

VOLUNTARY IMO MEMBER STATE AUDIT SCHEME

AUDIT OF POLAND 12 to 19 April 2010

FINAL REPORT

1 Executive Summary

1.1 An audit of the maritime administration of Poland was undertaken between 12 and 19 April 2010 by three auditors drawn from the United States, the Netherlands and Germany. The scope of the audit included the Flag State, Port State and Coastal State obligations of Poland in relation to the mandatory IMO instruments to which it has acceded. Visits were made by the auditors to responsible entities within the Polish administration as per the attached list (see Annex 1). The audit was conducted through presentations, interviews and the examination of documents.

1.2 The auditors concluded from the information available to them that Poland substantially meets its obligations in respect of the mandatory IMO instruments to which it is a Party and also the Code for the implementation of mandatory IMO instruments. The audit identified a number of areas of good practice which were innovative and of considerable assistance to the maritime community and also identified areas where improvement was possible. The latter however were relatively minor in relation to the overall efficiency of the administration.

1.3 The following report provides detail of the findings and the evidence on which these are based is to be found in the appendices to the report.

2 Introduction

2.1 The Voluntary IMO Member State Audit Scheme creates a basis to assess the degree a Member State conforms with its obligations set out in the various IMO instruments made mandatory when ratified by a Member State. In addition, the Code for the implementation of mandatory IMO instruments (resolution A.996(25)) stipulates a number of principles a Member State should adhere to in order to achieve a maritime administration capable of improving its performance by a set of standards for the achievement of best practice for the benefit of maritime safety and pollution prevention.

2.2 A Memorandum of Cooperation was agreed between Poland and the IMO detailing the mandatory IMO instruments which would to be verified during the audit in accordance with the principles of the Code for the implementation of mandatory IMO instruments (resolution A.996 (25)), hereinafter referred to as "the Code".

3 Background

3.1 Following the adoption of the Framework and Procedures for the Voluntary IMO Member State Audit Scheme (resolution A.974 (24)) by the 24th regular session of the Assembly, a number of Member States volunteered for audit under the Scheme. The audit of Poland was undertaken using the principles established in the Code. This report sets out the findings of this audit in the format adopted under section 7.2 of the Procedures for the Scheme.

4 Members of the Audit Team

Mr. John Hannon (Audit Team Leader)	United States of America
Mr. Jens-Uwe Schröder (Auditor)	Germany
Mr. Sibrand Hassing (Auditor)	The Netherlands

5 Involved Officials from the Member State

5.1 Mr. Tadeusz Wojtasik, Adviser to the Minister, Ministry of Infrastructure, Shipping Safety Department (SSD) served as the focal point for the audit team. For the participants at the opening meeting see annex 2. For the offices participating in interviews by subject area see annex 1.

6 Acknowledgement

6.1 The auditors wish to express their thanks to all of the Polish government organizations that participated in the audit and for their support and cooperation during this audit. Special thanks to Tadeusz Wojtasik, Adviser to the Minister, Ministry of Infrastructure, SSD for serving as the point of contact for the audit team and to Marta Grabowska, Expert, Ministry of Infrastructure, SSD who provided planning and logistical support during the preparation for this audit and throughout the visit of the audit team.

7 Scope, objectives and activities of the Audit

7.1 The Scope of the audit addressed Flag, Port and Coastal State obligations of the maritime administration of Poland.

7.2 The objectives of the audit were:

7.2.1 Determine the extent Poland met the obligations imposed upon it through its adoption of the following applicable mandatory IMO instruments:

- .1 the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 1974);
- .2 the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS PROT 1978);
- .3 the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS PROT 1988);

- .4 the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended (MARPOL 73/78);
- .5 the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978 relating thereto (MARPOL PROT 1997);
- .6 the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW 1978);
- .7 the International Convention on Load Lines, 1966 (LL 66);
- .8 the Protocol of 1988 relating to the International Convention on Load Lines, 1966 (LL PROT 1988);
- .9 the International Convention on Tonnage Measurement of Ships, 1969 (Tonnage 1969); and
- .10 the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended (COLREG 1972), and

the effectiveness of the implementation of these objectives.

7.3 No mandatory IMO instrument to which Poland is signatory was excluded from this audit.

7.4 Implicit in the scope of the audit is also the degree of compliance with the Code which mirrors many of the references set out in the applicable mandatory instruments.

7.5 The audit was conducted using the program set out at annex 1. The methodology used was to establish through a series of visits, interviews, examination of written records, computer databases, and other objective evidence the extent to which Poland achieved the objectives of the audit.

7.6 The program followed a process which sought initially to determine the Strategy for the implementation of the instruments, the review processes in place and the arrangements for continual improvement. Following this, an examination was made of the national legislation in place which provides the instruments with force of law in Poland. Also, the processes by which Poland develops and makes known its interpretations, policies and instructions regarding these instruments, as well as the practical implementation of these arrangements were examined.

