

VOLUNTARY IMO MEMBER STATE AUDIT SCHEME

AUDIT OF THE FAROE ISLANDS 29 October to 7 November 2011

FINAL REPORT

1 Executive Summary

1.1 The audit of The Faroe Islands was undertaken from 29 October 2011 to 7 November 2011, by three auditors drawn from Germany, Japan and Jordan. The scope of the audit included the flag, port and coastal State obligations of The Faroe Islands in relation to the mandatory IMO instruments it had acceded to.

1.2 The opening meeting was held on Monday, 31 October 2011, after which the audit team visited or met with the various entities within The Faroe Islands maritime administration that were subject to the audit. These included the Faroese Maritime Authority (FMA), Environmental Agency (US), Landsverk Office of public works (LV), Fishery Inspection (FVE), Search and Rescue (MRCC), Ministry of Culture and Education (MMR), Ministry of Fisheries (FISK), National Telecommunication Authority (FSE), Ministry of Interior (IMR), Ministry of Foreign Affairs (MFA).

1.3 The auditors concluded from the information available to them that The Faroe Islands, within the scope of the audit, meets most of its obligations in respect of the mandatory IMO instruments and the Code for the implementation of mandatory IMO instruments. They identified a number of areas of good practice as well as areas where improvement was possible.

1.4 The closing meeting was held on 7 November 2011 at 09:30 at Torshavn.

1.5 The following report provides a detailed account of the findings and the evidence on which the findings are based. Additional information on the findings can be found in the appendices to this report.

2 Introduction

2.1 The Voluntary IMO Member State Audit Scheme (VIMSAS) creates a basis to assess the extent to which a Member State complies with its obligations set out in the various IMO instruments it is a Party. In addition, the *Code for the implementation of mandatory IMO instruments* (resolution A.996(25), as amended) stipulates a number of principles a Member State should adhere to in order for its maritime administration to deliver on its responsibilities with respect to maritime safety and protection of the marine environment, and be capable of improving its performance in the discharge of its duties.

2.2 This report has been drafted in accordance with resolution A.974(24), *Framework and Procedures for the Voluntary IMO Member State Audit Scheme*.

3 Background

3.1 Following the adoption of the *Framework and Procedures for the Voluntary IMO Member State Audit Scheme* (resolution A.974(24)) (the “Framework”) by the 24th regular session of the Assembly, a number of Member States volunteered for audit under the Scheme. The current audit of The Faroe Islands was undertaken using the principles established under resolution A.974(24) and the *Code for the implementation of mandatory IMO instruments* A.996(25), as amended (hereinafter referred to as the “Code”). This report sets out the findings of the audit in the format set out in section 7.2 of the Procedures for the Scheme.

4 Members of the Audit Team

Mr Jörg Heuckeroth.	(Germany) - Audit Team Leader
Mr Takeshi Nakazawa	(Japan)
Mr Waleed Ahmad Sadeq Alsuheimat	(Jordan)

5 Involved Officials from the Member State (Guides)

5.1 Mr Vilhjálmur Gregoriussen – Managing Director Faroese Maritime Authority

5.2 The names of individuals that were interviewed during the audit are listed in the detailed timetable attached to this report as annex 1.

6 Acknowledgement

6.1 The auditors wish to express their considerable thanks to the various members of the maritime administration interviewed, and to Faroe Islands authorities for their fullest cooperation during this audit. Particular thanks are due to Mr. Vilhjálmur Gregoriussen and his team for their efforts during the preparation for this audit and for its facilitation.

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 The Faroe Islands.

7.2 The objectives of the audit were:

- .1 to determine the extent to which The Faroe Islands meets 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, 1973, 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
- .2 the effectiveness of the implementation of these objectives.

7.3 In general discussions held following the opening meeting it was established that the audit would cover all mandatory IMO instruments to which The Faroe Islands is a party. As mentioned in the pre questionnaire and agreed, the area of hydrography, still under Danish jurisdiction, shall be considered outside the scope of the audit.

7.4 Implicit in this was also the degree of compliance with the Code, which mirrors many of the references set out in the applicable mandatory IMO instruments.

7.5 The audit was conducted using the programme outlined in annex 1. Objective evidence was established through a series of interviews, visits, examination of written records, and views into the databases to determine the extent to which the maritime administration achieved the objectives of the audit.

