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Circular Letter No.4771  
6 October 2023

To: All IMO Member States

**Subject: IMO Member State Audit Scheme – Consolidated Audit Summary Report (CASR)**

1 The Secretary-General has the honour to transmit herewith the sixth consolidated audit summary report (CASR) prepared in accordance with paragraph 7.4.3 of the *Procedures for the IMO Member State Audit* (resolution A.1067 (28)), containing lessons learned from two audits completed in 2021 and five audits completed in 2022.

2 The CASR, which is intended to facilitate the attainment of three of the objectives of the Scheme as contained in paragraphs 5.2.1, 5.2.3 and 5.2.4 of the *Framework for the IMO Member State Audit* (part I of the annex to resolution A.1067(28)), has been developed to reflect the findings and observations issued during audits, as well as corresponding summaries of root causes identified by each audited State and summaries of corrective actions taken or proposed by each State, which provide valuable lessons for Member States. The CASR also contains best practices revealed in audits, in order to share them with Member States, with a view to assisting them to enhance further their implementation and enforcement of mandatory IMO instruments.

3 In order to enable the Organization to further consider the effectiveness and appropriateness of its legislation and to facilitate the provision of technical assistance to Member States in those areas identified in audits, future CASRs will continue to be issued as circular letters, as and when the reporting from a reasonable number of audits have been completed. A reference to each circular letter issued will be included in the document reporting to the Council and Assembly on progress made in the implementation of the Scheme.

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## ANNEX

### SIXTH CONSOLIDATED AUDIT SUMMARY REPORT

#### INTRODUCTION

1 In fulfilling the objectives as stipulated in paragraph 5.2.3 of the *Framework for the IMO Member State Audit* (resolution A.1067(28), annex, part I) and as required by paragraph 7.4.3 of the *Procedures for the IMO Member State Audit* (resolution A.1067(28), annex, part II), this document is the sixth Consolidated Audit Summary Report (CASR) containing lessons learned from two mandatory audits completed in 2021 and five mandatory audits completed in 2022.

2 The report reflects the five categories of General (findings and/or observations relating to strategy, organization and legal system, with the latter dealing mainly with the incorporation of mandatory IMO instruments into national law), flag State activities, coastal State activities, port State activities and best practices, respectively, from the previously issued seven audit final reports.

3 This report contains the findings and observations identified during the audits, which were conducted using the *IMO Instruments Implementation (III) Code* (resolution A.1070(28)) as the audit standard, with each finding and/or observation followed by the summary of root cause identified by the audited State and summary of the corrective action taken or proposed by the State.

4 The outcome from audits provides valuable lessons on the implementation and enforcement of the mandatory IMO instruments covered by the Scheme. They also identify areas where States, in exercising their rights, meeting their obligations, and discharging their responsibilities attendant to the applicable mandatory IMO instruments, have either fallen short in some areas or have encountered some difficulties in doing so. Best practices reflect the strengths, and, in some cases, novel ideas employed by States to effectively meet their obligations and responsibilities.

5 In an effort to disseminate the lessons learned from audits, with a view to assisting Member States to enhance further their implementation and enforcement of mandatory IMO instruments and to inform the associated work of the relevant IMO bodies, future CASRs will continue to be issued as circular letters.

#### GENERAL

##### Findings (FD)

6 The State had not communicated to IMO, nor updated, some information as required by the relevant IMO instruments to which it is Party (SOLAS 1974, article III; MARPOL, article 11; MARPOL, Annex VI, regulation 18.1; III Code, paragraph 9).

##### Root cause

7 There was an unclear overview and lack of a defined mechanism to ensure that the required information under the applicable IMO instruments was communicated and updated to GISIS.

### **Corrective action**

8 The responsible State entities will:

- .1 develop and implement a documented procedure for addressing the communication of information requirements to IMO and identifying where communications and updates have not been fully carried out, therefore serving as a mechanism to ensure future compliance. Moreover, the procedure will identify the responsible authority for communication of information to IMO, as well as the relevant unit and mandated staff member, including planning and frequency of communication to IMO. An introduction to GISIS for new staff members is also being developed; and
- .2 update and communicate the list of reception facilities, including any information regarding location, capacity, availability, and other characteristics to GISIS, by contacting all concerned ports of the State and verify the consistency of the reported data.

This corrective action will be completed by 1 May 2023.

### **FD**

9 Although draft legislation was developed, the transposition of amendments to the applicable mandatory IMO instruments into domestic legislation had not been carried out before they entered into force internationally. Furthermore, discrepancies were noted in relation to the implementation of SOLAS 1974, regulation V/14.2, to passenger ships under 500 GT engaged on international voyages (SOLAS 1974, article 1; SOLAS 1974, regulation V/14.2; and III Code, paragraph 8.1).

### **Root cause**

10 The following factors contributed to this finding:

.1 Area 1:

The process of transposition of amendments to the applicable mandatory IMO instruments into domestic legislation takes a long time (18 months to two years) and a considerable number of officials (policy experts, lawyers, economists, and officials in parliamentary functions) were involved in this process.

.2 Area 2:

There were discrepancies in the harmonization of the various existing legislation for the implementation of the requirement of SOLAS 1974, regulation V/14.2 to passenger ships under 500 GT engaged on international voyages.

.3 Area 3:

- .1 the pending completion of the transposition table as part of the policy and legislation development process for the implementation of SOLAS 1974, regulation V/14.2 into national legislation; and

- .2 the limitation on discharging obligations on safe manning for the existing registered fleet. At that time, the policy applied only to register passenger ships if they operated in a particular sea area.

### **Corrective action**

11 The State will implement the following actions:

.1 Area 1

- .1 identify the extent of incomplete transposition of international legislation (completed);
- .2 streamline and improve the legislative and regulatory process (completed), through:
  - .1 engaging with Ministers to use ambulatory reference to implement future changes to international conventions into national legislation without the need to amend legislation;
  - .2 amending existing legislation to insert new ambulatory reference (AR) power; and
  - .3 appointing a dedicated team to develop and introduce a suitable AR approach in line with better regulation principles.
- .3 address the lack of in-house legal and analytical resources (completed), through:
  - .1 introduction of a dedicated team to manage the legislative programme;
  - .2 identification of the best route to recruit expert maritime lawyers; and
  - .3 recruitment of three expert maritime lawyers.
- .4 develop a programme of legislative updating that will include (completed):
  - .1 identified regulations to be updated;
  - .2 identified the scope for the use of AR within legislation from 2015 onwards; and
  - .3 ministerial agreement.
- .5 develop and implement legislation by:
  - .1 undertaking a gap analysis of each amendment to a convention against any existing legislation and guidance;

- .2 establishing a project team and time frame for implementation of each new amendment requiring legislative change; and
- .3 undertaking regulatory and parliamentary processes to implement legislation.
- .6 perform a post-implementation review within five years of legislation entering into force.
- .2 Area 2  
Existing legislation and regulations on "Certification Safe Manning, Hours of Work and Watchkeeping" will be amended and implemented.
- .3 Area 3
  - .1 develop a new procedure which includes a requirement for a transposition table to be completed as part of the process of developing policy and drafting legislation to implement international requirements into national legislation;
  - .2 review the existing legislation and regulations on "Manning and STCW 1978" to determine amendments required to give full effect to SOLAS 1974, regulation V/14.2;
  - .3 consult on proposed amendments to the existing legislation and regulations on "Manning and STCW 1978";
  - .4 amend the existing legislation and regulations on "Manning and STCW 1978".

This corrective action will be completed by 31 December 2023.

## **FD**

12 There was no overall mechanism established by the maritime administration to monitor and review the measures taken to implement and enforce the mandatory IMO instruments when conducting some of the coastal and port State activities (III Code, paragraph 11).