7.7 An opening meeting was conducted on 12 April 2010, in accordance with the Procedures of the Scheme (resolution A.974(24)). The agenda is attached as annex 3 and it was agreed that during the audit findings would be communicated to the Ministry of Infrastructure, SSD for comments on a daily basis with tacit agreement at the closing

meeting, which was held on Monday, 19 April 2010. A draft interim report was tabled at the closing meeting to assist in focussing discussion and the next steps to be taken.

8 Overview and general maritime activities of the State

General

8.1.1 The Ministry of Infrastructure, SSD and its maritime offices are the governmental entity primarily responsible for the implementation and enforcement of maritime safety and environmental protection programs associated with Poland's obligations under the mandatory IMO instruments. SSD is augmented by other specialized governmental entities assigned for implementation of programs that fulfil specific portions of the mandatory IMO instrument obligations. These divisions of responsibility and authority are defined in Poland's national laws and/or in Interagency Memorandums of Agreement/Understanding with the Ministry of Infrastructure, SSD or maritime offices. The tasks of these various entities were described in the pre-audit questionnaire. The audit verified the responsibilities of each entity and reconciled to some extent the functional descriptions provided in the pre-audit questionnaire.

Distribution of Interagency responsibility

8.1.2 As previously noted, SSD is the lead department of the Polish maritime administration for all flag, port and coastal State activities related to the mandatory IMO instruments. A number of governmental entities support those responsibilities as follows:

- Hydrographic Office of the Polish Navy, whose duties include nautical charting as well as other navigational data information services;
- Institute of Meteorology and Water Management, whose duties include weather forecasting and related warnings; and
- Maritime Unit of the Polish Border Guard, whose duties include enforcement and policing tasks related to the mandatory instruments under the Code.

Strategy

8.1.3 The Ministry of Infrastructure has approved and is seeking final concurrence with other affected governmental entities for implementation of a strategic plan for the period through 2020. The strategic plan was developed in coordination with other government entities that have governance over maritime matters that intersect or influence the activities of SSD. The plan was implemented in the month preceding the conduct of this audit (March 23, 2010). The plan provides a vision and mission statement, which support implementation of the mandatory IMO instruments. The goals and objectives of the Ministry of Infrastructure include measures to be implemented as well as performance indicators. The following areas are addressed: International Law (e.g. international regulations and EU legislation), the Polish maritime administration staff development and competence, flag State inspections, port State control, coastal State activities, monitoring of recognized organizations (ROs), ship and port security, and training of seafarers. Each area has a desired organizational performance objective and measurements for achievement of those objectives.

Organization Headquarters and 3 Maritime Offices

8.1.4 The Ministry of Infrastructure, SSD is located in the national capital of Warsaw and there are maritime offices in Gdynia, Szczecin and Slupsk. The maritime offices perform policy functions for compliance and enforcement and their activities are governed by the overall organizational goals. Goals for workload prioritization at SSD and the regions are based on risk factors established by the programs. Maritime offices prioritize their ships surveys based on the risk model and SSD measures performance of the regions against overall organizational goals.

Policy and Regulatory interpretation

8.1.5 Individual maritime offices interpret law and regulation and develop implementation policy for their region or in coordination with other regions as they deem necessary.

Performance

8.1.6 As noted previously under strategy, the SSD has implemented a strategic plan for all of its entities and each is required to formally define their performance goals and the measurements for the accomplishment of those goals. In addition the SSD is subject to periodic internal audit by the Ministry of Infrastructure's Internal Audit Bureau and by the Supreme Chamber of Control as directed. The SSD is responsible to align its organizational goals with the overall governmental goals. Due to the recent nature of the strategic plan the results of measurement were not available.

Resources

8.1.7 The work force size is as noted in the pre-audit questionnaire. The audit did not find instances where a lack of resources resulted in failure to fulfil flag, port and coastal State responsibilities under the Code.

8.1.8 The audit established that Poland has undertaken reviews to improve their overall organizational performance as well as compliance with mandatory IMO instruments at the Ministry level. Long-term objectives are established to promote continuous improvements. Individual regional Maritime Offices provide annual reports on pollution incidents, port State control results, flag State ship deficiencies and maritime casualties.

8.1.9 The audit further established that the State has in place an overall strategy to meet its obligations and responsibilities as a maritime administration under the various mandatory IMO instruments.

8.1.10 Given the very recent nature of the Ministry strategic plan the audit was unable to verify if the measures in the plan were being achieved. These measures if fully implemented could provide a systematic approach for compliance with the Code, Part 1, and paragraph 3.

8.1.11 The Ministry strategic plan did not include quantifiable performance indicators regarding the reduction of maritime casualties (including loss of life or serious injury in the maritime sector) or reduction in maritime pollution incidents.

