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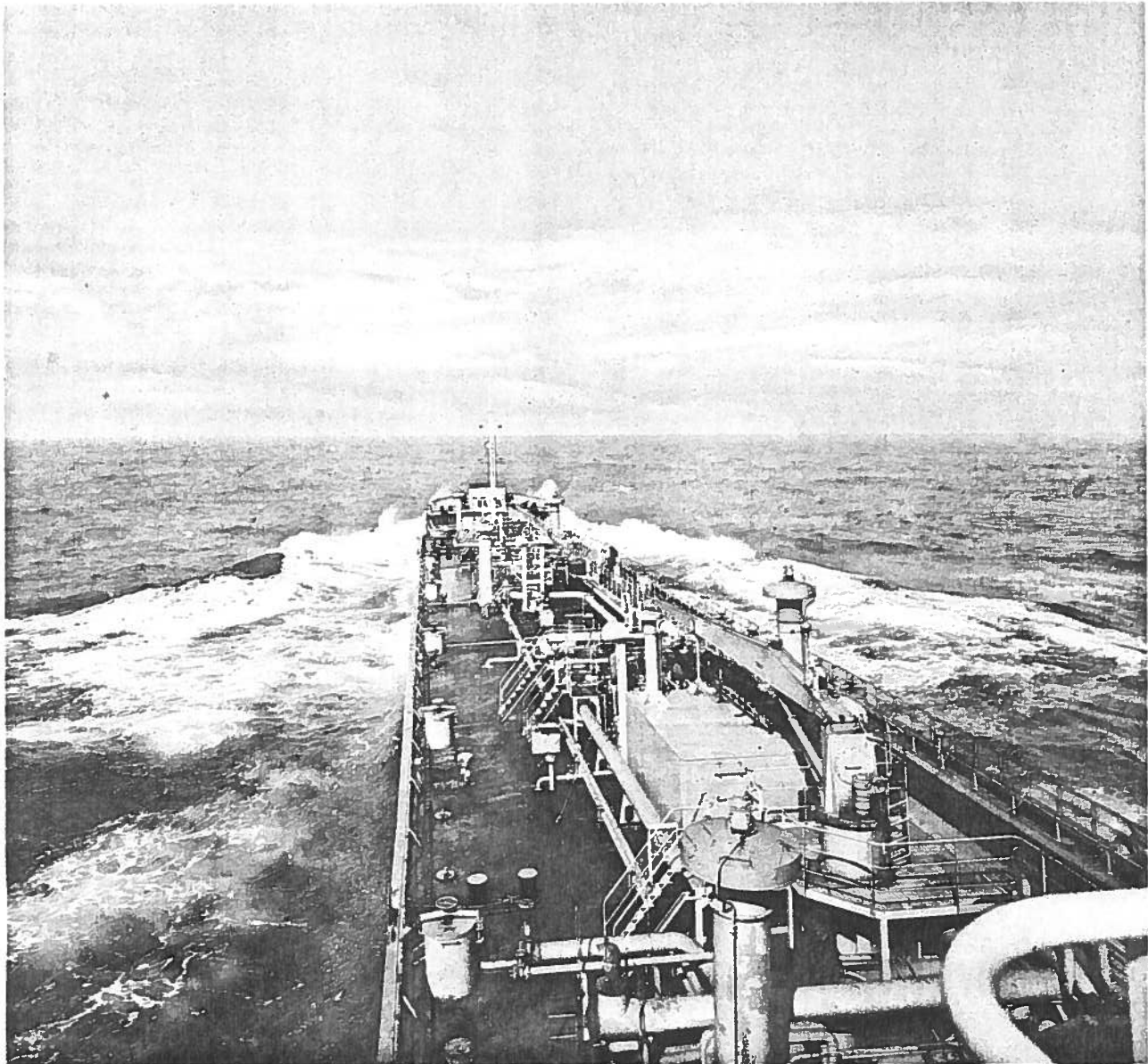
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POINT

OF VIEW

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Changes in Polish maritime law



In December 1983, 22 years had passed since the passing of the maritime code, the first legal act in Polish legislation affording comprehensive regulation of legal relations connected with shipping. During the period in question, the maritime code was in force in almost unchanged form, undergoing only slight amendments in 1977. The natural consequence of the passage of time on all laws made it imperative to introduce important amendments in some regulations.

