



Department of Marine Administration - Yangon Myanmar

Policy for Flag State Implementation

Operational Procedure : QOP - 72 - 01- (15)

Revision: 0

Page 1

DISTRIBUTION DATE:

<input type="checkbox"/> Director General	<input type="checkbox"/> Director, Nautical Division	<input type="checkbox"/> Director, Engineering Division	<input type="checkbox"/> Director, SSE Division
<input type="checkbox"/> Quality Management Representative	<input type="checkbox"/> Sr. Deputy Director	<input type="checkbox"/> Sr. Deputy Director	<input type="checkbox"/> Sr. Deputy Director
	<input type="checkbox"/> Dy. Director	<input type="checkbox"/> Dy. Director	<input type="checkbox"/> Dy. Director

Subject: Interim Guidance for the Flag State Implementation

Ref: 1. International References:

(a) Resolution A.1070(28), IMO Instrument Implementation Code (III Code)

(b) International Conventions:

- i) International Convention on Tonnage Measurement of Ships;
- ii) International Convention on Load Lines, 1966;
- iii) International Convention on Safety of Life at Sea, 1974;
- iv) International Convention on Standards Training, Certification and Watch keeping for Seafarers;
- v) International Convention for the Prevention of Pollution from Ships, and amended

2. National References:

- i) Myanmar Merchant Shipping Regulation for Tonnage (draft);
- ii) Myanmar Merchant Shipping Regulation for Load Lines (draft);
- iii) National Regulation for the Prevention of Pollution Sewage from ships (draft);
- iv) National Regulation for the Prevention of Pollution by Oil from Ships.

1. Purpose:

This policy letter provides interim guidance to ensure the implementation conducted by the Department of Marine Administration to be promptly taken and which to be complied with the requirements provided in relevant International conventions.

Approved by & date:	Approved by & date:
Originated by :	This Revision Date :

Policy for Flag State Implementation

Operational Procedure : QOP- 72 - 01- (15)

Revision: 0

Page 2

2. Action:

The staffs from the relevant division of DMA shall use this interim guidelines as National guidance to setup divisional Implementation procedure and Standards in the areas of ship construction, plan approval, survey and certification of Myanmar vessels, seafarers training and examination.

3. Directives Affected:

December 22, 2017.

4. Background:

In order to fulfill the requirement of the obligation of contracting Governments, Myanmar has to implement the requirement of following ratified International Conventions of:

- i) International Convention on Tonnage Measurement of Ships;
- ii) International Convention on Load Lines, 1966;
- iii) International Convention on Safety of Life at Sea, 1974;
- iv) International Convention on Standards Training, Certification and Watchkeeping for Seafarers;
- v) International Convention for the Prevention of Pollution from Ships, and amended

5. Guideline to setup divisional implementation procedure and standards:

.1 National Instrument

The Department of Marine Administration (DMA) shall enact National Law, Regulations, Standards and Policies those are complied with the requirements of ratified IMO Conventions.

In order to effectively implementation on National Instruments, DMA shall assign the **responsibilities and obligations of relevant Departments**, they should:

- (a) implement policies through issuing national legislation and guidance, which will assist in the implementation and enforcement of the requirements of all safety and pollution prevention conventions and protocols; and
- (b) assign responsibilities within their Administrations to update and revise any relevant policies adopted, as necessary.

Policy for Flag State Implementation

Operational Procedure : QOP- 72 - 01- (15)