8.2 Flag State Activities

8.2.1 Flag State activities are being dealt with primarily through the three maritime offices, which are independently managed and are coordinated by SSD. The three maritime offices are responsible for the enforcement of the mandatory IMO instruments.

8.2.2 The vast majority of flag State activities is for domestic ships that are not subject to the mandatory IMO instruments. The ships subject to the mandatory IMO instruments are a small fleet of general cargo ships on coastal voyages, special purpose ships and large fishing vessels.

8.2.3 A formal externally audited Quality Management System (QMS) is established within regional maritime offices, which complies with ISO 9001-2000. The QMS is externally audited by the Polish Chamber of Foreign Trade.

8.2.4 As previously noted, SSD's flag State responsibilities are augmented by other governmental entities as well as being divided up within SSD by internal divisional responsibility. Below is a description by function.

8.2.5 There is no long term plan to alter the flag State enforcement resources unless and until there is an associated growth of the registered fleet of ships. Currently, resources are deemed to be sufficient for the number of registered ships (Code, Part 2, paragraph 23.2).

Legal and Regulatory

8.2.6 Poland has a parliamentary framework for the adoption of national laws and regulations related to maritime activities.

8.2.6 The Ministry of Infrastructure is mainly responsible for preparation of new legislation and improvement of the existing legislation in connection with the implementation of new IMO instruments and changes to existing instruments. The Ministry is supported through this process by the staff of SSD.

8.2.7 *Legislation* - The Ministry develops the legal framework, which is then developed into national law by the SSD. A process to obtain industry and other governmental organization concurrence is conducted prior to submission to Parliament. Legislative projects are subject to the schedule of the Parliament, which, depending on the legislative calendar, may induce some delays. Regulations are made to give effect to the technical amendments to the instruments agreed at IMO, as well as to some domestic maritime regulation. The need for regulation is based largely on the level of complexity for the area being regulated and to promote clear and consistent application of the requirements contained in the IMO resolutions into Polish domestic law. For tacit acceptance amendments to IMO instruments previously accepted under national laws, some amendments can be implemented in the form of official publications in the Polish Official Journals, without the necessity of seeking Parliamentary approval. However, other tacit acceptance amendments require amendment to the implementing legislation and are therefore subject to passage through Parliament or the Council of Ministers. The regulations become law when published in the Official Journals.

8.2.8 In real terms, Parliamentary delays occasionally result in a time gap between the international entry into force date of certain amendments to existing IMO instruments or new instruments and the effective date of the concurrent Polish national law and regulations, however this appears to be manageable, (e.g. Marpol Annex VI and LRIT) and their implementation in domestic law. However the impact was minimal in terms of enforcement. In instances where substantial gaps occur, the SSD will authorize the ROs to issue statements of voluntary compliance on behalf of the administration.

8.2.9 *Policy, procedures and work* – In addition to laws and regulations, there are no specific instructions to surveyors, except the relevant procedures of the QMS of the maritime offices. These QMS procedures define implementation policy and procedures to the maritime offices workforce.

8.2.10 The Ministry of Infrastructure, SSD has delegated the majority of its flag State survey and certification for ships subject to the IMO instruments to four ROs. There is a general regulation that allows for delegation and then individual agreements, which accept the use of ship survey related rules and policies of the RO, in lieu of the implementation of Polish law and regulations. As Poland largely adopts the international instruments as national law in any case, there is good alignment between the two sets of rules and for requirements unique to Polish flag ships. The RO should include these as procedures, were appropriate, in their country file. As a result, new requirements of international instruments that come into force as an equivalent level of safety are implemented by ROs by the effective dates, unless SSD specifies an alternative action in its flag specific instructions to ROs. In addition to RO rules, SSD accepts as an ancillary matter the policy issued by the International Association of Classification Societies (IACS) since three of its ROs are IACS members and must comply with the rules and instructions of that organization. For these three (DNV, GL & RMRS) this arrangement obviates the need for SSD to enact separate governmental regulations specific to IMO instruments applicable to these ships, since the RO rules and policy implement these requirements. The majority of its ships subject to the international instruments are certified by an RO on behalf of the Administration.

8.2.11 Maritime Office directors directly address various aspects of implementation and enforcement of the mandatory IMO instruments. Each is familiar with their individual tasks and responsibilities (Code, Part 2, paragraph 27). SSD has a very robust system for follow up on port State control detentions of Polish flag ships (Code, Part 1, paragraph 13).

Penalties

8.2.12 *Revocation or Suspension of Mariner Credentials* - Administrative actions against seafarers' licenses and documents are done directly by the Maritime Office concerned for mariners that commit acts of negligence or misconduct while employed aboard Polish flag ships or foreign flag ships when the individual is acting under the authority of their Polish mariner credential. Acts of misconduct that are not directly related to mariner competence are generally considered to be a police matter, although when reported to the relevant Maritime Office, the office will take action as directed under the Polish law, e.g. a national alcohol offence will lead to suspension of the mariners credential for the period required.

