

World Maritime University

The Maritime Commons: Digital Repository of the World Maritime University

World Maritime University Dissertations

Dissertations

11-3-2020

[Case study of audit in Turkmenistan in accordance with III Code for strategy]

Hojanepes Gulyyev

Follow this and additional works at: https://commons.wmu.se/all_dissertations



Part of the [Environmental Monitoring Commons](#), and the [Transportation Commons](#)

Recommended Citation

Gulyyev, Hojanepes, "[Case study of audit in Turkmenistan in accordance with III Code for strategy]" (2020). *World Maritime University Dissertations*. 1437.
https://commons.wmu.se/all_dissertations/1437

This Dissertation is brought to you courtesy of Maritime Commons. Open Access items may be downloaded for non-commercial, fair use academic purposes. No items may be hosted on another server or web site without express written permission from the World Maritime University. For more information, please contact library@wmu.se.

Completed dissertation not
received.

H. GULYYEV

MSEA

Abstract

Title of Dissertation: **Case study of audit in Turkmenistan in accordance with III code for strategy**

Degree: **Master of Science**

The dissertation studies to have a clear and proper understanding to develop an “Overall Strategy” according to the III Code requirements for Turkmenistan. Due to geographical location, different national legislation, political condition and approach to international treaties understanding of “Overall Strategy” is different in each country. It doesn’t have universally accepted format, therefore Member States have a problem in developing strategy in compliance with III Code. Hence, dissertation will be based on analysis of audit reports in order to come up with proper strategy for Turkmenistan.

Due to my personal participation in whole audit process, data, analysis, evaluation, primary sources and outcome will be based by my own experience.

A brief look is taken at the IMO audit summary reports in order to point out why Member States after conducting audit have observations for paragraph 3 of III Code which is strategy. The reasons of the root causes were evaluated and grouped in categories. Result gives a clear view about the common issues of the Member States, which give opportunity to apply Quality Management System. In order to develop strategy, first Member State should identify its problems, in order to take further steps in developing strategy as required. Audit reports will help to properly apply plan, do, check, act (PDCA) principals. Those evaluation assess to have a whole picture for strategy. Recommendations were applied according to the identified issues.

Additionally, strategy is not only for individual ministries or entities, instead performance measurement is an umbrella and collective evaluation of all government bodies which are involved in maritime affairs. A mechanism for all involved entities of a State to contribute to the overall effectiveness of the State in the discharge of its obligations and responsibilities that are collected from the applicable mandatory IMO instruments. Study will demonstrate proposed solutions in order to fulfil those requirements under III Code paragraph 3 and how to overcome those challenges.

KEYWORDS: IMO Audit, III Code, QMS, Implementation and Enforcement, Strategy, IMSAS

Table of Contents

Abstract.....	i
Table of Contents	iii
List of Tables	iv
List of Figures.....	v
List of Abbreviations	vi
Chapter 1 Introduction	1
1. Background	1
2. Objectives.....	2
3. Methodology	4
Chapter 2 Literature review	6
2.1 Legal Status of Caspian Sea.....	6
2.2 Maritime infrastructure of Turkmenistan	6
2.3 IMO Audit in Turkmenistan, scope, objectives and activities.....	8
2.4 Turkmenistan government entities involved in cooperation for implementation and enforcement of IMO instruments.....	11
2.5 Ratified conventions by Turkmenistan.....	16
Chapter 3 Case Study Analysis of audit in Turkmenistan.....	18
3.1 Ratification process of IMO instruments	18
3.2 Implementation process of IMO instruments	19
3.3 States responsibility towards IMO conventions.....	19
3.4 Analysis of the IMO Audit reports.....	20
3.4.1 Challenges and root causes related to the particular areas identified in the audits	23
Chapter 4 Implementation of “Overall Strategy” for Turkmenistan.....	25
4.1 Importance of Strategy.....	25
4.2 Develop “Overall Strategy”	26
4.3 Establish methodology to monitor.....	29
4.4 Review on periodical basis	31
4.5 Communicate its strategy to IMO	33
Chapter 5 Conclusion and Recommendation.....	34
References.....	37
National Laws of Turkmenistan	38

List of Tables

Table 1 List of Ratified Conventions by Turkmenistan	18
Table 2 Goals, objectives and target indicators	30

List of Figures

Figure 1 Cooperation among entities within IMO Instruments	13
Figure 2 Total number of findings and percentage according to the parts of III Code	21
Figure 3 Number of findings under part 1 of the III Code	22
Figure 4 Proposed chart for cooperation and discharging responsibilities	33