## **Root cause**

13 The State had put in place various mechanisms for the monitoring and review of measures to implement and enforce mandatory IMO instruments. While there were different inter-agencies mechanisms in place, they were deemed inadequate as there was no overall mechanism involving the relevant entities comprising the maritime administration to monitor and review the measures taken to implement and enforce the mandatory IMO instruments.

### **Corrective action**

14 The responsible entity of the State will coordinate the implementation of the following actions:

- .1 under the coordination of the responsible entity, a committee will be set up comprising relevant entities comprising the maritime administration of the State, to provide an over-arching and formalized structure for the existing various inter-agency mechanisms and coordination practised for the implementation of the State's obligations under IMO instruments;
- .2 the committee, when established, will meet once a year and will be supported by several sub-committees – each led by the relevant ministry/agency – which will address specific port and coastal State activities such as search and rescue; environment; safety of navigation; radiocommunication; and training; and
- .3 the existing IMO Issues Coordinating Committee will assume the secretariat function that supports the Committee.

This corrective action will be completed by 31 December 2023.

### **FD**

15 The State did not fully comply with the communication of information requirements in the mandatory IMO instruments (SOLAS 1974, article III; MARPOL, article 11; III Code, paragraph 9).

### **Root cause**

16 There was a lack of awareness in the maritime administration for effectively implementing and monitoring the system for communication of information to IMO.

### **Corrective action**

17 The responsible entities of the maritime administration will implement the following actions:

- .1 conduct a thorough awareness programme within the responsible entities on the exhaustive list of obligations for communication to IMO under the mandatory IMO instruments, the system for communication of information to IMO and how to use GISIS platform;
- .2 assign a designated official as in charge of communication of information to IMO; and
- .3 establish a monitoring system using a documented checklist related to communication of information to IMO and conduct periodic reviews.

This corrective action will be completed by 31 December 2023.

## **FD**

18 Transposition of the applicable mandatory IMO instruments and their amendments into national legislation was not systematically carried out by the State for all mandatory IMO instruments to which the State was Party. In addition, there was a lack of personnel with maritime expertise to assist in the promulgation of the necessary national laws and to discharge all the responsibilities of the State (COLREG 1972, article I; TONNAGE 1969, article 1; III Code, paragraph 8.1; III Code, paragraph 8.3).

### **Root cause**

19 The lack of awareness of the necessity of personnel with maritime expertise, coordination among responsible entities, and the absence of a system for tracking the mandatory IMO instruments and their amendments contributed to this finding.

### **Corrective action**

20 The State will implement the following actions:

- .1 review and amend the existing national maritime legislation and procedures in order to give full and complete effect to all amendments to the mandatory IMO instruments to which the State is Party;
- .2 put in place a mechanism for tracking and dealing with future amendments to the mandatory IMO instruments to ensure their timely transposition into national legislation and conduct a systematic review of domestic legislation. The tracking mechanism, as established by the maritime administration, will include coordination among the different entities of the State for the implementation and enforcement of these amendments; and
- .3 establish and conduct continuous training and awareness programme, including legal drafting, for current personnel to update their knowledge on IMO instruments and their amendments and will assess the need for additional personnel with technical maritime expertise for their recruitment accordingly.

This corrective action will be completed by 28 February 2025.

## **FD**

21 Despite the fact that a documented procedure for communication of information to IMO was developed and implemented, not all obligations of communication, as required under the applicable IMO instruments to which the State was Party, were fulfilled. In addition, the independent evaluation as required by regulation I/8 of STCW 1978 was not carried out and submitted to IMO (SOLAS 1974, article III; MARPOL, article 11(1) (c); MARPOL, article 11(1) (f); MARPOL, Annex VI, regulation 13.7.1; STCW 1978, regulation I/8.3; III Code, paragraph 9).

### **Root cause**

22 Low level of clarity in coordination among relevant entities, and limited level of knowledge to implement the approved communication of information methodology for the controlled and systematic communication of information to IMO by relevant entities, as required by the mandatory IMO instruments. Furthermore, the independent evaluation required by the STCW was not conducted due to the lack of expertise.



### **Corrective action**

- 23 The maritime administration will implement the following actions:
- .1 develop and approve a methodology for communication of information and improve coordination between relevant entities by organizing workshops and meetings, to ensure that the required information is collected and that reports are compiled and communicated to IMO in due time;
  - .2 provided each identified entity with the necessary access to GISIS for better reporting to IMO; in addition, concerned entities will cooperate to fully implement the communication of information methodology for reporting to IMO; and
  - .3 plan and conduct the independent evaluation and communicate the report to IMO as required by STCW 1978 regulation I/8 by an external evaluation body and ensure that future independent evaluation will be carried out within the time frame indicated in the communication and information methodology.

This corrective action will be completed by 31 March 2024.

### **FD**

24 Although the State initiated regulatory projects for the development of legislation, amendments to the mandatory IMO instruments had not always been transposed into national legislation before their entry into force internationally (MARPOL, article 1; STCW 1978, article I, III Code, paragraph 8.1).

### **Root cause**

25 The Administrative Procedure Act (APA) governs the process by which all federal agencies develop and issue legally binding regulations. The APA includes requirements for publishing notices of proposed rule-making and final rules in the Federal Register and provides opportunities for the public to comment on notices of proposed rule-making. For MARPOL Annex VI reception facilities specifically, the implementing statutory legislation requires the responsible entities to cooperate on a joint rule-making to give full and complete effect to MARPOL Annex VI reception facilities requirements. The deliberative nature of this statutory provision forces the regulatory development process beyond normal timelines to facilitate inter-agency coordination for the promulgation of the associated regulations.

### **Corrective action**

- 26 The State will implement the following corrective actions:
- .1 the main responsible entity will continue oversight of the transposition of mandatory IMO instruments into national binding regulations in coordination with other entities involved. The Administration has developed interim guidance and is working diligently towards the completion of projects to incorporate these requirements into national legislation;
  - .2 the main responsible entity, in coordination with other entities involved, will complete the transposition of the amendments to the STCW 1978 Convention and STCW Code into national legislation for:

- .1 the International Code of Safety for Ships Using Gases or Other Low Flashpoint Fuels (IGF Code); and,
- .2 the International Code for Ships Operating in Polar Waters (Polar Code).

The Administration will continue to use existing Policy Letters to provide guidance for the issuance of Polar Code Operations and IGF Code Operations endorsements until the project is complete.

- .3 the main responsible entities, will complete the transposition into national binding regulations of the requirements of MARPOL, Annex VI, regulation 17 under an already outlined procedure. The Government expects to publish a Notice of Proposed Rule-making, subject to the processes outlined in the national legislation. A Final Rule will be pursued once any public comment has been reviewed and addressed. The Administration will continue to monitor for and investigate any reports of inadequacy.
- .4 the main responsible entity will pursue a legislative change proposal to remove the requirement for a joint rule-making, which would streamline the regulatory development process.

This corrective action will be completed by 31 December 2025.

## **FD**

27 The State had not communicated to IMO all the information required by the mandatory IMO instruments. Furthermore, there was no system in place for ensuring that all relevant information was communicated to IMO (SOLAS 1974, article III; MARPOL, article 11; LL 1966, article 26; TONNAGE 1969, article 15; III Code, paragraph 9).

## **Root cause**

28 Difficulties related to the communication of information have been attributed to a lack of written procedures, absence of clear lines of authority and responsibility, absence of a dedicated oversight unit, and an overall lack of awareness of the requirements. Notably, there is no comprehensive source document or list of reporting requirements in mandatory IMO instruments.