8.2.13 *Monetary or Criminal Penalties* - The Polish Prevention of Sea Pollution Act allows fines of up to 1 million units¹ (approx. \$ 300,000.-) not including the cost of clean-up for MARPOL offences. For maritime safety related offences the Maritime Safety Act has in place similar levels of penalty for operators. Masters or other persons, for safety related offences, may be fined up to a maximum amount of twenty average monthly salaries.

Equivalences and Exemptions

8.2.14 The Maritime Offices are responsible for interpretations of SOLAS, MARPOL, Load Lines, Tonnage and COLREG, including extension of certificates, exemptions, equivalences and certification. Permanent exemptions are submitted to IMO by the SSD.

8.2.15 The Maritime Offices maintain files of all ships under Polish flag and all correspondence related to request for equivalences, extensions or exemptions.

Design & Equipment

8.2.16 Only equipment that fulfils the EC Marine Equipment Directive 96/98/EC, and is published in that directive, as amended, are accepted. Other than general oversight of ROs quality systems, no separate oversight of the equipment approval process is conducted by Poland. The Maritime Offices' approve liferaft service facilities. Currently only facilities which are located in Poland have received approvals. These facilities fall under an oversight programme of the Maritime Office in which area the facility is located.

8.2.17 With respect to radio, navigation and COLREG equipment, SSD accepts proof of type-approval to IMO standards on the basis of verification of reports of all relevant trials, assessments and conformity-assessment procedures or results of type-approval testing performed by an Administration, IACS classification society or Polish Register of Shipping (PRS), if issued by or on the authority of a government that is a Party to SOLAS.

Manning

8.2.18 The process for owners to apply for an initial and reissuance of a SOLAS safe manning certificate is published in regulation. The ship operator submits the request for ship manning to the Maritime Office where the ship is registered. The content of the regulation is based upon minimum manning levels for different operational circumstances, e.g. long or short international voyages. In general, the guidelines on manning are based upon IMO resolutions A.890(21) and A.955(23). Upon receipt of the manning proposal from the owner, the Maritime Office conducts an evaluation and notifies the owner if additional information is required or an adjustment is made to the proposed manning level. ROs are not authorized to issue safe manning certificates.

Tonnage

8.2.19 International Tonnage evaluation is tasked to the directors of the Maritime Offices. Additionally, the Minister of Infrastructure may delegate this function to an RO

¹ unit – 0.2 SDR (Special Drawing Right, as specified by the International Monetary Fund)

which performs the tonnage assignment and issues the tonnage certificate directly. No systematic oversight of the tonnage assignment process is conducted by SSD or the Maritime Offices for work performed by the RO.

Maritime Office Gdynia

8.2.20 The audit team conducted a site visit to the Maritime Office Gdynia (MOG) Office on 14 & 15 April 2010.

8.2.21 The audit team carried out interviews of the flag, port and coastal State activities program managers. In addition, marine surveyor personnel were interviewed and a sample of ship inspection activity files and correspondence were reviewed for ships under the Polish flag, as well as the PSC process and filing of inspection reports. For PSC, surveyors for Maritime Office Szczecin were also present for interview.

8.2.22 As previously noted, the development of policy for implementation of law and regulation within the region of the three Maritime Offices is within the authority of the Maritime Office director.

Flag State Activities

8.2.23 The inspection and certification of ships of Polish flag subject to the mandatory instruments is accomplished primarily through the use of ROs, with flag State oversight. Poland has not delegated to ROs the authority to issue certificates under the Code for the Safe Management of Ships (ISM). Annual oversight examinations are conducted by the flag State inspectors, which may be harmonized with ISM intermediate or renewal audits in the corresponding years. Flag State inspection is conducted when ships are in Polish ports. If a Polish flag ship does not return to Poland during the year, then the flag State examination is postponed until the next visit but not later than the next ISM code audit for which travel by Polish flag State inspectors/auditors to ports outside of Poland is scheduled. Ships that have a history of excessive deficiencies may be targeted for additional flag State inspection on a more frequent basis.

8.2.24 The majority of flag State inspector activity is associated with ships limited to domestic voyages and that are not subject to the requirements of the mandatory IMO instruments.

Delegation to Recognized Organizations

8.2.25 The Administration has four ROs which have signed a formal agreement with the Administration. The agreements are in accordance with resolutions A.739(18) and A.789(19). Three of the ROs (DNV, GL & RMRS) are full members of IACS. Poland also has a minimum criteria standard for authorizing ROs and all of the agreements were provided to the auditors.

The ROs are:

- Polish Register of Shipping (PRS)
- Germanischer Lloyd (GL)
- Det Norske Veritas (DNV)
- Russian Register of Shipping (RMRS)

PRS is not an IACS member.