List of Abbreviations

IMO	International Maritime Organization
IMCO	Inter - Governmental Maritime Consultative Organization
IMSAS	IMO Member State Audit Scheme
III Code	IMO Instruments Implementation Code
CAP	Corrective Action Plan
MAEP	Ministry of Agriculture and Environment Protection
TRACECA	Transport Corridor Europe Caucasus Asia
PAQ	Pre - Audit Questionnaire
MoC	Memorandum of Cooperation
MFA	Ministry of Foreign Affairs
	State Administration on Supervision of Navigation in
SASNT	Turkmenistan
EMSA	European Maritime Safety Agency
VTS	Vessel Traffic Services
MSA	Member State Audit
IMLI	International Maritime Law Institute
WMU	World Maritime University
UN	United Nations
SOLAS	International Convention for Safety of Life At the Sea
	International Convention for the Prevention of Pollution from
MARPOL	Ships
UNCLOS	United Nations Convention on the Law of the Sea
MoD	Ministry of Defence
MCT	Ministry of Communication
TIS	Turkmenbashi International Seaport

	International Convention on the Regulations for Preventing
COLREG	Collusion at Sea
ILO	International Labour Organization
PCDA	Plan Check Do Act Principal

Chapter 1 Introduction

1. Background

International Maritime Organization (IMO) was established in 1982, before was known as Inter – Governmental Maritime Consultative Organization (IMCO). The IMO is one of the specialized agencies of UN, which is responsible for adopting legislations and regulating shipping. Currently there are 174 Member States and 3 associated members, IMO headquarters are in London, United Kingdom. When a Member State becomes a party of any International Convention of IMO, Governments become responsible for implementing those conventions by making it a part of national law. However, there is a problem implementing those international treaties properly. The most common issue is insufficient maritime expertise and, in some countries its lack of necessary resources and experience. Some indicators show, casualty rates or ship detentions by the port State control officers for those that fly under foreign flag have significant differences. However, if flag State responsibilities, duties and obligations would be done and fulfil properly, there would be no need of port State control (IMO, International Maritime Organization, 2020).

IMO is concerned about this problem. Hence, in 1992 the IMO established a sub – committee on Flag State Implementation, in order to improve the performance of Member States. After that, it was renamed Implementation of IMO instruments. So in order to assess how effectively mandatory IMO instruments are implemented by Member States, IMO provides “IMO member State Audit Scheme” (IMSAS). Since 2016, conducting an audit have become mandatory and conducted with interval of 7 years.

IMO Instruments Implementation Code (III Code) consists of 64 paragraphs and 4 main parts,

- Part 1. Common areas
- Part 2. Flag States
- Part 3. Coastal States

- Part 4. Port States

The main objective of the III Code is to improve global maritime safety, protection of marine environment and provide technical assistance for the Member States in the implementation of instruments of the IMO. Each Member States individually view III Code according to their own perception and circumstances, and binding with implementation of those conventions to which they are parties. By geographical location some Member States have essential role as a flag State rather than a port States or vice versa due to various kind of circumstances.

The general aspect of the III Code is Paragraph 3 “Strategy”. The recommendation is for Member States to develop an overall strategy in order to meet IMO international obligations and discharge proper responsibilities as flag State, port State and coastal State.

The action plan is to design a procedure or unique formula, in order to help Member States, become more closely familiar in developing an “Overall Strategy” and, how it is should be generated in order to fulfill all mandatory instruments under the scheme. The aim is to establish a real operated strategy where all recommendations of III Code Paragraph 3 will be met. Methodology should be in place in order to monitor and assess the overall performance. To include how the maritime authority entity which is responsible for maritime affairs of the any Member State should combine the workflow among all involved ministries performing their functions in implementation or enforcement of IMO Conventions. Creating a mechanism that would discharge the obligations in order to contribute effectiveness to the overall strategy.

2. Objectives

The expectation of this dissertation is to have a clear understanding to develop an “Overall Strategy” according to the III Code requirements. Due to geographical location, different national legislation, political condition and approach to international treaties understanding of “Overall Strategy” is different in each country. It doesn’t have universally accepted format, therefore Member States have a problem in developing strategy in compliance with III Code. Hence, dissertation will be based

on analysis of audit reports in order to develop proper strategy for Turkmenistan. According to the executive summary reports of IMO audit, Turkmenistan couldn't demonstrate that the strategy was developed according to the III Code paragraph 3. In fact, there was an overall strategy which was not related to the requirements of the III Code. Therefore, it shows that the main goal of strategy was missed and, capability to ensure that international IMO instruments, obligations and responsibilities was not properly fulfilled. In addition, there was a lack of review the strategy on periodical basis. According to the III Code there is no fulfilled monitoring program in order to evaluate and review the issues. According to the IMSAS, Turkmenistan has to prepare and provide Correction Action Plan (CAP) to IMO with evidence and legal regulations, written procedures. That will clarify how and in which period of time those findings and observations will be resolved. Within this dissertation, the aim is to analyze IMO audit reports for Turkmenistan and come up with the overall maritime strategy, which is going to be fulfilled by the III Code requirements. In order for Turkmenistan meet requirements of III Code for the paragraph 3, strategy should be developed covering the following issues:

- Implementation and enforcement of relevant international mandatory instruments.
- Adherence to international recommendations, as appropriate
- Continuous review and verification of the effectiveness of the State in respect of meeting its international obligations
- The achievement, maintenance and improvement of overall organizational performance and capability

In addition, one of the major points that, the strategy needs to be communicated to the IMO, according to the III Code, paragraph 9.