7.6 The programme followed a process to determine the strategy for the implementation of the mandatory IMO instruments, the review processes in place, and the arrangements for continual improvement. National legislation was reviewed to determine if it had the force of law. The processes by which the State develops and communicates its interpretations, policies and instructions regarding these instruments, as well as the practical implementation of these arrangements, were also reviewed.

7.7 An opening meeting was conducted on Monday 31 October 2011, in accordance with the procedures, and the list of attendees is attached as annex 2. The confidentiality of findings was agreed with auditee to ensure that any evidence obtained during the audit would be held confidentially. It was stated at the opening meeting that a draft interim report would be tabled at the closing meeting to assist in focusing discussion and highlighting the next steps to be taken.

8 Overview and general maritime activities of the Member State

8.1 General

8.1.1 The Faroese Maritime Authority, as part of the Ministry of Trade Industry, is charged with most flag State responsibilities and obligations, plays an important role in the regulatory framework for the maritime industry. However, the Ministry of Culture Education, the Ministry of Fishery with the Maritime Rescue and Coordination Centre and the Fishery Inspection, the Ministry of Interior with the Environment Agency and the Office of Public Work and the Tele Communication Authority as part of the Ministry of Trade and Industry also participate as important parts of the maritime administration of The Faroe Islands and have responsibilities for implementing and enforcing legislation for activities contained in the mandatory IMO instruments within their area of jurisdiction.

Strategy

8.1.2 One of the objectives of the Code for the implementation of mandatory IMO instruments requires a State to develop a strategy in the areas of maritime safety and pollution prevention, which includes the continuous review and verification of the effectiveness of the State in meeting its international obligations. The Faroe Islands have a clear strategic plan dated 9 February 2011 which is been verified, reviewed and evaluated on a regular basis although there are areas that could be improved.

Legislation

8.1.3 The Faroe Islands are a self-governing nation within the Kingdom of Denmark, in accordance with the Home Rule Act of 1948. Subsequently, the Home Rule Act has been amended by the Act on the Assumption of Matters and Fields of Responsibility by the Faroese Authorities and the Act on the Concluding of Agreements under International Law by the Government of The Faroe Islands, which were both adopted in 2005.

8.1.4 The Home Government holds legislative and executive powers over fields of responsibility within its purview. With due respect to the national boundaries, the people of The Faroe Islands, through its elected representatives in Parliament (Løgtingið) and the Government (Landsstýrið) established by it, have assumed the powers of Faroese Special Affairs as stated in the Home Rule Act of 1948. The Government of the Faroese also holds some capacity to negotiate and conclude agreements under international law. The powers of the Faroese authorities are divided into three segments, being legislative, executive and judiciary. With respect to the judicial segment the court system of The Faroe Islands is a part of the Danish court system, with access to submit appeals to the Danish High Court (Court of Appeals) and the Danish Supreme Court.

8.1.5 In fields where the Home Government holds legislative and executive powers, the Danish courts apply Faroese legislation. Moreover the population of The Faroe Islands elect two representatives to the Danish parliament. Unlike Denmark, The Faroe Islands are not a part of the EU. Faroese relations with the EU are governed by separate accords.

8.1.6 The Home Government holds the legislative and executive powers concerning e.g. safety, protection of the marine environment, education, training and manning. Not being a sovereign State, The Faroe Islands have been granted associate membership of the IMO.

8.1.7 The organisation of the maritime authorities and the incorporation of mandatory IMO instruments into national law are shown on the annexes 3 and 4.

Records and improvement

8.1.8 The Administration has established a system with all required documents to follow up all activities. However, the audit team did not find any objective evidence that The Faroe Islands always reported all information to IMO as required under the various mandatory IMO instruments.

8.1.8 Findings

Non-Conformity

- .1 It was established that mandatory reports to IMO, as required by several mandatory IMO instruments, including MARPOL, Article 11, subparagraphs (1)(b) and (1)(d), were not always provided (SOLAS 1974, Article III(a), regulation V/7.2 ; MARPOL, Article 11; LL 66 Article 26)See Form A-NC-01

Corrective action

The entities participating in the implementation and enforcement of the mandatory IMO instruments in The Faroe Islands have agreed for FMA to co-ordinate the reporting to IMO and established an itemized plan for submission of all required and applicable information by FMA to IMO. Each item has been given a target date, so all applicable IMO reporting requirements will be complied with by end of April 2012 and continuously thereafter. A formal procedure has been included in the FMA's quality management system to ensure compliance with IMO reporting requirements in the future.