8.2.26 SSD initiated a plan in 2009 to conduct independent quality system audits on all of their ROs. In 2009 a quality audit of PRS was completed. Audits of GL, DNV and RMRS are planned for 2010. Auditors are assigned from both the SSD staff as well as Maritime Offices staff. An annual report of flag State oversight of ships inspected by the ROs is submitted to SSD by each of the three Maritime Offices.

8.2.27 Each Maritime Office conducts onboard oversight of RO performance for ships certificated. The level of detail and the approach for the flag State oversight examination is roughly analogous to that of a port State control examination. If the ship has a record of excessive deficiencies or is subject to a flag State detention, the interval of oversight examinations is increased. Individual Maritime Offices manage the oversight program for ships that fall within their area of responsibility. Deficiencies noted by Maritime Office surveyors during oversight are corrected as required, and are documented for the purpose of measuring ROs performance over time. The owner is required to provide a report of action taken to correct deficiencies. Corrective actions are verified at the next flag State oversight examination or at the next ISM audit, whichever occurs first.

8.2.28 *ISM Code* - All mandatory ISM Code audits are carried out by the responsible Maritime Office. The Maritime Office has access to RO survey records and deficiencies. The RO does not have reciprocal access to flag State records regarding ISM audits, other than records maintained onboard the ships.

Training and Human Resources

8.2.29 The Maritime Office is responsible for planning, organizing and the management of all training for flag State and port State inspectors. There are written procedures for employing new ship inspectors that include an assessment of their qualifications and a training and qualification process to attain certification as an inspector. The qualifications required for marine inspectors are in conformity with the principles set out in the Code, Part 2, paragraphs 27-37.

8.2.30 On the job experience and review of performance is mandatory to receive initial certification as a marine inspector and the conduct of surveys required to maintain a qualification. Training for qualified inspectors is provided on a periodic basis or in association with the implementation of new regulations.

8.2.31 Findings

Observations

- .1 The delegation of ship measurement is included in the agreement with the ROs. However it was found that this delegation was not in accordance with the relevant Act, except for PRS. Furthermore the mentioned regulation in the applicable Act containing scope, methods, manner of proceedings and form of tonnage certificates could not be found in the RO country file for Poland (Code, part 2, paragraph 18.4). See Form A-OB1.

Corrective Action

The provisions of the State's maritime code will be amended in such a way as to eliminate the need to authorize ROs by way of a regulation. The only legal basis for agreements between the competent maritime minister and ROs will be the act on maritime safety. The Administration will inform regularly all ROs about the existing provisions of the law and the Administration's guidelines. Until the introduction of amendments to the maritime code, the relevant regulation will be amended so that the list of authorized organizations includes all ROs with whom agreements have been concluded. The deadline for the implementation of this corrective action is 30 June 2011

Root cause

The regulation on the authorization of one RO was issued in 2004, when the State did not have any other agreement with other ROs. After amending the act on maritime safety, agreements based on resolution A.739(18) were concluded with all four ROs. However, while concluding agreements with three ROs, the provisions of the relevant article of the maritime code were not taken into account in the process of legal analysis.

- .2 Individual Maritime Offices develop QMS procedures for implementation of national regulations and mandatory IMO instruments. For example, the procedure for ISM audit in Gdynia and Szczecin contained differing information for the conduct of SMC audits under the ISM code. Harmonization of QMS procedures between Maritime Offices is a non-mandatory process and oversight by SSD did not detect the disparity between the two offices in this instance (Code, Part 2, paragraph 42). See Form A-OB2.

Corrective Action

The Administration will undertake harmonization of the QMS between the three maritime offices by:

- .1 taking a decision on harmonization of the QMS and setting up a working group at the level of a coordination council of the directors of the maritime offices;*
- .2 establishing a timetable of work and the rules for adopting changes to the quality systems;*
- .3 adopting harmonized procedures for flag, port and coastal State activities of the maritime offices; and*
- .4 developing and adopting common procedures for introducing changes to the QMS in order to maintain uniformity of the various quality systems.*

The deadline for the implementation of this corrective action is 30 April 2011

Root cause

The quality management systems in three regional maritime offices were implemented independently, at long intervals, without the necessary coordination in drafting of QMS documentation.

- .3 The Administration must be notified immediately in cases where an RO finds “serious” conditions. It was not clear from either the RO agreement or the information contained in GL’s or DNV’s internal instructions that the Administration is to be notified in cases where the RO surveyor concludes that the condition of the ship or its operation may not be in conformance with the Safety Management System (SMS) required by the ISM code. Since the Administration is the ISM Code certification body, there was no objective evidence that the RO was required to provide notification to the Administration (Code, Part 2, paragraph 18.3). See Form A-OB3.