These gaps could be because of a lack of sufficient resources available to Maritime Administration, lack of national provisions, lack of policies and documented procedures, lack of co-ordination among involved entities of Turkmenistan. Recommendations for specific management system, policies and training programmes

should be developed and implemented to support performance of Maritime Administration. Division of responsibilities among various State entities, which are involved in maritime activities and in strategy should be clearly defined, and the mechanisms for cooperation and communication among States entities and bodies should be reviewed in order to obtain better results. Hence, it would help to the Turkmenistan to ensure that applicable mandatory IMO instruments, obligations and responsibilities are complied with requirements of international treaties. Therefore, some government entities in Turkmenistan have overlapping in duties which they perform in order to preserve marine environment, safety and security not only I water of Turkmenistan but in the whole Caspian Sea.

3. Methodology

The purpose of Case Study Research is to analyze a specific problem and focus on a real life situation. This methodology is very popular among various fields such as, education, law, sociology, clinical science and administrative science. It involves individuals, organizations and actions. Generally, Case Study Methodology consists of information concerning participants, approach for collecting data, analyzing the evidence, research steps and challenges. Therefore, in my dissertation I am going to use a Case Study Methodology approach regarding the IMO Audit in Turkmenistan and address the issues for “Overall Strategy” based on my personal full participation and observation in that process. According to the Framework and Procedures set out in Assembly resolution A.1067 (28), where Turkmenistan as a Member State has responsibility to designate a single point of contact which is Me, Hojanepes Gulyyev for all communications regarding the audit and any provide any cooperation and assistance necessary to the successful completion of the audit. Therefore, my responsibility as a single point of contact includes;

- Assisting with the procedures for any visas or permits that may be necessary for the audit team to perform its duties
- Providing the audit team with copies of convenient access to, relevant documents and records, including electronically maintained records

- Making the appropriate staff members and officials from SASNT and any other involved organizational elements available for interview by the audit team at a mutually agreed time and place
- Closely monitoring implementation of the agreed timeline for the audit and bringing to the attention of the audit team any conditions
- Arranging, as may be requested by the audit team, for the team to observe operations or activities that fall within the scope of the audit, provided that the Member State is not expected to arrange for observations of operations or activities which are not scheduled in the normal course of business
- Otherwise facilitating the work of the audit team by providing administrative, secretarial, interpretation and transportation services, as appropriate (IMO, IMSAS - IMO Member State Audit Scheme, 2015)

Therefore, all analysis, data and resources and outcomes would be based on my own experience. In addition, I drafted audit timetable and Memorandum of Cooperation between Turkmenistan and IMO. My aim would be to answer the questions ‘how’ and ‘why’ the audit affects Turkmenistan and the necessity of evaluating the condition of the State Administration on Supervision of Navigation in Turkmenistan (SASNT – State Maritime Administration) in respect of international treaties. The advantage of a Case Study is that the real life situation such as IMO Audit in Turkmenistan can be studied in greater level of depth. Statistical analysis may provide graphs, statistics and charts for Audit. Specifically, statistics show common findings and observations, within which problems countries generally face in ratifying, implementing and enforcing the convention. A Case Study on one country such as Turkmenistan becomes a powerful focused tool in order to determine the reasons why that particular country has those findings and observations. My direct participation and observation will be an essential part of this case study. Generally, in case study analysis the results tend to be more based on own perceptions rather than statistical methods. It means that I will try to use my data and my observations in a manageable form. Apart from my own observations, data collection from primary and secondary sources will also be used as official records.

Chapter 2 Literature review

2.1 Legal Status of Caspian Sea

The Caspian Sea is the world's largest inland body of water, and classified as the world's largest lake. It does not have outflow to the oceans. Therefore, by jurisdiction terms Caspian Sea defined as lake and littoral states which coast to the Caspian Sea considered as landlocked countries. According to the United Nations Convention on the Law of the Sea (UNCLOS), article 124 (UN, 1982):

1. *For purpose of this Convention:*

(a) *“Land – locked State” means a State which has no sea-coast;*

Therefore, the application of IMO conventions to the Caspian Sea is subject to the decision of the littoral States. In addition, regarding legal status of Caspian Sea, littoral States (Russia, Turkmenistan, Azerbaijan, Kazakhstan and Iran) signed a treaty “The Convention on the Legal Status of the Caspian Sea”. It was signed in Aktau, Kazakhstan on 12 August 2018, by presidents of these 5 littoral States.