## **Corrective action**

- 29 The responsible State entities will implement the following corrective actions:
- .1 identify and compile all mandatory requirements regarding communication of information currently required to IMO under the relevant mandatory instruments to increase awareness;
  - .2 define the responsible authority and develop and implement a procedure for communicating to IMO under the applicable mandatory instruments, by requirements, the entity responsible for overall monitoring, and the means for periodically assessing and evaluating the procedure;
  - .3 establish and maintain a centralized Quality Management Office responsible for the coordination and oversight of implementation; and

- .4 define the responsible authority and procedure for reporting under any revised instruments, as applicable.

This corrective action will be completed by 30 June 2025.

## **FD**

30 It could not be demonstrated that the State implemented corrective actions for all the non-conformities recorded during the periodical internal State audits to monitor the activities of all the entities involved in the implementation and enforcement of the mandatory IMO instruments (III Code, paragraph 13.2).

### **Root cause**

31 The internal State audit conducted in 2020, identified that corrective actions for the 2016 finding related to the communication of information had not been adjudicated. A Non-conformity Report – Corrective Action Request, had not been filed for either finding raised during the internal State audits. The standard (Mission Management System), did not expressly require the use of a Non-conformity Report – Corrective Action Request or outline the programme guidance (i.e. procedure) for processing system non-conformities.

### **Corrective action**

32 The responsible State entity implemented the following actions:

- .1 review the Mission Management System standards and procedures to:
- .1 mandate the use of Non-conformity Report – Corrective Action Request; and.
  - .2 implement programme guidance for processing Non-conformity Report – Corrective Action Requests and the implementation of a tracking database.
- .2 raise a "Systems" Non-conformity Report – Corrective Action Request, for 2022 IMSAS FD-2 related to the communication of information (stemming from the 2016 and 2020 internal State audits).

## **FD**

33 The transposition of the applicable mandatory IMO instruments and their amendments into national legislation was not systematically carried out by the State for all mandatory IMO instruments to which the State was Party (MARPOL, article 1; STCW 1978, article I; III Code, paragraph 8.1).

### **Root cause**

34 Given the State's robust legislative process, the implementation of IMO instruments into domestic legislation and regulation is a lengthy and complex legal undertaking. As a result, not all amendments to mandatory IMO instruments were transposed into national legislation at the time of the audit. While the maritime administration had put alternatives in place to give full and complete effect through policies and procedures, these alternatives were not sufficient.

### **Corrective action**

35 The maritime administration will:

- .1 develop a national policy and an accompanying procedure to describe the processes for how the maritime administration implements IMO instruments into national legislation including incorporation by reference. This policy will ensure that amendments to the mandatory IMO instruments are domesticated into national legislation in a timely manner;
- .2 undertake a formal review of mandatory IMO instruments with the aim of completing their transposition and full promulgation into national legislation; and
- .3 establish a mechanism to monitor the progress of new amendments to support continued compliance and their timely transposition and full promulgation.

This corrective action will be completed by 31 August 2024.

### **FD**

36 Although the maritime administration had developed a policy on the communication of information, not all requirements related to communication of information to IMO under the mandatory IMO instruments were met. This includes casualty investigation reports, mandatory reports under MARPOL and complete details of port reception facilities (SOLAS 1974, article I; MARPOL, article 11 (1) (f); III Code, paragraph 9).

### **Root cause**

37 The documented procedure developed by the State for the communication of information to IMO was not consistently followed because of insufficient coordination between entities. Reporting requirements and processes require updating, including clear delineation of responsibility and timelines for updating information.

### **Corrective action**

38 The maritime administration will revise the "Communication of information by the maritime administration to the International Maritime Organization" to include a coordination mechanism to routinely monitor the reporting, and to identify areas where reporting is required, by entities of the State under the applicable IMO instruments. This will incorporate all modules in GISIS, including, and not limited to, casualty investigation reports, mandatory reports under MARPOL, and complete details of port reception facilities.

This corrective action will be completed by 31 March 2024.

### **Observations (OB)**

39 Although the State had a number of general strategies and policies in place, they did not constitute an overall strategy for covering all of its obligations and responsibilities under the mandatory IMO instruments addressing flag, coastal and port State activities, including a methodology to monitor and assess the effectiveness of the implementation and the enforcement of the mandatory instruments, and a mechanism to continuously review the strategy to ensure the improvement of the overall organizational performance and capability (III Code, paragraph 3).

### **Root cause**

40 The existing overall strategies related to maritime conventions, regulations and other IMO instruments are given by Rule of Law and can be found in the various Acts of Law covering specific areas, as well as in Decrees. Although the strategic directions are in place for the different responsible entities in relation to implementing and enforcing mandatory IMO instruments, an overall maritime strategy as recommended by the III Code was not established at the time of the audit.

### **Corrective action**

41 The State will establish and implement a collective overview that can be used for systematic and collective assessment and draft a document that will form an overall strategy. This corrective action will be completed by 1 July 2023.

### **OB**

42 It was established that the main entity of the maritime administration, in consultation with relevant agencies, had developed a framework for the implementation of IMO instruments to serve as a strategy. However, this framework did not ensure the overall aspect of the strategy that should comprise all relevant agencies in collectively addressing the State's obligations and responsibilities as flag, port and coastal State (III Code, paragraph 3).

### **Root cause**

43 There was a lack of a formalized mechanism to better articulate agencies' responsibilities and functions, and the inter-agency coordination and involvement for the implementation of relevant IMO instruments, including the periodic review of the overall maritime strategy.

### **Corrective action**

44 The following actions will be implemented:

- .1 Under the coordination of the main responsible entity, a committee will be set up comprising relevant entities composing the maritime administration of the State, to:
  - .1 develop and implement the appropriate regulatory framework, through policies or strategies that identify the national authority for the development of an overall strategy which encompasses the maritime administration of the State;
  - .2 provide an over-arching and formalized structure for the existing various inter-agency mechanisms and coordination practised for the implementation of the State's obligations under IMO instruments, legal framework and timely promulgation of national legislation; and
  - .3 develop and implement a structured mechanism to continuously review the strategy to achieve, maintain and improve the overall organizational performance and capability as a flag, port and coastal State.

- .2 The Committee will meet once a year and will be supported by several Sub-Committees, each led by the relevant ministry/agency to evaluate and review the overall strategy. The established IMO Issues Coordinating Committee will assume the secretariat functions that support the Committee.

This corrective action will be completed by 31 December 2023.

## **OB**

45 The State had developed an overall strategy for the period 2019-2023, however, the developed strategy did not ensure:

- .1 monitoring and assessing that the strategy ensures effective implementation and enforcement of relevant mandatory IMO instruments, including the continuous review of the strategy to achieve, maintain and improve the overall organizational performance and capability as flag, port and coastal State; and
- .2 that division of duties between the various involved entities was clearly defined in line with the responsibilities, rights and obligations stemming from the mandatory IMO instruments, including their amendments

(III Code, paragraph 3.2; III Code, paragraph 3.3).

## **Root cause**

46 A limited level of awareness of the provisions of paragraph 3 of the III Code, as well as the lack of assigned responsibilities between the responsible entities of the State to establish a monitoring and continuous review mechanism, contributed to this finding.

## **Corrective action**

47 The State will implement the following actions:

- .1 organize meetings between all stakeholders to enhance awareness among them regarding the provisions under the III Code;
- .2 establish a monitoring and continuous review mechanism to assess and ensure that the strategy fulfils the relevant flag, port, and coastal State requirements; and
- .3 establish a Strategy Coordination Committee (SCC) with the following mandate:
  - .1 monitor the implementation of the overall strategy;
  - .2 review the existing overall strategy to define the responsibilities of each entity involved in the implementation and enforcement of the relevant requirements;
  - .3 develop procedures for determining each entity's performance against its areas of responsibility and the overall organizational performance of those entities involved in the implementation and enforcement of the mandatory IMO instruments; and

- .4 ensure continuous cooperation of all involved organizations in the evaluation, review, and analysis of non-conformities and for identifying and eliminating their causes to prevent recurrence.