Root cause

There was inadequate awareness of the reporting requirements to IMO and inadequate co-operation in this particular field of responsibility between the various entities of the flag State authority, i.e. the Faroese Maritime Authority, Fishery Inspections, Environment Agency, MRCC, and the Faroese Working Environment Authority (FWEA).

8.2 Flag State Activities

Implementation

8.2.1 The Faroese Maritime Authority (FMA) is primarily the responsible entity for implementing, enforcing and monitoring the mandatory IMO instruments relating to flag State activities. To fulfil all activities left in the mandatory IMO instruments that are to the satisfaction of the Administration the following Promulgations are in force to handle exemptions, dispensations and equivalent arrangements if required for ships operating outside national waters:

- B, as amended (merchant and passenger ships in international trade);
- E, as amended (fishing vessels of 15 metres length and larger); and
- F, as amended (commercial ships of less than 15 meters).

8.2.2 All the above promulgations are in accordance with SOLAS, MARPOL, LL 66, ILO No. 92 of 20/06/1949 and No. 133 of 30/10/1970 and intended to ensure that the requirements for approval by the Administration should be observed.

Delegation of authority

8.2.3 FMA has delegated the authority to perform statutory certification services to recognized organizations (ROs), based on SOLAS 1974, MARPOL, LL 66 and Tonnage 1969 conventions as amended. Authorizations of ROs are documented in the agreements, fulfilling all requirements in accordance with resolutions A.739(18) and A.789(19). The annexes to the agreements provide comprehensive explanation and details governing the delegation of statutory functions and certification services for ships registered in The Faroe Islands. Detailed descriptions of the functions delegated and a supplement that gives any additional requirements in excess of the mandatory IMO instruments are included in these agreements. FMA has delegated the duties to Det Norske Veritas, Bureau Veritas, Lloyds Register and Germanischer Lloyd.

8.2.4 The monitoring of ROs is based on direct working procedures with the representatives of the ROs, thus a permanent information flow has been established. Direct orders from FMA to the involved surveyors of the ROs ensure the fulfillment of the required obligations. FMA monitors all published information on independent audits of relevant ROs performed by international organisations like EMSA and IACS, and has full access to the databases of all ROs appointed by the Faroese Administration.

8.2.5 The mentioned ROs have been selected by FMA for their status as quality organisations. Due to the moderate size of the Faroese Administration, the intention has been to rely on audits done by other administrations and organizations during the initial phase. Over this period, emphasis has been laid on conducting several vertical audits that have been performed by FMA inspectors, following the RO's surveyor on the site.

8.2.6 The FMA has established a follow up procedure to monitor the performance and the fulfilment of the mandatory IMO instruments and the national requirements by the ROs and the relevant shipping industry. Additional surveys and direct contact to all involved parties are in line with Res.A.739 (18) and A.789 (19).

Flag State surveyors

8.2.7 FMA has established a minimum standard for the flag State surveyors. All surveyors need the education and experience as master mariner or chief engineer or naval architect, as a minimum. New entrants are educated in subjects like national and international regulations, including IMO and ILO regulations, and on established relations with ROs. They work as trainees in various parts of the administration, and work alongside experienced surveyors during their training period. Experienced surveyors attend various training courses, such as Lloyd's Register surveyors courses, ISM and ISPS auditor courses and ISO 9001:2008 auditor courses.

Evaluation and review

8.2.8 A procedure of a periodical appraisal interview with all employees is in place and ensures a permanent outcome of needed training and an overview about the level of knowledge. Evidence was provided about several courses and trainings shared by the employees of the FMA.