2.2 Maritime infrastructure of Turkmenistan

Turkmenistan is located on the east coast of the Caspian Sea and it ranges to 1200 km along the coast of Turkmenistan. From north to south port points are located in Turkmenistan, such as:

- Turkmenbashi International Seaport
- Garabogaz port point
- Gyyanly port point
- Alaja port point
- Ekerem port point

From these ports the ships sail to Azerbaijan Republic (Baku, Alyat ports), Iran Islamic Republic (Enzeli, Noushehr, Amirabad ports), Russian Federation (Mahachkala, Astrahan, Olya ports). Main types of vessels sailing between ports are

tankers, dry cargo vessels, Ro-Ro (wagon carrier) and Ro-Pax (auto transport and passenger carrier) vessels. Supply vessels, tug boats, pilot vessels and passenger ships are also operated.

These days in the Turkmen part of the Caspian Sea about 50 vessels fly under Turkmenistan flag. From these, 39 vessels belong to private owners (foreign and local companies) and 14 vessels belong to state owned companies. Moreover, there are 72 stationary platforms and 5 self-propelled platforms in operation.

Historically, because of geographical location Turkmenistan takes an important role in transit of cargo and in international trade. The “Silk road” passing through several Turkmenistan cities witnesses to this as well.

As location in the cross road of cargo flow from Europe to Asia and from Asia to Europe, Turkmenistan serves as the “Marine Gate” of Central Asia. With the developing transport corridor Europe – Caucasus - Asia (TRACECA), possibility of transportation of cargoes by means of national marine transport of Turkmenistan has increased and maritime transport attractiveness has grown as well. Maritime transport is the most convenient and inexpensive. Therefore, there is great interest for maritime transport all over the world. Main parts of cargo turnover around the world relays on maritime transport.

Nowadays, with the development of port infrastructure amidst the countries in Caspian region. Turkmenistan has taken steps to further develop maritime transport and implement massive port projects, because of the huge growth of maritime transportation and competition in this area.

These projects are important steps needed to implement great economic potential of Turkmenistan in creation of modern transport infrastructure. Establishing appropriate convenient regional and interregional transport corridors passing through Central Asia is a main step forwards for effective usage of existing possibilities.

Taking all of this into account, and to perform guidance of Esteemed President to create marine fleet and increase role of marine transport in international cargo transportation, “Turkmedenizderyayollary” Agency together with leading consulting companies of Europe and South Korea have prepared feasibility study of

Turkmenbashi International Seaport. According to carried out feasibility study it's assessed the expedience and importance of realization of these projects for economic potentials of the country.

Adoption of IMO instruments requires financial resources, in order to meet the standard of IMO requirements such as, appropriate reception facilities, equipment for oil spill response, training facilities, safety appliances. Therefore, to ensure compliance with quality requirements and meet IMO standards, Turkmenistan invests to strengthen the infrastructure of the maritime transport field of Turkmenistan.

As a result of efforts made by Esteemed President of Turkmenistan Gurbanguly Berdimuhammedov, the main tasks of the sector are to develop transportation of public household goods, carriage of passengers, development of ports and port points, development of state supervision of navigation on maritime transportation and safety navigation of the ships.

2.3 IMO Audit in Turkmenistan, scope, objectives and activities

The IMO Member State Audit Scheme aims to create basis to assess the extent to which a Member State complies with its obligations and to see how they are performed those various IMO instruments to which it is a Party. Moreover, the IMO Instruments Implementation (III) Code (resolution A.1070(28)) requires a number of principals a Member State should align with in order for its maritime administration to deliver its obligations and responsibilities with, respect to maritime safety and protection of marine environment. The whole audit process of the audit which had been conducted is based in accordance with the Framework and Procedures for the IMO Member State Audit Scheme (resolution A.1067 (28)) (Chatterjee, 2018).

Three auditors drawn from Kazakhstan, Turkey and a representative from IMO Secretariat conducted an IMO audit in Turkmenistan in 2019 from 15-24 June. In addition, there was one independent observer from European Maritime Safety Agency (EMSA).

IMSAS became mandatory in 2016, in accordance with the Resolution A.1068 (28) *Transition from the Voluntary IMO Member State Audit Scheme to IMO Member State Audit Scheme* (Barchue, 2009).

There are nine mandatory instruments under the III Code;

- SOLAS 1974 Resolution MSC.366(93)
- MARPOL Resolution MEPC.246(66) – Annexes I – V;
- Resolution MEPC.247(66) – Annex VI
- STCW 1978 Resolution MSC.373(93);
- STCW Code - Resolution MSC.374(93)
- LL 66 Resolution A.1083(28)
- LL PROT 88 Resolution MSC.375(93)
- Tonnage 1969 Resolution A.1084(28)
- COLREG 1972 Resolution A.1085(28)