This corrective action will be completed by 28 February 2025.

## **OB**

48 It was established that the State had recently drafted a framework for the implementation of IMO instruments to serve as an overall strategy. However, the framework did not ensure that the State's obligations and responsibilities under the applicable mandatory IMO instruments as a flag, port and coastal State were met (III Code, paragraph 3).

### **Root cause**

49 The governance structure for the State's maritime administration did not reflect all entities and responsibilities with regard to obligations as flag, port and coastal State.

### **Corrective action**

50 The maritime administration will:

- .1 finalize and implement the Framework for the Implementation of IMO Instruments to reflect all entities' roles and responsibilities to ensure that the State's international obligations as a flag, port and coastal State are met. The strategy will:
- .1 include a methodology to monitor and assess performance in implementing and enforcing mandatory IMO instruments;
  - .2 design and implement a system for continuous review and improvement, which will allow the maritime administration to improve overall performance; and
  - .3 ensure compliance with paragraphs 3.2 and 3.3 of the III Code.

This corrective action will be completed by 31 March 2024.

## **FLAG STATE ACTIVITIES**

### **Findings (FD)**

51 The Administration had not developed, nor documented interpretation of the requirements contained in the mandatory IMO instruments that were "left to the satisfaction of the Administration", nor had it developed any related policy or guidance (III Code, paragraph 16.5).

### **Root cause**

52 From an operational point of view, requirements that are left "to the satisfaction of the Administration" have been dealt with on a case-by-case basis and decisions on those requirements are primarily maintained in the records of the affected ships. The precedents which are used regularly are registered in a common database; however, not all cases in the regulation have been clarified and kept available by transparent means. Moreover, the administrative practice used so far by the Administration has not recognized a demand or a requirement for an overall framework to address the term.

### **Corrective action**

53 The Administration will develop and implement clear instructions for setting criteria for those requirements that are left to the satisfaction of the Administration, and instruct the recognized organizations on the parts delegated to them. The remaining (internal) parts will be included in a corresponding administrative circular. This corrective action will be completed by 1 July 2023.

### **FD**

54 It could not be established that the Administration has exhaustively developed, documented, and provided guidance or interpretation for all those requirements left "to the satisfaction of the Administration" in the mandatory IMO instruments (III Code, paragraph 16.5).

### **Root cause**

55 The Administration had in place a methodology to address those provisions that are left "to the satisfaction of the Administration" comprising a four-step/tier approach. However, due to the lack of common understanding and guidance on the interpretation and the types of evidence that are required in relation to system(s) or procedure(s) adopted to demonstrate compliance, the existing mechanism did not address all the requirements.

### **Corrective action**

56 The Administration, will implement the following actions:

- .1 The Administration will continue to implement the developed document "Flag Requirements" which contained specific instructions and relevant interpretation of regulations, including those that contain the phrase "to the satisfaction of the Administration". The said document is regularly updated, communicated, and disseminated to all the Administration's ROs and is consisting of:
  - .1 where the document "Flag Requirements" does not have a particular interpretation, but where there is a Unified Interpretation (UI) adopted by the International Maritime Organization or the UIs of the International Association of Classification Societies (IACS), these UIs may be applied for unified implementation.
  - .2 for interpretation of regulations not addressed by UIs or the "Flag Requirements", ROs are authorized by the Administration to interpret the requirements of the applicable instruments within the limits of those applicable instruments, in accordance with the applicable technical standards acceptable to the ROs, unless otherwise instructed by the Administration. This instruction is incorporated in the RO Authorization Agreement with the Administration's eight ROs.
  - .3 in cases where specific instructions or interpretations are still required, the instructions are contained within the RO Authorization Agreement for the ROs to approach the Administration for a case-by-case basis interpretation, where the outcome will then be included in the "Flag Requirements" and thereafter circulated to all ROs to ensure uniform implementation.



- .2 The above framework has also been promulgated and disseminated to the shipping community through the publication of a Shipping Circular made also available through the public website.
- .3 In addition, pending the finalization of the discussions and decision taken at IMO on the matter, the Administration will also implement additional training for all relevant staff and marine surveyors regarding the framework implemented on provisions that are left "to the satisfaction of the Administration" and ensure adequate knowledge on the matter by all the surveyors.

This corrective action will be completed by 30 June 2025.

#### **FD**

57 Although national legislation and guidance were in place for many technical areas related to ships flying the flag of the State, the implementation mechanism was not complete in order to effectively discharge the Administration's responsibilities and obligations (III Code, paragraph 15.1).

#### **Root cause**

58 Limited knowledge and understanding of the international obligations concerning the implementation of the requirements of the mandatory codes under the SOLAS 1974 Convention.

#### **Corrective action**

59 The maritime administration will implement the following actions:

- .1 enhance knowledge and understanding of personnel by providing continuous training and awareness programme; and
- .2 develop and implement national technical instructions and guidelines to implement and enforce the requirements on all safety and pollution prevention measures, to cover all mandatory codes under SOLAS 1974 Convention, and to deal with inspections and non-conformance by ships flying the flag of the State.

This corrective action will be completed by 28 February 2025.

#### **FD**

60 The Administration had not taken the necessary measures to ensure full compliance with the requirements applicable to handling operational waste from fixed or floating platforms including drilling rigs; floating production, storage and offloading facilities (FPSOs) (MARPOL, Annex I, regulation 39.2.2; III Code, paragraph 16.1).

#### **Root cause**

61 Despite the existence of the provisions incorporating regulation 39.2.2 of Annex I of MARPOL into the national executive regulations, it was not clearly known by the maritime administration. In addition, the required record form was not developed, approved, and disseminated by the Administration.

### **Corrective action**

62 The Administration, will implement the following actions:

- .1 develop and approve a form for keeping record of all operations involving handling of operational waste from fixed or floating platforms, including drilling rigs; and
- .2 issue and disseminate to ROs and oil-drilling companies instructions related to the compulsory use of the dedicated form.

This corrective action will be completed by 31 December 2023.

### **FD**

63 The Administration had not:

- .1 established or implemented measures to ensure that seafarers who presented, for recognition, certificates issued under the provisions of regulations II/2, III/2 or III/3, or issued under regulation VII/1 of STCW 1978 at the management level, had adequate knowledge of maritime legislation of the State;
- .2 ensured that adequate measures for the purpose of preventing drug and alcohol abuse were established in accordance with the applicable provisions of section A-VIII/1 of the STCW Code; and
- .3 communicated mandatory annual reports on dispensations to IMO.

(STCW 1978, article VIII(3); STCW 1978, regulation I/10.2; STCW 1978, regulation VIII/1.2; III Code, paragraph 16.3.5).

### **Root cause**

64 There was a low level of knowledge and unavailability of expertise and an absence of appropriate instructions related to seafarers' knowledge of maritime legislation and preventing drug and alcohol abuse.

### **Corrective action**

65 The responsible entity will undertake the following actions:

- .1 develop, disseminate to the shipping companies and implement administrative instructions to provide the seafarers who apply for recognition certificates issued under the provisions of regulations II/2, III/2 or III/3, or issued under regulation VII/1 of STCW 1978 at the management level, with the appropriate knowledge of maritime legislation of the State before joining any ship flying the flag of the State;
- .2 develop, disseminate and implement a circular letter for preventing drug and alcohol onboard ships flying the flag of the State;

- .3 amend the approved communication of information methodology to require the Administration to report annually to IMO on the issuing of dispensations; and
- .4 provide a continuous training and awareness programme to the personnel responsible for seafarer's affairs.

This corrective action will be completed by 31 October 2023.