Here, the general motivation constitutes the substantial development of international maritime legislation over the past twenty years, this deriving from both further advancements in the technique of utilizing the sea and the exploiting of its resources, as well as the far-reaching processes of change in the system of political and economic relations. After the coming into force of the maritime code, Poland ratified several international maritime conventions which gave to the unquestionable obligation to co-ordinate the principles of domestic law with the state's international commitments. Another legal factor justifying the need for change were the significant legislative steps taken in Polish internal legislation during the period the maritime code was in force, and as a result of which the civil code (1964), the civil proceedings code (1964), the law on international private law (1965), the law on state-owned enterprises (1981), the law on the real estate register and land registry (1962), etc., came into being. In the present situation, the need also exists to confront the regulations of maritime law in force, with the context of the extensive assumption of the Polish People's Republic's maritime policy elaborated in 1983. Last of all, it is imperative that the results of doctrines and jurisdic-

tion, as also the experience of maritime practice, be taken into account in amendments.

For many years, not only the range of amendments, but the planned method of embracing many problems and institutions of maritime law, have been the subject of discussions in maritime legal circles. Several mature legislative projects were formed. Although the opinion as to the need for amendments is universally agreed, there also exist differences of opinion on details, arising both from the divergent opinions of the representatives of doctrine and collision of interests of the various fields of maritime practice. It would seem, however, that one criterion should decide as to the extent and contents of amendments: public and economic interests resulting from the state's maritime policy.

Assuming this point of view, several problems require legislative intervention in the first place.

Thus, for example, considering the negative effects of restricting the possibilities of operating ships under their own flag, occurring either due to the effects of crises or restriction of rights to operate in specific water areas, the need is becoming apparent to introduce into Polish maritime law, the institution of temporary acknowledgment of the national status of ships. This legal aspect also creates the chance to satisfy the periodical unexpected tonnage demands, which exceed the available potential given the existing legal or factual requirement to operate under one's own flag.

It would also seem necessary to modify the rules of the maritime code concerning limited liability of shipowners. This code continues to be based on the archaic Brussels Convention of 1924 on the limiting of liability of owners of ocean-going ships despite the fact that in 1972, Poland acceded to

the newer version of the Convention, rescinded in 1957. It would appear, however, that the subject of interest of legislators in this field should be the solution contained in the London convention on limited liability for maritime claims of 1976 (LLMC 1976). This has not yet come into force, but it is gaining increasing recognition by maritime states.

There is not doubt, on the other hand, as to the necessity to include in the maritime code the decisions accepted in the Brussels protocol of 1968, ratified by Poland in 1980 and modifying the Bill of Lading Convention of 1924, on many essential questions.

The important problem of liability for damage caused by pollution of the sea by crude oils also needs to be amended. For seven years, we have been bound by the 1969 Convention (CLC 1969), but as yet we have not ratified the convention on the international compensation fund for damages caused by oil pollution (FUND 1971). The adaptation of the solutions to internal laws contained in the two conventions, is highly expedient.

It is probably worth considering the possible supplementing of the norms of the maritime code by the possibility of establishing marine mortgages for ships under construction. Here, the principles established in the international convention on the registration of laws for ships under construction from 1987, should be utilized. This convention has not been ratified by Poland and has not, as yet, come into force, but growing interest can be observed in circles interested in shipbuilding, in the principles contained therein.

The outline of the first stage of amending the maritime code as mentioned here, has a good chance of being introduced in the relatively near future. Poland's maritime lawyers are not, however, losing sight of many other important problems related to further improvement of our maritime law. Studies are being conducted extending the maritime code by new types of agreements (bare-boat, charters, leasing, quantity contracts, etc.), also under consideration are corrections of the norms of international private law contained in the code, and there is no doubt that the problem of marine insurance requires certain changes as well as certain questions may turn up following the coming into force of the planned laws on: employment work on sea-going ships, protection of the maritime environment and the organization of maritime administration. Work on these legal acts are well advanced. Everything points to the fact that the process of improving Polish maritime law constitute an essential factor in the carrying out of the state's new maritime policy in the near future. ■