The scope and area of the audit included as mandatory is for flag State activities and since Turkmenistan is a landlocked country, port State and coastal State activities are not mandatory under the IMSAS. Therefore, on voluntary basis Turkmenistan demonstrated the willingness to undertake audit for those areas also, in order to evaluate its performance as port and coastal State. In addition, Turkmenistan is a landlocked country on the Caspian Sea, with access to the Black Sea through rivers Volga and Don, and the connecting Volga-Don canal. Apart from the *Load Lines 1966* and *Tonnage 1969 Conventions*, which exclude their application to “ships solely navigating the Caspian Sea” (Article 5 of LL 1966 and Article 4.2(b) of Tonnage 1969), there is no express provision in other IMO treaties on the application of those treaties to the Caspian Sea. Therefore, the application of IMO conventions to the Caspian Sea is subject to the decision of the littoral States. At the time of the audit, Turkmenistan did not have any international seagoing ships entitled to fly the flag of the State. With respect to its obligations and responsibilities under the seven instruments to which the State was a Party, Turkmenistan can acquire at any time, seagoing ships for international voyages and as such an audit should verify the

ratification and legislative processes for incorporating the seven international instruments into national law with respect to general and flag State responsibilities. Due to the geographical make-up of Turkmenistan, coastal and port State activities have been audited, taking into account the limited applicability of the relevant requirements of the mandatory IMO instruments.

In 2019 on 29 of April, the audit team was appointed by the IMO, and the “Pre-Audit Questionnaire” (PAQ) was submitted to the audit team members on July 11 2018. Submitted ahead of time, this main document allows, the auditors to prepare in advance before coming to the Turkmenistan. Beside these formalities, the Memorandum of Cooperation (MOC) between Turkmenistan and IMO was signed on 29 of April in 2019 in order to guarantee that the Member State Turkmenistan will support the principles on which scheme has been based and is committed to contributing to its success. Both sides agreed that the audit will be conducted and completed within the scheduled period. Moreover, parties agree that all information gathered, materials, notes and reports obtained or compiled during the audit will be treated in confidence.

According to the III Code Paragraph 3 “Strategy”, in order to meet the objective of this Code, Member States shall develop overall strategy in order to ensure that its international obligations and responsibilities are met. Also, establish methodology to monitor and continuously review the strategy to achieve overall organizational performance in periodical bases.

Turkmenistan has the Overall Strategy “Strategy for implementing instruments of International Maritime Organization for 2019 – 2025 years” in accordance with the III Code. During the audit, Turkmenistan demonstrated the Strategy, which showed that State has developed measures to implement relevant International Treaties such as IMO instruments, but there was a lack of monitoring methodology and periodical review. Strategy developed with the participation of involved entities in the maritime sector but was not in line with recommendations of III Code. The strategy was signed by the Chairman of the Agency which is contradictory because the Chairman doesn’t have a power for other entities to obligate them in order to fulfill the requirements of

the strategy, therefore the strategy was not adopted at high enough governmental levels to be effectively implemented by all involved entities.

As part of the preparatory work for the commencement of mandatory audits in 2016, the Secretariat has completed the development of a new GISIS module on Member State Audit (MSA). The MSA module is intended to provide a common platform for the implementation of audits, from planning through to the reporting phases of the audit, and contributing both to the effectiveness of the implementation of audits and to rationalize the use of available resources of Member States, audit teams and the Secretariat. Also, the MSA module has been structured in such a way as to provide a robust basis for future production and review of consolidated audit summary reports, based on the structure of data on audit findings, observations, references to mandatory instruments and the audit standard, root causes and corrective actions.