8.3 Investigation of maritime accidents

8.3.1 With the Parliamentary Act No. 165, of 21 December 2001, on Safety at Sea, empowers the Minister of Trade and Industry to promulgate regulations for investigation of marine accidents within the Faroese area of jurisdiction, and on board ships flying the Faroese flag. The Faroese Maritime Authority is the responsible entity for investigating accidents with respect to injury to personnel, loss of cargo, and damage to ship and third party. Parliamentary Act No. 59, of 17 May 2005 (the "Marine Environment Act"), as amended by LI. No. 58, of 26 May 2011, on the Protection of the Marine Environment, empowers the Minister of Interior, represented by the Environment Agency and the Police to conduct inspections and investigations onboard ships. By Executive Orders No. 122, from 2005, on garbage, No. 123, from 2005, on sewage and No. 124, from 2005, on discharge of oil from ships, the Minister has empowered the Fisheries Inspections and FMA to conduct inspections on ships. According to the Casualty Investigation Code (resolution MSC.255(84)), investigations shall be carried out for very serious accidents. To ensure the impartiality in such investigations in compliance with the Code, FMA has previously called in Danish entity, Opklaringsenheden, for assistance. Since the promulgation of a new Danish law on 18 May 2011, a new investigation commission, Den Maritime Havarikommission, has been established. The entity is completely independent.

9 Port State Activities

Port State control (PSC)

9.1 The Parliamentary Act No. 165, of 21 December 2001, on Safety at Sea, empowers FMA inspectors and other inspectors with specific authorisation to request access on board all ships. All inspectors are under the obligation of producing their authorisation to conduct the inspection. Procedures for PSC have been described in the quality management system of FMA, and are in line with IMO resolution A.787(19), as amended by resolution A.882(21). However, The Faroe Islands are not a member of a PSC regime and have not yet used their right to perform PSC inspections.

Reception facilities

9.2 According to the Executive Order No. 20, of 8 April 1987 and Executive Order No. 33 of 8 March 2001, on Port Reception Facilities, all ports shall have reception facilities for oil, oily water, sewage and garbage relative to the need of each harbour. Some of the ports have containers for garbage and waste oil. For larger amounts, the ships can make arrangements with the local waste companies, IRF and KB, to receive garbage, waste oil and oily water. Also the waste companies have the facilities to receive sewage from ships. An overview of each port's capacity is available. Evidence was provided to indicate that it was reported to IMO, but had still not appeared in GISIS due to technical problem which was being investigated.

Register of fuel oil suppliers

9.3 The Ministry of Interior with the Environment Agency is responsible for maintaining a register of local suppliers of fuel oil according to MARPOL Annex VI, regulation 18. There are only 3 suppliers listed and present in The Faroe Islands.

Dangerous goods

9.4 The Faroe Islands has not identified a "Competent Authority", as required under Chapter 7.9.3 of the IMDG Code, and, therefore, no procedures have been established for handling and controlling of dangerous goods and for training of related personnel.

9.5 Findings

Non-Conformity

- .1 There was no objective evidence to confirm compliance with a number of requirements of the IMDG Code, including appointment of a "Competent Authority" for handling matters related to dangerous cargoes and training of shore-based personnel engaged in the transportation of dangerous goods (IMDG Code, chapters 7.9.3 and 1.3.1). See Form A-NC-02**

Corrective action

To respond to the requirement of IMDG Code, chapter 7.9.3, FMA has been appointed as a single point of contact with respect to IMO. Target date for the information to be submitted to IMO is 30 April 2012. To respond to the requirements of chapter 1.3.1 of the IMDG Code, FMA, Ministry of Culture and FWEA have set up a working group, to investigate whether there is a need for updating the training programmes for personnel ashore and a need for revision of FWEA's control methods ashore.

Root cause

There was inadequate awareness of the reporting to IMO under IMDG Code, and a lack of co-operation between the competent authorities on board ships (FMA & FVE) and the competent authority ashore (FWEA).

10 Coastal State Activities

Implementation

10.1 The Ministry of Trade and Industry, with the Telecommunication Authority, the Ministry of Fishery, with the Maritime Rescue and Coordination Centre and the Fishery Inspection, and the Ministry of Interior, with the Environmental Agency and Landverk share responsibilities for implementing the requirements of the mandatory IMO instruments in the area of coastal State activities.

Radio communication services, Meteorological services and warnings

10.2 Parliamentary Act No. 165, of 21 December 2001, on Safety at Sea, declares in paragraph 32 that, as a part of the weather and ice warnings, the Minister of Trade and Industry may impose an obligation on masters to observe and send information regarding weather and ice conditions, in order to promote the safety of navigation. MRCC, through Torshavn Radio, is responsible to transmit warnings for the Faroese area. This is done in close co-ordination with the harbour authorities (Office of Public Works) and the Danish Maritime Safety Administration. Continuous updates on weather forecasts and gale/storm warnings are provided for all ships sailing in the area.