Revision: 0

Page 3

- .2 The DMA shall establish **resources and processes** capable of administering a safety and environmental protection programme, which shall consist of the following:
- (a) administrative instructions to implement applicable international rules, regulations and developed national regulations for the certification by Recognized Organization (RO) and which certificate is required by the flag State to demonstrate compliance with structural, mechanical, electrical, and/or other requirements of an international convention and the flag State's national regulations;
 - (b) monitoring and assessment of compliance with the requirements of the applicable international and national instruments, using an audit and inspection programme, on the survey and certification of delegated RO.
 - (c) compliance with the requirements related to international standards of training, certification and watchkeeping of seafarers. This includes, inter alia:
 - (i) training, assessment of competence and certification of seafarers;
 - (ii) certificates and endorsements that accurately reflect the competencies of the seafarers, using the appropriate terminology as well as terms that are identical to those used in any safe manning document issued to the ship;
 - (iii) impartial investigation to be held of any reported failure, whether by act or omission that may pose a direct threat to safety of life or property at sea or to the marine environment, by the holders of certificates or endorsements issued by the State;
 - (iv) arrangements for the withdrawal, suspension or cancellation of certificates or endorsements issued by the State when warranted and when necessary to prevent fraud; and
 - (v) administrative arrangements, including those involving training, assessment and certification activities conducted under the purview of another State, which are such that the flag State accepts its responsibility for ensuring the competence of masters, officers and other seafarers serving on ships entitled to fly its flag;
 - (d) the conduct of investigations into casualties and adequate and timely handling of cases involving ships with identified deficiencies; and
 - (e) the development, documentation and provision of guidance concerning those requirements found in the relevant international instruments that are to the
-

Policy for Flag State Implementation

Operational Procedure : QOP- 72 - 01- (15)

Revision: 0

Page 4

satisfaction of the Administration.

- .3 The DMA shall issue safe manning document to ensure that ships entitled to fly its **flag are sufficiently and efficiently manned**, in accordance to the the Principles of Safe Manning adopted by the Organization.

Delegation of authority

- .4 The DMA may delegate to RO to conduct behalf of the Administration for the surveys, inspections and audits, issuing of certificates and documents, marking of ships and other statutory work required under the IMO conventions and National Rules and Requirements, with the consideration of the followings:
- (a) determine that the recognized organization has adequate resources in terms of technical, managerial and research capabilities to accomplish the tasks being assigned;
 - (b) have a formal written agreement between the DMA and the recognized organization which, as a minimum, includes the elements set out in the National Guideline;
 - (c) shall issue specific instructions detailing actions to be followed in the event that a ship is found unfit to proceed to sea without danger to the ship or persons on board, or is found to present an unreasonable threat of harm to the marine environment;
 - (d) provide the recognized organization with all appropriate instruments of national law and interpretations thereof giving effect to the provisions of the conventions and specify, only for application to Myanmar ships;
 - (e) require that the recognized organization maintain records, which will provide the DMA with data to assist in interpretation of requirements contained in the applicable international instruments.
- .5 The DMA shall never mandate the ROs to apply to ships, other than Myanmar Flagged, any requirement pertaining to the classification rules, requirements, procedures or performance of other statutory certification processes, beyond convention requirements and the mandatory instruments of the IMO.
- .6 The DMA shall establish **an oversight programme** for monitoring of, and communication with, ROs in order to ensure the international obligations are fully met, by:
-

Policy for Flag State Implementation

Operational Procedure : QOP- 72 - 01- (15)

Revision: 0

Page 5

- (i) exercising supplementary surveys to ensure that Myanmar to effectively comply with the requirements of the applicable international instruments;
 - (ii) conducting supplementary surveys to ensure that Myanmar to comply with national requirements, which supplement the international mandatory requirements; and
 - (iii) providing staff who have a good knowledge of the rules and regulations of the flag State and those of the ROs and who are available to carry out effective oversight of the recognized organizations.
- .7 The DMA may nominate **surveyor(s) for the purpose of carrying out surveys, audits and inspections** on behalf of Administration in accordance with the national regulation and guidance.

Enforcement

- .8 The DMA shall take all necessary measures to secure observance of **international rules and standards** by ships entitled to Myanmar flag and by entities and persons under its jurisdiction so as to ensure compliance with its international obligations. Such measures shall include, inter alia:
- (a) prohibiting Myanmar ships from sailing until such ships can proceed to sea in compliance with the requirements of international rules and standards;
 - (b) the periodic inspection of Myanmar ships to verify that the actual condition of the ship and its crew is in conformity with the certificates it carries;
 - (c) the surveyor to ensure, during the periodic inspection referred to in subparagraph .2, that seafarers assigned to the ships are familiar with:
 - (i) their specific duties; and
 - (ii) ship arrangements, installations, equipment and procedures;
 - (d) ensuring that the ship's complement, as a whole, can effectively coordinate activities in an emergency situation and in the performance of functions vital to safety or to the prevention or mitigation of pollution;
 - (e) providing, in national laws and regulations, for penalties of adequate severity to discourage violation of international rules and standards by ships entitled to fly its flag;
 - (f) instituting proceedings, after an investigation has been conducted, against