2.4 Turkmenistan government entities involved in cooperation for implementation and enforcement of IMO instruments

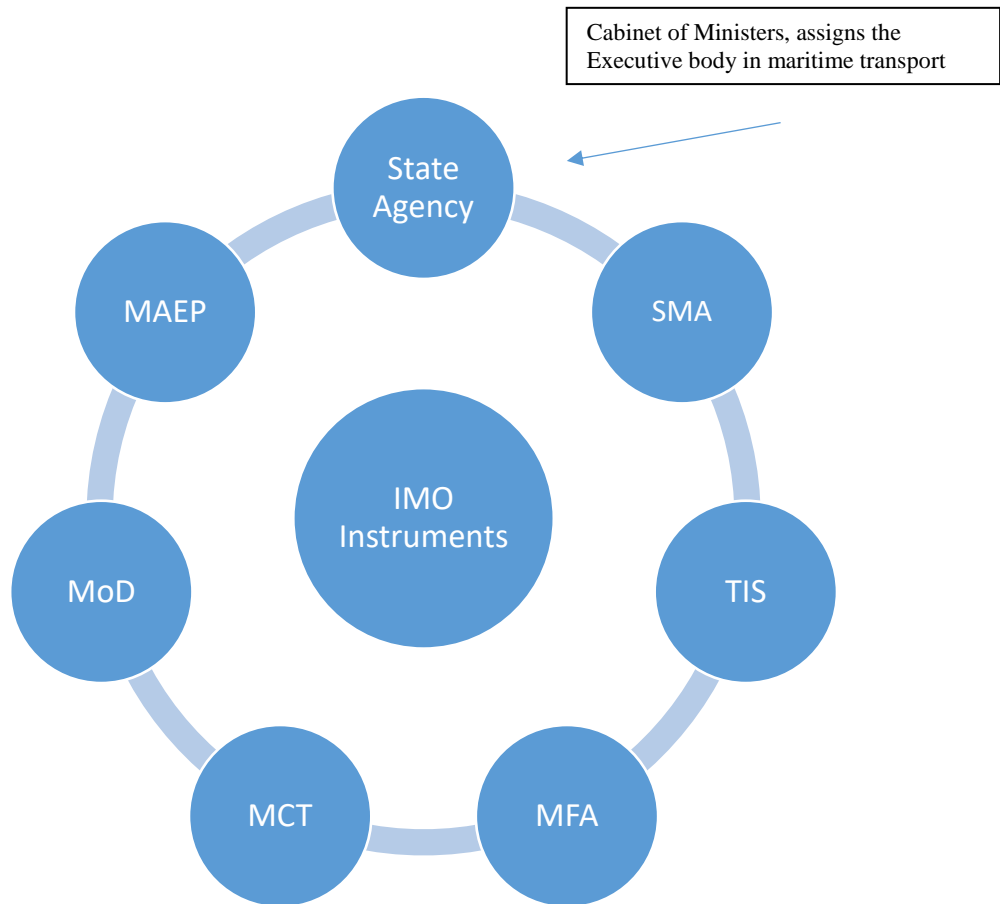
“Turkmedenizderyayollary” – “Turkmen Sea and River Ways” Agency (Agency) is government executive body to carry out state policy in maritime transport. Agency was established by Decree of President of Turkmenistan in 29 of January 2019 (PP-479). The main law in maritime transport is “Merchant Shipping Code (MSC) of Turkmenistan” which gives power regarding all maritime activities to Authority body in maritime affairs. Authority body in maritime affairs assigned by the Cabinet of Ministers of Turkmenistan. In its work the governed by the Constitution of Turkmenistan, laws of Turkmenistan, MSC, acts of the President, decrees and resolutions of the Mejlis (Parliament) of Turkmenistan, resolutions of the Cabinet of Ministers, conventions and agreements of the International Maritime Organization, ratified by Turkmenistan, international normative and legal acts related to safe, security and environment protection, orders, instructions, directives. Also, it provides leadership across maritime system, making connections and influencing across the network of maritime transport users. The Agency also engage with counterparts and with other regulatory bodies to ensure safety of passengers and goods travelling through ports of Turkmenistan. Agency cooperates with other authorized bodies of

maritime transport to fulfill requirements of maritime safety and security. In this contest, Agency constantly develops a monitoring mechanism to maintain maritime safety and environmental protection. Specialists of Agency and its structural unit continuously participate in trainings and seminars organized by IMO and EMSA, which enhances their experiences.

The State Administration on Supervision of Navigation in Turkmenistan (SASNT – State Maritime Administration) deals with shipping administration and has governmental regulatory functions. Amongst other things it includes flag State control, registration of ships, registration of seafarer's identity document of Turkmenistan, issuance, suspension and withdrawal of the certificates of competency, endorsement of the certificate of competency, port State control, control of port facilities, coordination of search and rescue operations, exemptions according to the conventions; monitoring, control and organization of vessel traffic services (VTS). Besides that, it comprises compliance of international treaties and protocols in respect of safety, security and protection of the marine environment including measures to prevent accidents on inland waterways and in the Turkmen sector of the Caspian Sea and provide oil spill preparedness and response and navigation aids. Additionally, it supervises the technical conditions of ships (except military and fishing vessels), floating and stationary platforms, hydraulic structures, berths, and other floating structures. Taking part in oil spills accidents from ships, floating equipment and liquidation of their consequences. The Agency plays an vital role along with the Administration in preparation of laws and legal instruments for maritime transport and maritime safety and environmental protection.

Agency ensures implementation of international instruments and national laws for the effective operation of merchant shipping. To implement maritime policy within its authority Agency is responsible for overall implementation and reviewing of the strategy. Present time, Turkmenistan strives using world practice, to comply with international requirements for environmental protection and maritime security. It also

maintains close cooperation with International Maritime Organization, European Maritime Security Agency and International Classification Societies.