Search and rescue (SAR) services

10.3 Parliamentary Act No. 165, of 21 December 2001, on Safety at Sea, empowers in paragraph 31 the Minister of Trade and Industry to lay down rules and regulations, which prevent disorder and dangers at sea, ensure safe sailing, impose pilots on board, ensure watch-keeping on board and rescue actions as and when the need arises, etc. In accordance with this regulation, the Maritime Rescue and Coordination Centre keeps a 24 hours watch, 7 days a week. Their watch area spreads 200 nautical miles from the coastline in all directions around the islands. The Fishery protection vessels patrol the area while also keeping readiness to assist ships in distress. The responsibility for SAR services in The Faroe Islands is organised as follows:

1. The Ministry of Fisheries is responsible for SAR and MAS in Faroese waters, but has delegated the operational responsibility to MRCC Tórshavn;
2. An AIS system is in place and operated by MRCC Tórshavn to monitor traffic in the area for those ships equipped with AIS; and
3. The Fisheries Inspection monitors all large fishing vessels via a reporting system operated by means of INMARSAT C transmissions, on an hourly basis.

10.4 Dedicated rescue assets are a BELL 412 rescue helicopter, 2 Faroese fishing inspection vessels, 2 lifeboats, and the Islands Command Faroese (FRK) assets with 1 navy ship equipped with a LYNX helicopter.

Ship routeing, ship reporting systems and vessel traffic services

10.5 There is no VTS and reporting system in operation within The Faroe Islands waters.

Aids to navigation (AtoN)

10.6 The Office of Public Works (Landsverk) is responsible to maintain the buoys and lights within the port's limits. All other lights and aids to navigation are under the jurisdiction of the Danish Hydrographic Department. However, any changes or deficiencies are reported to MRCC Tórshavn, who in turn transfers such information to Tórshavn Radio for transmission on MF and VHF radio and on NAVTEX.

Oil spill response, enforcement

10.7 The Ministry of Interior with the Environmental Agency and the Office of Public Works are responsible to implement any oil and other counter pollution measures and subsequent enforcement actions in the Faroese waters. An oil response contingency plan is established involving all related authorities. Parliamentary Act No 165 of 21 December 2001, on Safety at Sea, in paragraphs 6, 7, 9, 11, 14, 15, 24 and 25 imposes on various acting parties (construction yards, shipowners, masters) to always plan and execute their work with a view to preventing pollution. Incidents of pollution are investigated by the police. Such investigations may be done in cooperation with the Environment Agency, FMA and the Fisheries Inspection. If the identification of root causes reveals a potential crime or negligence the case is handed over to the prosecuting authority.

Evaluation and review

10.8 To assess and improve the response for oil spills, all related authorities implement a regular training programme with the neighbouring countries.

11 Comments

11.1 Areas of positive development

11.1.1 All personnel involved in maritime affairs in The Faroe Islands are committed to their responsibilities and they work as one family. There are no barriers between the different levels of management.

11.1.2 The submission of working papers to IMO as a result of casualty investigation, for further improvement of existing regulations.

11.1.3 The strategy is well developed and meets the requirements of relevant IMO mandatory instruments.

11.1.4 The performance contracts between the ministries and their respective authorities are measurable and provide a means on which future continual improvement can be based.

11.1.5 Monitoring of the Faroe Islands fleet and ROs by a newly established position of the Customer Liaison Manager of FMA is a positive development to meet customers needs and expectations.

11.1.6 FMA staff meets on a weekly basis to share and exchange information, in order to achieve the final goals.

11.1.7 SAR operations are well organised. The rescue boats staff work on a voluntary basis and are very committed to carrying out their task.

11.2 Areas for further development

11.2.1 Training programmes for PSC officers should be organized with a PSC regime, where possible, in order to update the knowledge of FMA surveyors.

12 Appendices

Non-conformities

Form A-NC-01
Form A-NC-02

13 Annexes

Annex 1 – Timetable for the VIMSAS audit
Annex 2 – List of Participants to the Opening meeting
Annex 3 - Organisation of Faroe Islands Maritime Authorities
With related appendices 4a, 4b, 4c, 4d, 4e
Annex 4 - Incorporation of mandatory IMO Instruments into national law