Policy for Flag State Implementation

Operational Procedure : QOP- 72 - 01- (15)

Revision: 0

Page 6

Myanmar ships, which have violated international rules and standards, irrespective of where the violation has occurred;

- (g) providing, in national laws and regulations, for penalties of adequate severity to discourage violations of international rules and standards by individuals issued with certificates or endorsements under the Administration authority; and
 - (h) instituting proceedings, after an investigation has been conducted, against individuals holding certificates or endorsements who have violated international rules and standards, irrespective of where the violation has occurred.
- .9 The DMA shall develop and implement a control and **monitoring programme**, as appropriate, in order to:
- (a) provide for prompt and thorough casualty investigations, with reporting to the IMO as appropriate;
 - (b) provide for the collection of statistical data, so that trend analyses can be conducted to identify problem areas; and
 - (c) provide for a timely response to deficiencies and alleged pollution incidents reported by port or coastal States.
- .10 Furthermore, the DMA shall:
- (a) ensure compliance with the applicable international instruments through national legislation;
 - (b) provide an appropriate number of qualified personnel to implement and enforce the national legislation, including personnel for performing investigations and surveys;
 - (c) provide a sufficient number of qualified flag State personnel to investigate incidents where Myanmar ships have been detained by port States;
 - (d) provide a sufficient number of qualified flag State personnel to investigate incidents where the validity of a certificate or endorsement or of the competence of individuals holding certificates or endorsements issued under its authority are questioned by port States; and
 - (e) ensure the training and oversight of the activities of flag State surveyors and investigators.
-

Policy for Flag State Implementation

Operational Procedure : QOP- 72 - 01- (15)

Revision: 0

Page 7

- .11 When the DMA is informed that a Myanmar ship **has been detained** by a port State, the DMA may oversee that appropriate corrective measures are taken to bring the ship in question into immediate compliance with the applicable international instruments.
- .12 The DMA or ROs shall **issue or endorse an international certificate to a ship after it has determined** that the ship meets all applicable requirements.
- .13 The DMA shall only issue an **international certificate of competency or endorsement to a person after** it has determined that the person meets all applicable requirements.

Flag State surveyors

- .14 The DMA shall **define and document the responsibilities, authority** and interrelation of all personnel who manage, perform and verify work relating to and affecting safety and pollution prevention.
- .15 Personnel **responsible for, or performing surveys, inspections and audits** on ships and companies covered by the relevant international mandatory instruments shall have as a minimum the following:
 - (a) appropriate qualifications from a marine or nautical institution and relevant seagoing experience as a certificated ship's officer holding or having held a valid management level certificate of competency and having maintained their technical knowledge of ships and their operation since gaining their certificate of competency; or
 - (b) a degree or equivalent from a tertiary institution within a relevant field of engineering or science recognized by the DMA; or
 - (c) accreditation as a surveyor through a formalized training programme that leads to the same standard of surveyor's experience and competency in accordance with the requirements provided by the DMA.
- .16 Personnel qualified under paragraph 15.1 shall have served for a period of not less than three years at sea as an officer in the deck or engine department.
- .17 Personnel qualified under paragraph 15.2 shall have worked in a relevant capacity for at least three years.
- .18 In addition, such personnel shall have appropriate practical and theoretical knowledge of ships, their operation and the provisions of the relevant national and

Policy for Flag State Implementation

Operational Procedure : QOP- 72 - 01- (15)

Revision: 0

Page 8

international instruments necessary to perform their duties as flag State surveyors obtained through documented training programmes.

- .19 Other personnel assisting in the performance of such work shall have education, training and supervision commensurate with the tasks they are authorized to perform.
- .20 Previous relevant experience in the field of expertise is recommended to be considered an advantage; in case of no previous experience, the DMA shall provide appropriate field training.
- .21 The DMA shall implement a documented system for qualification of personnel and continuous updating of their knowledge as appropriate to the tasks they are authorized to undertake.
- .22 Depending on the function(s) to be performed, the qualifications shall encompass:
 - (a) knowledge of applicable, international and national, rules and regulations for ships, their companies, their crew, their cargo and their operation;
 - (b) knowledge of the procedures to be applied in survey, certification, control, investigative and oversight functions;
 - (c) understanding of the goals and objectives of the international and national instruments dealing with maritime safety and protection of the marine environment, and of related programmes;
 - (d) understanding of the processes both on board and ashore, internal as well as external;
 - (e) possession of professional competency necessary to perform the given tasks effectively and efficiently;
 - (f) full safety awareness in all circumstances, also for one's own safety; and
 - (g) training or experience in the various tasks to be performed and preferably also in the functions to be assessed.
- .23 The flag State should issue an identification document for the surveyor to carry when performing his/her tasks.