State Agency – Turkmen Sea and River ways Agency – Executive body in maritime transport

SMA – State Maritime Agency

MAEP – The Caspian ecological control service / Meteorological services

MCT – Ministry of Communication

MOD – Search and rescue / hydrographic services

MFA – Ministry of foreign Affairs

TIS – Turkmenbashi International Seaport

Figure 1 Cooperation among entities within IMO Instruments

Source: <https://www.tmrl.gov.tm/>

Turkmenbashi International Seaport was established in the east coast of the Caspian Sea. In order to regulate and combine cargo flow and passenger carriage in 1903 year was established Merchant seaport directorate. Year by year cargo flow increased, for that reason an idea came to build ferry terminal. In 1959-year, construction of ferry terminal started. Starting from 1962 regular ferry line Turkmenbashi - Baku was opened. It provides services as, location of the areas for compulsory pilotage, organization of works for salvage, provides reception facilities. Also loading-unloading, storage of goods and warehouse services. Besides that, safety performance at port and environment protection are one of the main tasks as well. In order to perform these functions there is an Emergency Rescue Service ready to operate. This service operates to prevent emergency situations at sea; providing the ships to safely call in/out the port; takes appropriate measures to keep ecological clean water area from oil spills, damping marine litters. Seaport directly involved in developing and policy making for “Overall Strategy”. In order to meet international standards on 2 of May in 2018, inauguration ceremony of the new Turkmenbashi International Seaport with modern technologies which were installed, held by Esteemed President of Turkmenistan Gurbanguly Berdimuhammedov.

The “Marine Merchant Fleet” (Fleet) was established in 2010 by Decree of the President of Turkmenistan. In recent years many tanker, ferries and passenger vessels were purchased and put into operation. These ships carry out domestic and international voyages. Presently, the Fleet has 14 vessels in operation. Primary functions of the Fleet are the carriage of passengers and, cargoes, and the fulfillment of safe navigation at sea. In relation to that, there is a Safe Navigation at Sea department in place to carry out these tasks. This department supervises compliance of ship navigation safety, implementation of international conventions, national laws, and requirements of the international convention Safety Of Life At the Sea (SOLAS). In addition, this department deals with training and examination of crew members.

The Ministry of Communication of Turkmenistan (MCT), MCT is the only organization that governs state policy for communication. It implements the policies of the president of Turkmenistan for development of telecommunication and

determines the direction of its development. It also considers the licensing issues for operators in Turkmenistan. Turkmen Communication is responsible for the provision of radio communication services, GMDSS identity numbers and issuance of ship radio licenses.

The Hydrometeorology Service of the Ministry of Agriculture and Environment Protection, the weather broadcasting and forecasting service of Turkmenistan became a member of World Meteorological Organization on 3rd of January in 1993. At present time, Turkmenistan has about 100 hydro meteorological stations and observation posts, and a total 4 hydro-meteorological centers. is a public administration body that implements the state policy in the area of hydrometeorology and provides river and flood forecasts and warnings to the public to protect life and property and promote the nation's economic and environmental well-being. Producing state statistical reporting in the area of hydrometeorology and provides the data to related authorities.

The Caspian Ecological Control Service is specialized structural units of **Ministry of Agriculture and Environment Protection** of Turkmenistan which carries out periodic environmental inspections of foreign and domestic companies, enterprises engaged in shipping, oil and natural gas, geophysical and geological researches, as well as transportation of energy resources. In the sphere of control service includes the national tourist zone, where the surveys are conducted as sea water, coast and air as in Turkmenbashi city (TP, 2016). The service takes part in developing policies covering environmental protection, nature conservation, enforcing environmental legislation, monitoring environmental quality, handling pollution complaints and incidents in the Caspian Sea. Conducting state ecological expertise of pre-project and design documentation for the construction of industrial and socio-cultural facilities. In addition, the service performs environmental monitoring of institutions and offshore ships. Caspian Ecological Control service at the same time enforces requirements of international MARPOL Convention jointly with SASNT.

The Ministry of Foreign Affairs (MFA) coordinates the cooperation with international organizations in relation to safety of maritime navigation, environmental

protection. In particular, it maintains close relations with relevant bodies to implement international instruments, and supervises on implementation of IMO instruments on periodical basis.

The Directorate of Civil Defense and Rescues Operations Directorate of Ministry of Defense of Turkmenistan, is responsible for civil defence and rescue operations duties falling under their mandate at the national, regional and local levels. The Directorate duties include warning the population, evacuation to shelters, firefighting and rescue and rescue operations at sea, and first aids in the event of an emergency situation occurring. The same authority is responsible for civil defence and rescue services during both normal times and emergencies.

The Navigation, Hydrography and Oceanography Service of the Ministry of Defense of Turkmenistan – provides an essential contribution to national maritime infrastructures. It supports safe and efficient navigation, foster national maritime development, help to safeguard life and property at sea, facilitate the protection of the marine environment and support the management and sustainable development of the national maritime zones. The Service undertakes to arrange for the collection and compilation of hydrographic data and the publication, dissemination and keeping up to date of all nautical information necessary for safe navigation.

2.5 Ratified conventions by Turkmenistan

Turkmenistan became a member of International Maritime Organization, UN specialized agency in 26 of August 1993. As a result of this the State has adopted many international conventions of IMO.