Corrective Action

The Administration will carry out a thorough analysis of the agreements with ROs with regard to the flow of information in accordance with international and IACS requirements. The deadline for the implementation of this corrective action is 31 December 2010. The Administration will inform ROs about the need to provide relevant IACS notifications.

Root cause

Provisions of the existing agreements do not specify how ROs should proceed in cases where non-conformance with the Safety Management System was observed. The Administration failed to notice this area of required exchange of information while drafting the provisions of the agreements.

- .4 The information contained in the GL and DNV internal country file documents provided did not contain substantial information from the RO agreement regarding implementation of specific flag State requirements by surveyors and others (Code, part 2, paragraph 18.4). See Form A-OB4.

Corrective Action

The Administration will introduce a supervised system of informing ROs about provisions of the law and the Administration’s guidelines. Every RO audit will verify conformity of internal country files with the list of documents sent to ROs. Ship inspections conducted in the framework of RO monitoring will additionally verify areas covered by special requirements specified in provisions of law or guidelines for ROs. During the next meetings with all ROs the Administration will make sure that they have complete documentation and comply with provisions of the law and the Administration’s guidelines. The deadline for the implementation of this corrective action is 28 February 2010.

Root cause

The Administration did not monitor the ROs' internal national country files and therefore did not have information concerning the provisions of the national law and the Administration's guidelines which they included.

8.3 Investigation of Maritime Accidents

8.3.1 Maritime casualties in Poland are investigated by the Maritime Chambers in a similar way as formal investigations, *i.e.* through legal proceedings headed by a specifically appointed judge. There are two Maritime Chambers, one in Gdansk and one in Szczecin. There is a Maritime Chamber of Appeal in Gdansk. In particular cases, it is also possible to appeal in other instances, *e.g.*, before the Appeals Court in Gdansk.

8.3.2 The purpose of the investigations of the Maritime Chambers is threefold:

- .1 to establish a cause of an accident;
- .2 to determine penalties in relation to the cause of the accident; and
- .3 to provide safety recommendations in order to prevent similar accidents from happening in the future.

8.3.3 The Maritime Chambers are not interrelated (neither functionally nor organizationally) with the Maritime Offices in Gdynia, Szczecin or Slupsk. According to Polish law, a Maritime Chamber is not a court. The function of the prosecutor, designated by the Ministry of Infrastructure, is fulfilled *pro public bono*. The judges are lawyers delegated from common courts and experienced in maritime matters. The jury for each investigation will be appointed based on the nature of the accident. Each Maritime Chamber has a list of more than 50 recognized experts that can serve as a jury member. Those experts have expertise in different aspects related to maritime accidents. The investigation and the analysis of an accident are carried out by those experts. Additional expertise, if required (*e.g.* when technical circumstances of an accident need to be verified), is available on request to other Maritime Chambers for the reconstruction of events leading to an accident.

8.3.4 The task of the Maritime Office in respect to maritime accident investigation is primarily the securing of evidence, through their Harbour and Boatswain Offices. According to Polish law, any accident in Polish waters and on Polish ships has to be reported to Maritime Chambers. The evidence presented by the Harbour or Boatswain Offices is reviewed by a Maritime Chamber in order to initiate the appropriate proceedings. Accidents onboard Polish ships abroad are reported to the Ministry of Infrastructure directly. The Ministry appoints investigators to collect the evidence abroad and to submit it to a Maritime Chamber for follow-up.

8.3.5 For the collecting and securing of evidence, dedicated staff members exist at the different Harbour and Boatswain offices. On average less than 10 investigations per year were carried out in the different Maritime Chambers in recent years. The investigating officers in charge of collecting and securing evidence are trained and participate in training measures, recently mainly organized by the European Maritime Safety Agency

(EMSA). The evidence is analysed by the appointed experts as part of the jury for the proceedings at the Maritime Chambers. A dedicated staff member has also been appointed in the Ministry to verify and evaluate accident investigation information on a regular basis.

8.3.6 Reports to GISIS are made, when appropriate and required. The reports are made by the Ministry of Infrastructure directly. The Ministry also receives an annual report about the accidents investigated on Polish ships and in Polish waters. Given the size of its fleet and the number of accidents on ships subject to the instruments under the Code, no detailed analysis of accident trends etc. is considered possible by the Ministry. A similar statement applies to human factor issues.

8.3.7 Poland is in the process to implement the new IMO Casualty Investigation Code. As a result of this Code, a new independent accident investigation body is to be established.

8.3.8 The current arrangements in Poland with respect to maritime accident investigation comply with the flag State investigation requirements of the Code, Part 2, section 38 to 41.

9 Port State Activities

9.1 Maritime offices are responsible for port State control (PSC). Poland is a member of the Paris MOU. The maritime offices follow the Paris MOU instructions and guidelines for PSC. The IMO procedures for PSC have been adopted into national law.