## **FD**

66 At the time of the audit, the newly developed policy for issuing safe manning certificates was not yet effectively implemented in order to ensure that ships entitled to fly the flag of the State were sufficiently and efficiently manned (SOLAS 1974, regulation V/14; III Code, paragraph 17).

### **Root cause**

67 There was a lack of an effective mechanism, as a result of inadequate awareness, to follow up on the implementation of the minimum safe manning regulations for the issuance of Minimum Safe Manning Documents (MSMD) to ships flying the flag of the State.

### **Corrective action**

68 The Administration will implement the following actions:

- .1 establish an effective mechanism to follow up and implement the Minimum Safe Manning regulations;
- .2 issuance of MSMD to ships flying the flag of the State as stipulated in the new regulations;
- .3 conduct flag State inspections to verify that ships flying the flag of the State are sufficiently and efficiently manned according to the new regulations; and
- .4 provide adequate awareness programme for administrative staff and surveyors.

This corrective action will be completed by 31 December 2023.

## **FD**

69 The Administration had not put in place the necessary measures to ensure that the provisions are enacted in national legislation, for ships of less than 400 gross tonnage, entitled to fly the flag of the State, to be equipped, as far as practicable, to retain on board oil or oily mixtures or discharge them in accordance with the requirements of MARPOL, Annex I, regulation 15.6 (MARPOL, Annex I, regulation 14.4; III Code, paragraph 24.1).

### **Root cause**

70 There were no specific requirements in existing national legislation for ships of less than 400 gross tonnage to be equipped, as far as practicable, to retain on board oil or oily mixtures due to limited awareness.

### **Corrective action**

71 The Administration will implement the following actions:

- .1 amend the existing executive regulations on MARPOL to incorporate into national legislation the requirements for ships of less than 400 gross tonnage flying the flag of the State to retain on board oil or oily mixtures or discharge them in accordance with the requirements of MARPOL, Annex I, regulation 15.6, and develop guidance and procedure for the effective implementation of this requirement; and
- .2 establish a mechanism to ensure the enforcement and monitoring of compliance in relation to the new requirements for ships of less than 400 gross tonnage flying the flag of the State.

This corrective action will be completed by 30 June 2024.

### **FD**

72 The six agreements concluded between the Administration and ROs were not found to include, as a minimum, the elements set out in the RO Code and were not kept up to date (SOLAS 1974, regulation XI-1/1; RO Code, part 1, section 4.2; III Code, paragraph 18.2).

### **Root cause**

73 A thorough revision of the RO agreements had not been carried out due to unavailability of expertise in the field in order to take into account all the provisions of the RO Code.

### **Corrective action**

74 The Administration will implement the following actions:

- .1 implement the documented procedures to regulate the delegation of authority to ROs;
- .2 review all existing RO agreements and update them as per the minimum requirements set-out in the RO Code;
- .3 review the need for additional resources and expertise and new staff to be recruited and trained, as required; and
- .4 conduct a continuous training and awareness programme for the relevant marine experts in order to maintain a progressive improvement.

This corrective action will be completed by 31 December 2023.

### **FD**

75 The Administration had not defined or documented the responsibilities, authority and interrelation of all personnel who manage, perform, and verify work relating to and affecting safety and pollution prevention, mainly for the flag State surveyors and for flag State inspectors (III Code, paragraph 28).

### **Root cause**

- 76 The following factors contributed to this finding:
- .1 lack of awareness of the need to define and document the responsibility, authority and interrelation of flag State surveyors; and
  - .2 absence of a system to coordinate the responsibilities between the entities.

### **Corrective action**

- 77 The responsible entities will implement the following actions:
- .1 develop and implement additional instructions and guidance for surveyors to carry out their tasks, and provide and implement training programmes, to ensure continuous development for all personnel performing duties related to flag State implementation and enforcement;
  - .2 create a new policy between both involved entities to define the responsibilities, authority and interrelation of surveyors who manage, perform, and verify work relating to safety and marine environment protection; and
  - .3 conduct continuous training and awareness for the involved personnel in order to maintain progressive improvement.

This corrective action will be completed by 31 December 2023.

### **FD**

78 Procedures, that take into account the guidelines developed by IMO (resolution A.1075(28)), to guide the investigation process of very serious marine casualties were not in place, and final investigation reports were not released to the public and the shipping industry (SOLAS 1974, regulation I/21(b); SOLAS 1974, regulation XI-1/6; Casualty Investigation Code, paragraph 11.1; Casualty Investigation Code, paragraph 14.4; III Code, paragraph 40; III Code, paragraph 41).

### **Root cause**

79 Inadequate guidance and training for investigators and unavailability of expertise to conduct investigations and to follow up on the investigation outcomes.

### **Corrective action**

- 80 The Marine Casualty Investigation Unit will undertake the following actions:
- .1 develop and implement the necessary instructions for the investigators in accordance with the guidelines developed by IMO (resolution A.1075(28));
  - .2 develop procedures for the release of final investigation reports to the public and the maritime sector through a dedicated online investigation platform;
  - .3 review the need for expertise to conduct investigations and to follow up on the investigation outcomes and recruit any new staff accordingly; and

- .4 develop training and awareness programmes for investigators, support personnel and other personnel and entities involved in casualty investigation.

This corrective action will be completed by 31 May 2024.

**FD**

81 There was no evidence to establish that the Administration had developed administrative instructions to implement the mandatory provision of the:

- .1 ESP Code on approval of materials and welding;
- .2 2000 HSC Code on approval of inclining and stability information; and
- .3 FSS Code on approval foam concentrate and type approval of fire extinguisher.

(2011 ESP Code, annex A, part A, annex 13, paragraph 3; 2011 ESP Code, annex A, part B, annex 11, paragraph 3; FSS Code, chapter 4, paragraph 2; FSS Code, chapter 4, paragraph 3.2.2.2; 2000 HSC Code, paragraph 2.7.5; 2000 HSC Code, paragraph 2.14.2; III Code, paragraph 16.1).

**Root cause**

82 The Administration did not properly define the operating governance framework for the responsible entity to ensure that administrative instructions have been established to implement all applicable international regulations. Without this governance, the administration did not properly identify the specific instructions related to the incorporation of the ESP Code, 2000, HSC and FSS Code.

**Corrective action**

83 The maritime administration will:

- .1 implement applicable elements of the governance framework as developed in FD-1 (target date: 31 December 2025);
- .2 include the ESP Code in the next update of the appropriate national regulations and/or standards (completed);
- .3 incorporate the HSC Code 2000 into the existing Vessel Construction and Equipment Regulations (VCER). Approvals under HSC Code 2000 will be delegated to recognized organizations (ROs). Consequently, the agreement between the administration and ROs will be updated to reflect this delegation (target date: 30 November 2023); and
- .4 delegate all type approvals to the FSS Code to ROs as per the Procedures for Approval of Life-Saving Appliances and Fire Safety Systems, Equipment and Products (TP 14612). ROs have been properly informed, and communications are provided as needed. Clarification will be provided in the updated RO delegation agreement schedules (target date: 31 March 2024).

This corrective action will be completed by 31 December 2025.

## **FD**

84 The processes and procedures established by the Administration to issue exemption certificates and waivers under MARPOL did not ensure that exemption certificates and waivers were issued in accordance with the relevant provisions of the Convention Convention (MARPOL, Annex I, regulation 3.3; MARPOL, Annex I, regulation 9; III Code, paragraph 16.1).

### **Root cause**

85 The process and procedures required to issue exemption certificates were not properly developed and instructions were not provided to the recognized organizations (ROs).

### **Corrective action**

86 The Administration will implement the following actions:

- .1 develop and implement the necessary work instructions and procedures; and
- .2 properly instructs its authorized ROs on the MARPOL requirements in respect of the issuance of exemption certificates and waivers.

