETARIAT OF THE MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL

On the basis of the tasks specified in paragraph 7.6 of the text of the Memorandum, an indication is given below of the services the Secretariat could provide for. The listed items only serve an illustrative purpose. Decisions on the tasks of the Secretariat will have to be taken by the Committee as reflected in Section 7 of the Memorandum.

The Secretariat would:

- assist the Committee in organising the meetings of the Committee;
- prepare papers for the meetings of the Committee as instructed by the Committee or on proposal of individual meetings;
- circulate papers among the Members of the Committee, IMO, ILO or any other institution or body as deemed necessary by the Committee;
- prepare draft summary records of the meetings of the Committee and any other paper that results from the meetings for approval by the Committee;
- present information on developments on port State control in international bodies, such as IMO and ILO on request and on behalf of the Committee;
- supply information on the Memorandum of Understanding to other interested Authorities, bodies and organisations on request and on behalf of the Committee;
- deal administratively with requests of Authorities to accede according to the formal procedure for accession as requested by the Committee;
- provide each year before 31st of August a budget proposal for the work of the Secretariat;
- each year before 31st of March render an account on the previous year, including suggestions for payment or additional payment;
- inform the Committee on any other financial aspects of the Indian Ocean Memorandum of Understanding.

ANNEX 11

IOMOU INTER-SESSIONAL MANAGEMENT GROUP

TERMS OF REFERENCE, FUNCTIONS AND SELECTION

*Deleted as per Amendment Procedure during sixth Meeting
at Goa, India on 20th October, 2003*