9.2 PSC activities take place throughout the 3 regions, which all use the same procedures. These procedures form an integral part of the overall QMS of the three maritime offices.

9.3 All PSC inspection reports are forwarded by the PSC Officer (PSCO) to the PSC Coordinator who provides case guidance, monitoring the progress of ship detentions and providing input to the Paris MOU data system (SIRENAC).

9.4 Information to flag State, ROs, in case of detention, is done by PSC Coordinator directly after a detention.

9.5 Training and qualification of PSC officers are carried out in accordance with IMO and MOU guidelines using a fixed qualification scheme.

9.6 The maritime offices have a systematic PSC program that fulfils the requirements of the Code. They, together with SSD, represent Poland at national and international fora.

Waste Reception Facilities

9.7 The reception of ship borne waste as required by MARPOL is mandated by national law and implemented through waste management plans approved by the individual regional governments. The configuration of actual waste reception facilities in individual ports is managed by the local port authority with the concurrence of the cognizant Maritime Office. The port authority plans addressed all of the waste streams

associated with the annexes of MARPOL. Tonnage fees paid by all ships using port facilities in Poland include the cost of waste reception from the ship without additional charge.

9.8 The plan for the port of Gdansk and Gdynia noted that waste from exhaust gas scrubbers associated with MARPOL Annex VI was not yet addressed in their plan since there had been no demand for that service to date and the port authority did not wish to invest in infrastructure for that waste stream until a reasonable estimate of demand was available. The Maritime Office Gdynia had not offered any comment or issued any direction in response to this statement by the Port Authority as is their prerogative in an oversight role. It was noted by the Ministry of Infrastructure that there is a general clause in the agreement between the Port Authority and its waste collection contractor which requires them to accept all wastes. This could be interpreted to mean that they would accept MARPOL Annex VI waste on a case by case basis although this is not specifically stated in the Port Authority plan.

10 Coastal State Activities

10.1 Poland effectively discharges all of its coastal State obligations through a number of governmental entities who share coastal State responsibilities according to SOLAS chapters IV & V. The Ministry of Infrastructure, SSD acts as the lead authority for legal and regulatory issues with respect to fulfilment of coastal State responsibilities under the mandatory IMO instruments (Part 3 of the Code). The responsibilities for the coastal State activities are carried out mainly by three Maritime Offices (Gdynia, Slupsk, Szczecin) and a dedicated SAR service as part of the Ministry of Infrastructure. In addition, cooperation agreements exist with the Hydrographic Office of the Polish Navy (Ministry of Defense), Institute of Meteorology and Water Management (Ministry of the Environment) and the Maritime Unit of the Polish Border Guard (Ministry of Interior and Administration). The coastal State activities are described in the succeeding paragraphs.

Search and Rescue (SAR)

10.2 Poland is a Party to the International Convention for the Safety of Life at Sea, The Convention on International Civil Aviation 1944, the International Convention on Maritime Search and Rescue, 1979 and the Law of the Sea Convention, 1982. These Conventions are given effect for search and rescue through the Act on Maritime Safety.

10.3 It was verified that Poland has a cooperative Search and Rescue system. SAR and pollution response are administered and organized through a dedicated maritime SAR service. However, initial reporting may come from outside. The use of additional resources and equipment is regulated by cooperation agreements with the various parties involved. These parties form a National SAR Board. This board reviews the arrangements and the National Contingency Plan annually. Regular exercises are carried out to verify the effectiveness of the plan and the arrangements made. Those exercises are carried out on a national and international level.

10.4 The Polish SAR services maintain an MRCC in Gdynia and a sub-centre in Swinoujscie. In addition, several stations are maintained along the coast line.

10.5 The MRCC staff is trained in accordance with the IAMSAR manual. Courses are either attended abroad or trainers are invited to Poland, if necessary. There are regular SAR exercises in the Baltic, organized by either HELCOM or NATO.

10.6 Statistics are maintained and are assessed for performance review purposes at least once a year.

10.7 It is verified that information has been provided to IMO in response to COMSAR/Circ.27 and is updated as required.

Vessel Traffic Service (VTS)

10.8 VTS are maintained in order to support ships entering the four largest ports in Poland – Gdansk, Gdynia, Swinoujscie and Szczecin. VTS is offered by dedicated departments in the respective Maritime Office. In order to maintain maritime safety on a high level, a specific computer based system was developed – MarSSIES (Maritime Safety and Security Information Exchange System). The VTS Center in Gdynia is also used as the point of contact for various purposes, e.g., MAS etc. The VTS centres are connected to European and national systems relevant to support their services, e.g. AIS and LRIT servers, European Databases about declared Dangerous Goods on board ships etc.

10.9 Staff members of the VTS are trained and certified in accordance with IALA recommendations. Training files are maintained and reviewed on an ongoing basis (e.g. in order to schedule refresher courses, when required).