This will be performed by a Flag State Net communication that will be circulated to all ROs and all Marine Safety Inspectors.

This corrective action will be completed by 31 December 2023.

## **FD**

87 The Administration did not have an independent audit and inspection programme in place to evaluate compliance of the Administration's activities with the requirements of the applicable international instruments (III Code, paragraph 16.2).

### **Root cause**

88 The operating governance framework for the responsible entity requires further enhancement. The existing structure had an impact on the administration's ability to implement an independent audit programme on a regular and consistent basis across all entities involved in the implementation of IMO instruments.

### **Corrective action**

89 The maritime administration is committed to defining a governance regime overseeing the complex network of departments and stakeholders that make up the Administration. The Administration created a National Marine Committee (NMC) comprised of government departments, in the lead up to and completion of the IMO Audit in 2022.

The maritime administration will:

- .1 establish the NMC Audit Sub-Committee. Upon establishing the overarching NMC governance structure, a sub-committee named "NMC Audit Sub-Committee", will be created and will document a terms of reference that set out the membership as well as the roles and responsibilities of lead and partner organizations. The NMC Audit Sub-Committee will serve as the governing body to plan, monitor and report on audit activities and results (target completion: 31 December 2023); and

- .2 establish, through the NMC Audit Sub-Committee, a risk-based audit plan and approach, as well as an audit schedule, of lead and partner organizations as they relate to the execution and compliance with IMO requirements. The details of how the audits will be planned, conducted, and reported have yet to be developed but they will be based on the Institute of Internal Auditors' (IIA) International Professional Practices Framework (IPPF). The IPPF sets out auditing standards that all federal public sector internal audit organizations adhere to when carrying out their assurance and consulting engagements (target completion for Risk-based Plan and Approach: 30 June 2024; target for completion of first round of audits: 31 December 2025).

This corrective action will be completed by 31 December 2025.

#### **FD**

90 It could not be established that the Administration had in place a comprehensive policy for developing, documenting and providing guidance or interpretation for those requirements left "to the satisfaction of the Administration" in the mandatory IMO instruments (III Code, paragraph 16.5).

#### **Root cause**

91 There was no unique policy in place to encompass requirements that are left "to the satisfaction of the Administration". While work had been independently undertaken within the maritime administration to ensure requirements were met, no overarching or common policy existed.

#### **Corrective action**

92 The maritime administration will:

- .1 develop and implement a policy and a procedure to provide guidance or instruction on arrangements that are to be left to the satisfaction of the administration for each instrument requirement; and
- .2 develop a mechanism to clearly indicate how the entities of the State address requirements for each requirement stemming from the mandatory IMO instruments that are left "to the satisfaction of the Administration".

This corrective action will be completed by 31 March 2025.

#### **Observations (OB)**

93 There was no system in place for the Administration to regularly review its performance in respect of investigations into very serious and serious casualties and lessons learned from them (III Code, paragraph 44.5).

#### **Root cause**

94 Newly established Marine Causality Investigation Bureau (MCIB) and lack of expertise to follow up on all related issues, contributed to this finding.



### **Corrective action**

- 95 The Administration will implement the following actions:
- .1 reorganize the structure of the MCIB to include a division for performance evaluation, review and analysis of recommendations from investigations into very serious and serious casualties and lessons learned from them, which are to be implemented by the relevant entities;
  - .2 develop and implement procedures to evaluate the performance of MCIB in the conduct of casualty investigation and in reporting; and
  - .3 review the need for additional expertise and any related staff to be recruited and trained, as required.

This corrective action will be completed by 30 June 2024.

### **COASTAL STATE ACTIVITIES**

#### **Findings (FD)**

96 The maritime administration had not in place SAR plans for cooperation with SAR services, the companies and passenger ships calling regularly at ports within the State in the event of an emergency (SOLAS 1974, regulation V/7.3; III Code, paragraph 47).

#### **Root cause**

- 97 The following factors contributed to this finding:
- .1 Area 1:
    - .1 The existing SAR unit is an amalgam of the Police Marine Unit and other relevant parts of the uniform branches with its main functions being SAR services and interdicting drugs, guns and illegal immigrants. This unit had no statutory powers to effectively establish plans for cooperation developed between the ship, the company, as defined in SOLAS 1974, regulation IX/1 and the search and rescue services.
  - .2 Area 2:
    - .1 there was a lack of understanding of the total requirement, which resulted in the deficit of adequately assigned responsibility between the flag and coastal State entities and procedures for passenger ship search and rescue coordination plans for foreign ships calling at the ports of the State;
    - .2 the procedures in place omitted the check and request for SAR plans. Thus, an evaluation of their applicability was not carried out, and designated personnel were not assigned to perform this function; and

- .3 no guidance for owners, companies, masters, and employees of the maritime administration was published to convey and facilitate the full implementation of this requirement and ensure all stakeholders know their responsibilities and obligations.

### **Corrective action**

98 The maritime administration will implement the following actions:

.1 Area 1:

- .1 establish contacts with the SAR data provider for accessing SAR cooperation plans held by them for training purposes, exercising SAR cooperation plans with passenger ships visiting the islands, and conducting actual search and rescue response as and when required;
- .2 establish a plan for periodic training of staff on accessing plans for cooperation held by the SAR data provider and evaluating the contents for an effective SAR response in the area of jurisdiction;
- .3 make provisions for the secure storage of SAR cooperation plans for ships that wish the coastguard to hold a copy either in addition to or instead of the SAR data provider;
- .4 make publicly available an index of all SAR Cooperation Plans it holds;
- .5 establish and publish the process by which ships can request the coastguard's involvement and/ or participation in the development of SAR cooperation plans and the exercises aimed at testing the SAR cooperation plan of the ship; and
- .6 publish a Guidance Note outlining the arrangements in place.

.2 Area 2:

- .1 amend the Web-based pre-arrival notification portal system to include an automated exchange of information to meet the SAR requirements;
- .2 update the VMS system to automate the provision of SAR facilities available, as well as automate the request of ship SAR plans for all passenger vessels that are inputted;
- .3 alter the process that governs how the maritime administration deals with passenger ships;
- .4 incorporate a new stand-alone procedure to the existing quality management system detailing with SOLAS 1974, regulation V/7.3;
- .5 issue a port circular to increase awareness of the local stakeholders; and
- .6 publish a Shipping Guidance Note to inform stakeholders of their obligations.

This corrective action will be completed by 31 December 2023.

## **FD**

99 The responsible entity for SAR activities had not developed plans for cooperation between SAR services and passenger ships calling regularly at the ports of the State, in the event of an emergency (SOLAS 1974, regulation V/7.3; III Code, paragraph 47).

### **Root cause**

100 Insufficient coordination between the relevant entities in verifying that, for passenger ships operating in waters under the jurisdiction of the State, plans between SAR services and the passenger ships have been developed, as well as in implementing related requirements.

### **Corrective action**

101 The maritime administration will implement the following actions:

- .1 the relevant entities will set up a mechanism to ensure the implementation of the MSC.1\Circ.1079\Rev.1 circular and provide the Search and Rescue Coordination Centre with cooperation plans prepared by the companies operating passenger ships calling the ports of the State on a regular basis for review and approval;
- .2 the Search and Rescue Coordination Centre will develop documented procedures in accordance with the MSC.1\Circ.1079\Rev.1 circular in order to coordinate, assess and test the cooperation plans and organize frequent drills to verify its effectiveness; and
- .3 enhance coordination between the involved parties through periodical meetings.

This corrective action will be completed by 30 September 2023.

## **FD**

102 There was no evidence that the maritime administration enforced the requirements of COLREG 1972, regulation 10 for ships engaged in the existing four traffic separation schemes (SOLAS 1974, regulation V/10; III Code, paragraph 49).