Flag State investigations

- .24 In the case of any accident or incident of Myanmar Flagged Vessel:
 - (a) Flag State Technical Investigation shall be taken by Independent bodies appointed by Ministry of Transport and Communications.

Policy for Flag State Implementation

Operational Procedure : QOP- 72 - 01- (15)

Revision: 0

Page 9

- (b) Nautical Division, Marine Engineering Division and Safety, Security and Environmental Divisions shall participate as technical assistance in Technical Investigation, but in the case of the shortage of technical experts in investigation team, may conduct as investigator with the agreement of the Director General.
 - (e) Nautical Division, Marine Engineering Division and Safety, Security and Environmental Divisions shall study on the recommendations issued by Technical Investigation and required changes shall be taken in the plan approval, survey and certification.
- .25 In the case of formal Investigation:
- 1. The Investigator of Nautical Division, Marine Engineering Division and Safety, Security and Environmental Divisions shall conduct as a member of Myanmar Flag State Administration.
- .26 The report of Casualties investigation shall be submitted to The IMO through DMA.
- .27 Marine safety investigations shall be conducted by impartial and objective investigators. And-
- (a) Investigators are shall be qualified and knowledgeable in matters relating to the casualty and appointed by The Ministry of Transport and Communications.
 - (b) Investigators shall have working knowledge and practical experience in those subject areas pertaining to their normal duties. Additionally, in order to assist individual investigators the expertise in the following areas is also essential requirement:
 - (i) navigation and the Collision Regulations;
 - (ii) flag State regulations on certificates of competency;
 - (iii) causes of marine pollution;
 - (iv) interviewing techniques;
 - e.evidence gathering; and
 - (v) evaluation of the effects of the human element.
- .28 Any accident involving personal injury necessitating absence from duty of three days or more and any deaths resulting from occupational accidents and casualties to ships of the flag State shall be investigated, and the results of such investigations shall be

Policy for Flag State Implementation

Operational Procedure : QOP- 72 - 01- (15)

Revision: 0

Page 10

submitted to Ministry of Transport and Communications, and publication shall be done in accordance to the agreement of Minister.

- .29 Ship casualties shall be investigated and reported in accordance with the Casualty Investigation Code and Guidelines published by IMO. The report on the investigation shall be submitted to the IMO with Flag State observation.

Evaluation and review

- .30 The DMA shall, on a periodic basis, evaluate its performance with respect to the implementation of administrative processes, procedures and resources necessary to meet its obligations as required by the international instruments to which it is a party.
- .31 Measures to evaluate the performance of flag States should include, inter alia, port State control detention rates, flag State inspection results, casualty statistics, communication and information processes, annual loss statistics (excluding constructive total losses (CTLs)) and other performance indicators as may be appropriate, in order to determine whether staffing, resources and administrative procedures are adequate to meet its flag State obligations.
- .32 Areas recommended for regular review may include, inter alia:
- (a) fleet loss and accident ratios to identify trends over selected time periods;
 - (b) the number of verified cases of detained ships in relation to the size of the fleet;
 - (c) the number of verified cases of incompetence or wrongdoing by individuals holding certificates or endorsements issued under the flag State's authority;
 - (d) responses to port State deficiency reports or interventions;
 - (e) investigations into very serious and serious casualties and lessons learned from them;
 - (f) technical and other resources committed;
 - (g) results of inspections, surveys and controls of the ships in the fleet;
 - (h) investigation of occupational accidents;
 - (i) the number of incidents and violations that occur under the applicable international maritime pollution prevention regulations; and
 - (j) the number of suspensions or withdrawals of certificates, endorsements, approvals, or similar.
-