10.10 The VTS Centre in Gdynia is part of the national response systems to maritime pollutions and is able to initiate appropriate actions by informing the relevant parties. It can support the activities by, e.g., carrying out spill movement calculations etc.

10.11 The VTS centers are charged to verify the compliance with COLREGs 1972. Any violations are documented and proceedings against the ships involved are initiated.

Aids to Navigation (AtoN)

10.12 Each Maritime Office maintains a department in charge of AtoN. In addition hydrographic surveys in ports and the entrances of the ports as well as technical support services, such as, AIS data storage are maintained by those departments.

10.13 Staff members of the AtoN department represent Poland in the various international fora related to AtoN. The AtoN departments are involved in R&D activities to make those services more effective. The already mentioned MarSSIES is a result of such R&D activities. Through those activities the AtoN department is able to improve the level of service quality. One example in this respect would be AIS data, which are made available to various national and international partners for risk assessment purposes.

10.14 Cooperation with other national and international partners is regulated by appropriate agreements.

Hydrographic Services

10.16 Hydrographic Services in Poland are maintained by the Hydrographic Office as part of the Navy and the AtoN Departments of the Maritime Offices. The Hydrographic Office is responsible for hydrographic surveys outside ports and fairways, the publications of navigational charts and pilots, as well as NAVTEX warnings to be submitted to the NAVTEX coordinator for the NAVTEX area in Sweden. The AtoN departments of the Maritime Offices are responsible for the hydrographic surveys within ports and fairways to ports. There are 52 charts covering the whole Baltic published by the Hydrographic Office. Data necessary in order to issue those charts covering areas outside Poland are gathered through international cooperation agreements.

10.17 Every year a special cooperation agreement is developed to coordinate the activities of the Hydrographic Office with the AtoN departments of the Maritime Offices in line with the recently published strategy for the implementation of the maritime instruments under the Code.

Meteorological Services

10.18 Meteorological services, including regular weather forecasts and warnings (severe weather, ice etc.) as well as water level forecasts are delivered by the Institute of Meteorology and Water Management as part of the Ministry of Environment.

10.19 The Institute can also assist in SAR operations when drift modeling is required in order to assess the position of a person in distress.

10.20 There is a contract between the Ministry of Infrastructure and the Institute regulating the responsibilities and services to be provided by the Institute to the maritime services of Poland.

10.21 It was established during the audit coastal State activities were in conformance with Poland's obligations under the Code.

11 Conclusions

Areas of positive development

11.1 Poland participates in various outreach activities and fora with the maritime community to stimulate a culture for the improvement of safety and environmental protection (Code, Part 1, paragraph 12).

11.2 SSD has a fully integrated approach for maritime search and rescue and other coastal State responsibilities.

11.3 Poland has a well organized and staffed port State control programme contributing to the high level of safety in the environmentally sensitive Baltic Sea.

11.4 The MarSSIES software, a result of R&D activities carried out by MOG, is a state of the art tool to enable operational risk assessment in the concept of a national single

window. Reports about the further development of this tool could be of benefit to the Organization's e-navigation concept.

Areas for further development

11.5 Given the very recent nature of the Ministry of Infrastructure strategic plan the audit was unable to verify if the measures in the plan were being achieved as yet. These measures if fully implemented could provide a systematic approach for compliance with the Code, Part 1, and paragraph 3.

11.6 The Ministry strategic plan did not include specific performance goals or indicators regarding the reduction of maritime casualties (including loss of life or serious injury in the maritime sector) or reduction in maritime pollution incidents.

11.7 For ships of Polish flag, which are certified by an RO and that do not return to a port in Poland at least annually, resources should be provided to ensure that these ships receive the identical level of oversight as ships that do call in Polish ports. This is essential to maintain a consistent approach to oversight and the overall quality of the ships of the flag.

11.8 The procedures promulgated by the Maritime Office directors should be more transparent and accessible to interested parties and individuals both inside and outside of government. This could be accomplished through use of the maritime office or Ministry web page or other means of communication, which is commonly accessible to those who would have an interest in, or are affected by, these documents.

11.9 The overwhelming senior inspector workforce currently provides a high level of experience and expertise. However, in anticipation of future attrition of these inspectors over the course of time, a plan for recruiting and training replacement inspectors should be developed and implemented. This will minimize any adverse impacts on the overall quality of the workforce's qualification and the level of quality of the organization in total.

11.10 The current MARPOL port waste reception plans should be amended to specify what contingencies exist to receive all wastes on a case by case basis upon request and not just those routine wastes for which current capability is installed.

11.11 The results of casualty investigations should be analyzed for trends and corrective actions in a systematic way. This includes human factor issues.

Annexes

Audit Schedule & Interviews
Opening Meeting Agenda

Enclosures

Observations

Form A-OB-01

Form A-OB-02
Form A-OB-03
Form A-OB-04