### **Root cause**

103 Insufficient coordination between relevant entities and, consequently, the lack of understanding of the role of each entity in the implementation process and absence of expertise.

### **Corrective action**

104 The maritime administration will undertake the following actions:

- .1 improve the coordination between relevant entities through regular annual meetings to monitor the effectiveness of implementation of Traffic Separation Schemes (TSSs);
- .2 evaluate the four TSSs by means of a risk assessment study;

- .3 inform IMO with regard to the TSSs to be retained;
- .4 establish a monitoring system to ensure compliance by ships using the adopted traffic separation schemes; and
- .5 review the need for expertise in the field of TSSs monitoring, recruiting and train any new staff, as required.

This corrective action will be completed by 31 October 2024.

## **FD**

105 The maritime administration had not ensured that plans for cooperation with SAR services in the event of an emergency had been developed between the SAR services, companies and passenger ships calling regularly at ports within the State (SOLAS 1974, regulation V/7.3; III Code, paragraph 47).

### **Root cause**

106 Even though the maritime administration has in place a robust search and rescue (SAR) programme with adequate facilities, means, personnel and regulations, there is an absence of policies and procedures for passenger ships calling regularly at the State's ports regarding the development, submission, approval and validation of the search and rescue cooperation plans.

### **Corrective action**

107 The maritime administration will further assess, develop and implement procedures and administrative structure in accordance with IMO MSC/Circ. 1079, to coordinate, collect, and validate the search and rescue cooperation plans (SCPs) of passenger ships calling at the State's ports. A comprehensive Search and Rescue (SAR) Passenger Ships Plan Procedure is to be developed and implemented as follows:

- .1 the responsible entities will actively work on a plan for industry engagement to support the receipt and review and of SCPs;
- .2 the maritime industry will be informed about this requirement and its implementation through the State's Advisory Council, and through the publication of the Guidelines on search and rescue cooperation plans introduced in the Notices to Mariners document (NOTMAR 2023 Edition). Passenger ships are expected to submit their SCP by April 2023;
- .3 the responsible entity, through its port State control regime, will verify compliance with the SAR Plan requirements on board passenger ships calling at the State's ports; and
- .4 the responsible entity is developing a mechanism for supporting and tracking exercises with passenger ships within the State. The procedures will be included in the Search Mission Coordination (SMC) training curriculum, with inclusion in on-the-job training packages and exercises.

This corrective action will be completed by 30 September 2023.

## **PORT STATE ACTIVITIES**

### **Findings (FD)**

108 Administrative instructions or other national provisions to regulate the monitoring and handling of ship generated waste collected from ships, in accordance with the applicable provisions of MARPOL, were not in place. In addition, there was no evidence of a mechanism for evaluation of the adequacy of port reception facilities established for the collection of waste from ships as required under Annexes I, II and V (MARPOL, Annex I, regulation 38.1; MARPOL, Annex II, regulation 18.2; MARPOL, Annex V, regulation 8.1; III Code, paragraph 55; III Code, paragraph 56.1; III Code, paragraph 63).

### **Root cause**

109 The following factors contributed to this finding:

- .1 lack of resources to draft subsidiary legislation on port reception facilities despite the new enabled provisions that have been added to the Marine Environment Protection Act, specifically to allow for the issuance of regulations requiring the establishment of said facilities; and
- .2 lack of resources to develop a mechanism for evaluating the adequacy of port reception facilities despite the fact that the responsible entity holds regularly formal and informal discussions with both public and private stakeholders within the industry when considering environmental issues such as the adequacy of reception facilities.

### **Corrective action**

110 The responsible entity of the maritime administration will:

- .1 develop and implement legislation concerning reception facilities and requiring the provision of adequate reception facilities for the handling of ship generated waste collected from ships, as regulated under Annexes I, II and V of MARPOL; and
- .2 complete the ongoing analysis of the availability and adequacy of existing port reception facilities. This analysis will report on the development of the above-mentioned legislation on reception facilities.

This corrective action will be completed by 1 January 2024.

### **FD**

111 The maritime administration had not taken the necessary measures to establish relevant policies through issuing national legislation and guidance to ensure:

- .1 effective implementation of the IMDG Code, in particular, development and implementation of a mandatory training system for shore-based personnel and establishment of a management system and a radiation protection programme for the handling of class 7 dangerous goods;
- .2 effective implementation of the IMSBC Code, regarding tripartite agreements for transport of solid bulk cargoes not listed in the Code; and

.3 verification of stability compliance for ships loading bulk grain cargo

(SOLAS 1974, regulation VII/3; IMDG Code, section 5.1.5; IMSBC Code, paragraph 1.3; Grain Code, paragraph 7.2; III Code, paragraph 54; III Code, paragraph 55).

#### **Root cause**

112 The following factors contributed to this finding:

- .1 the identification of the competent authority and the procedures implemented by the State entities, including reference to the relevant legislation, are not clear as the ambiguities have not been recognized by the entities;
- .2 the Marine Environment Protection legislation does not have provisions regarding tripartite agreements for the carriage of solid bulk substances. The IMSBC Code provisions on tripartite agreements have been implemented into the legislation regarding the categorization, classification, transport, and discharge of liquid substances in bulk. However, the wording of the relevant provision in the executive order does not fully implement the scope of the tripartite provisions in the IMSBC due to inadequate interpretation of the IMSBC Code provisions; and
- .3 the entity applies the procedures of Paris MoU for port State control and for the inspection of ships carrying grain. However, Grain Code, paragraph 7.2, might not be adequately interpreted in this respect through guidance as this issue has not previously been raised and, consequently, not been recognized.

#### **Corrective action**

113 The responsible entity of the State will:

- .1 update and clarify the areas of responsibility and the accompanying procedures. The updated information will be made available through the corresponding Web portals;
- .2 amend the executive order on the categorization, classification, transport, and discharge of liquid substances in bulk. The amendment will entail a clarification of the scope of the tripartite provisions in the IMSBC Code so that it reflects that the Environment Protection Agency must classify liquid substances carried in bulk in situations where the State acts as the flag State as well as when the State is the responsible shipper. The responsible entity will also implement the missing provisions regarding tripartite agreements in the IMSBC Code on solid bulk cargoes. This will entail an amendment to the existing executive order on the discharge of wastes from ships and platform so that the executive order regulates the discharge of solid bulk cargo residues; and
- .3 examine the need for the verification of the Grain Code, paragraph 7.2, and issue further guidance if necessary.

This corrective action will be completed by 1 July 2023.

## **FD**

114 The maritime administration had not carried out any periodic evaluations of its performance in respect of exercising its rights and meeting its obligations as a port State for PSC, port reception facilities and fuel oil provider activities (III Code, paragraph 63).

### **Root cause**

115 The lack of awareness of the requirements of the III Code, as well as the lack of assigned responsibilities among relevant entities of the State to perform a periodic evaluation of performance as a port State in respect to port State control and port reception facilities.

### **Corrective action**

116 For each relevant entity of the maritime administration, the following actions will be implemented:

- .1 establish and implement a documented system to periodically review and evaluate the implementation and enforcement of relevant requirements in the area of port State activities, including policies and procedures for analysing and evaluating data on port reception facilities, port State control inspections and fuel oil providers; and
- .2 conduct a continuous training and awareness programme for the involved personnel in order to maintain a progressive improvement.

This corrective action will be completed by 31 December 2024.

## **FD**

117 The State had not adopted any policies for the implementation and enforcement of provisions of the IMSBC Code and the existing national requirement to carry out port State control was found not in line with the international requirements adopted by IMO (SOLAS 1974, regulation I/19; SOLAS 1974, regulation VII/7-5; IMSBC Code, paragraph 1.3; III Code, paragraph 54.1).

### **Root cause**

118 The following factors contributed to this finding:

- .1 there was insufficient coordination among the relevant State entities and a lack of awareness of the requirements of the IMSBC Code;
- .2 lack of awareness and expertise of the new requirements on the port State procedures.

### **Corrective action**

119 The relevant government entities will develop and implement the following actions:

- .1 improve coordination among relevant entities through periodical meetings;
- .2 develop and adopt the necessary policy to implement and enforce the provisions of the IMSBC Code and its future amendments;

- .3 coordinate the development and delivery of periodical training programmes for shore-based personnel engaged in handling dangerous goods according to the IMSBC Code; and
- .4 update the national requirement to carry port State control in order to be in line with the international requirements adopted by IMO.

This corrective action will be completed by 31 December 2024.

## **FD**

120 The maritime administration had not effectively implemented the policy developed on communication of information to IMO, in part related to communication of the list of fuel oil providers, consistent reports on existing port reception facilities and reports on PSC detentions (SOLAS 1974, regulation I/19; MARPOL, article 11(1)(d); MARPOL, Annex VI, regulation 18.1; III Code, paragraph 54.1).

### **Root cause**

121 The following factors contributed to this finding:

- .1 lack of coordination among relevant entities in the State responsible for keeping a list of fuel oil suppliers; and
- .2 unavailability of a proper system within the regional regime on PSC to report on detentions under PSC.

### **Corrective action**

122 The maritime administration will implement the following actions:

- .1 establish a mechanism for the effective coordination and implementation of the developed policy on the communication of information to IMO to ensure the communication of information regarding the list of fuel oil providers and reports on port reception facilities; and
- .2 the port authorities will make the necessary arrangements through the PSC MoU to ensure communication of information regarding reports on detentions under PSC to IMO.

This corrective action will be completed by 31 December 2024.

## **FD**

123 The National Centre for Waste Management had not put in place adequate measures to ensure that the existing companies providing port reception facilities' services were licensed to cover all types of waste regulated under the relevant annexes of MARPOL, and that a monitoring mechanism was developed and implemented to ensure their continuous compliance with the applicable requirements (MARPOL, Annex I, regulation 38.1; MARPOL, Annex II, regulation 18.1; MARPOL, Annex IV, regulation 12.1; MARPOL, Annex V, regulation 8.1; MARPOL, Annex VI, regulation 17.1; III Code, paragraph 57).



### **Root cause**

124 The Waste Management Unit was established shortly preceding the audit and therefore the Unit did not put in place adequate measures to ensure that the existing companies providing port reception facilities' services were licensed in accordance with established measures.

### **Corrective action**

125 The Waste Management Unit will implement the following actions:

- .1 review and update the port reception facilities stakeholders' licenses to be based on a waste management regulation that will be established based on MARPOL Convention requirements;
- .2 review the feasibility of licensing private operators to receive and handle the collected waste;
- .3 establish a documented monitoring and field inspection system, including guidelines and technical notes, and conduct inspections on a periodical basis; and
- .4 conduct continuous training and awareness programme for the personnel in order to maintain a progressive improvement.

This corrective action will be completed by 28 February 2025.

### **FD**

126 Processes to administer a PSC programme were not consistent with the latest IMO procedures and did not ensure that the PSCOs were adequately trained and qualified with regard to the type of foreign ships to be inspected. In addition, the existing documented inspection procedure for PSCOs was not updated in accordance with the latest amendments to the mandatory IMO instruments, resolutions or guidelines adopted by IMO (III Code, paragraph 60; III Code, paragraph 61).

### **Root cause**

127 Absence of proper and structured training programmes, in particular on the inspection of different types of foreign ships and absence of coordination with the regional regime on PSC for updating the implemented procedures for carrying out PSC inspections.

### **Corrective action**

128 The maritime administration will implement the following actions:

- .1 review and update the existing procedures regulating PSC activities to bring them in line with the latest amendments to the mandatory IMO instruments, resolutions or guidelines adopted by IMO; and
- .2 amend the existing training programmes to ensure that the training provided covers all types of foreign ships visiting the ports of the State and that it is consistent with the latest IMO procedures.

This corrective action will be completed by 31 January 2024.

## FD

129 Although the State had authorized service providers for the reception of waste from ships, there was no evidence that the maritime administration had developed and implemented policy and guidelines for the provision of port reception facilities for the collection of waste from ships as required under MARPOL, Annexes I, II, IV, V and VI. In addition, responsibilities among involved entities of the maritime administration responsible for port reception facilities had not been defined (MARPOL, Annex I, regulation 38.1; MARPOL, Annex I, regulation 38.2; MARPOL, Annex II, regulation 18.2; MARPOL, Annex IV, regulation 12.1; MARPOL, Annex V, regulation 8.1; MARPOL, Annex VI, regulation 17.3; III Code, paragraph 54; III Code, paragraph 55; III Code, paragraph 56.1).

### Root cause

130 Even though the maritime administration had authorized service providers for the reception of waste from ships in most of the ports, the operating governance framework was insufficient to support the required level of coordination between the numerous authorities involved in the provision of port reception facilities.

### Corrective action

131 The maritime administration will:

- .1 establish an interdepartmental working group (WG) to define roles and responsibilities with respect to the implementation of the policy and guidelines for port reception facilities including specific instructions for service providers. The WG, under the coordination of the responsible entities, will include representatives from the Environment and Climate Change;
- .2 engage and consult with the responsible entity and other provincial and municipal stakeholders through the entity of the State; and
- .3 based on the decisions and input received through the activities listed in .1 and .2 above, develop the eventual instrument to implement the requirements (i.e. regulation or voluntary guidelines) and implementation timelines.

This corrective action will be completed by 31 December 2025.

## FD

132 The maritime administration had not developed and implemented provisions regulating the provision of fuel oil, retention of bunker delivery notes by fuel oil suppliers and verification of fuel oil quality stemming from related MARPOL, Annex VI requirements (MARPOL, Annex VI, regulation 18.9; MARPOL, Annex VI, regulation 18.10; III Code, paragraph 54; III Code, paragraph 55; III Code, paragraph 56.3).

### Root cause

133 There are many authorities involved in the regulatory requirements for the registration and monitoring of fuel oil suppliers. The operating governance framework for the maritime administration was insufficient to ensure that the requirements for registration and monitoring were established by the responsible authority. Additionally, the maritime administration is

lacking an internal mechanism (establishing policies, procedures, and work instructions) within the regulatory framework regulating the provision of fuel oil, retention of bunker delivery notes by fuel oil suppliers, and verification of fuel oil quantity.

### **Corrective action**

134 The maritime administration will:

- .1 establish a working group (WG) with the responsible authorities to identify what reporting requirements are needed and establish the regulatory framework required to register and monitor the fuel oil suppliers. This WG will be separate from the WG for port reception facilities. This is a long process but will provide relevant parties with the authority to collect and maintain the information; and
- .2 establish the procedures required to ensure that bunker delivery notes are retained onboard the vessels as outlined in MARPOL Annex VI.

This corrective action will be completed by 31 December 2025.

### **AREAS OF POSITIVE DEVELOPMENT**

#### **Best practices**

135 As part of the State's support for the IMO's Integrated Technical Cooperation Programme, the State signed an MoU with IMO on a Third Country Training Programme in 1998, and it was extended indefinitely in 2000. Under this MoU, the State provides in-kind assistance and technical training to developing States in the Asia-Pacific (including the Middle East), Africa, Latin America and the Caribbean. In addition, through the responsible entity (which was set up in 2012), the State has the mission to share knowledge and experience for the benefit of the international community.

136 Setting up an independent board for Investigation of Accidents in Transport reporting directly to the parliament on casualty investigation matters is a positive step taken by the government to maintain the independence of investigations.

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