№	Convention	Date of ratification by “Mejlis” (Parliament)
1.	Convention on the International Maritime Organization (IMO-48)	Ashgabat city, 26.08.1993
2.	Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA-88 protocol)	Ashgabat city, 30.04.1999

3.	Convention on the International Regulations for Preventing Collisions at Sea (COLREG 72)	Ashgabat city, 23.10.2008
4.	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW-78/95)	Ashgabat city, 23.10.2008
5.	International Convention for the Safety of Life at Sea (SOLAS-74)	Ashgabat city, 23.10.2008
6.	International Convention on Load Lines (Load Lines-66)	Ashgabat city, 23.10.2008
7.	International Convention on Tonnage Measurement of Ships (TONNAGE-69)	Ashgabat city, 23.10.2008
8.	International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78)	Ashgabat city, 23.10.2008
9.	International Convention on Civil Liability for Oil Pollution Damage (CLC-69)	Ashgabat city, 23.10.2008
10.	1992 Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (CLC protocol-92)	Ashgabat city, 15.08.2009
11.	Seafarers' Identity Documents Convention, 1958 (ILO)	Ashgabat city, 09.11.2013

Table 1 List of Ratified Conventions by Turkmenistan

Source: <https://www.mfa.gov.tm/en/>

Chapter 3 Case Study Analysis of audit in Turkmenistan

3.1 Ratification process of IMO instruments

In order to successfully implement IMO instruments into national law of Turkmenistan, the Member State shall have proper legal basis in order to have complete effect. The main aim of SASNT is to ensure maritime safety, security and environmental protection with respect to Turkmen ships flying under the flag of Turkmenistan and seafarers and promoting those principals in Turkmenistan territorial waters. It is also responsible for the implementation of all national and international legislation related to safety of shipping and the prevention of pollution of the marine environment.

Any adopted International treaties such as Conventions and protocols are ratified by Turkmenistan in accordance with “Law of Turkmenistan on International Treaties” No. 108-IV dated in 10.05.2010. According to this Law all Ministries, which have relations with international organizations, coordinate their activities and make conclusions through the Ministry of Foreign Affairs of Turkmenistan. MFA is the authority body, which deals with international treaties. The Agency and State Maritime Administration justify expediency to ratify conventions and development of proposal. Proposals are approved by the Chairman of Agency to Ministry of Foreign Affairs. MFA then sends proposal to the shares with concerned governmental entities for obtaining their comments and feedbacks in order to become a party to relevant convention or protocol. Once all formalities are finalized and MFA receives positive replies, the drafted documents are presented to the Presidential Administration. The president of Turkmenistan decides on submission of international convention for ratification to Mejlis (Parliament). The Parliament of Turkmenistan considers the international convention of Turkmenistan submitted by the President for ratification and makes decisions on them. Decision on the ratification of international convention are taken in the form of a resolution. The President of Turkmenistan signs the

ratification document based on the resolution of the Parliament on the ratification of the international convention.

3.2 Implementation process of IMO instruments

After ratification of IMO Convention or Protocol, the Agency starts to take measures to implement the requirements of the IMO instruments by drafting national legislation in cooperation with the State Maritime Administration. The Agency jointly with State Maritime Administration prepares the draft of the normative legal acts such as, laws, regulations guidelines and statutes to the Cabinet of Ministers which in their turn again send to relevant authority entities in order to obtain their views and proposals. Finally having in mind all given reasonable proposals, the Agency prepares a final draft of normative legal act and submit it to the Ministry of Justice.

3.3 States responsibility towards IMO conventions

When a convention enters into force for a State, the Government of that State shall be in a position to implement its provisions through appropriate national legislation and to provide the necessary infrastructure. This means that a Government must have a functioning legislative body to enact laws applicable to ships flying its flag, and to provide for their subsequent enforcement. Consistent with Article 94 of UNCLOS and the relevant provisions of the IMO conventions.

1. the ability of the flag State to promulgate laws which permit effective jurisdiction and control in administrative, technical and social matters over ships flying its flag and, in particular, provide the legal basis for general requirements for registries, the inspection of vessels, safety and pollution prevention laws applying to such ships and the making of associated regulations.
2. a legal basis for the enforcement of the flag State's national laws, including the associated investigative and penal processes
3. the availability in the flag State of sufficient personnel with maritime expertise to assist in the promulgation of the necessary national laws and to discharge

the responsibilities of the flag State, including reporting as required by the respective conventions.

3.4 Analysis of the IMO Audit reports

The analysis is based on the 18 audits under IMSAS conducted in 2016 according to the Framework and Procedures for the IMO Member State Audit Scheme. The Audit process was carried out using IMO Instruments Implementation Code as the audit standard. There are two terminologies, such as

- 1) Findings: Non – conformity is used for “non – compliance” with the requirements contained in the mandatory IMO instruments.
- 2) Observation: Current term is used for the lack of implementation of non – mandatory requirements of the III Code.

III Code consists of four parts – Common areas, Flag State, Coastal State and Port State. Figures in this part of analysis provide an overview of the findings classified under these four parts of III Code.

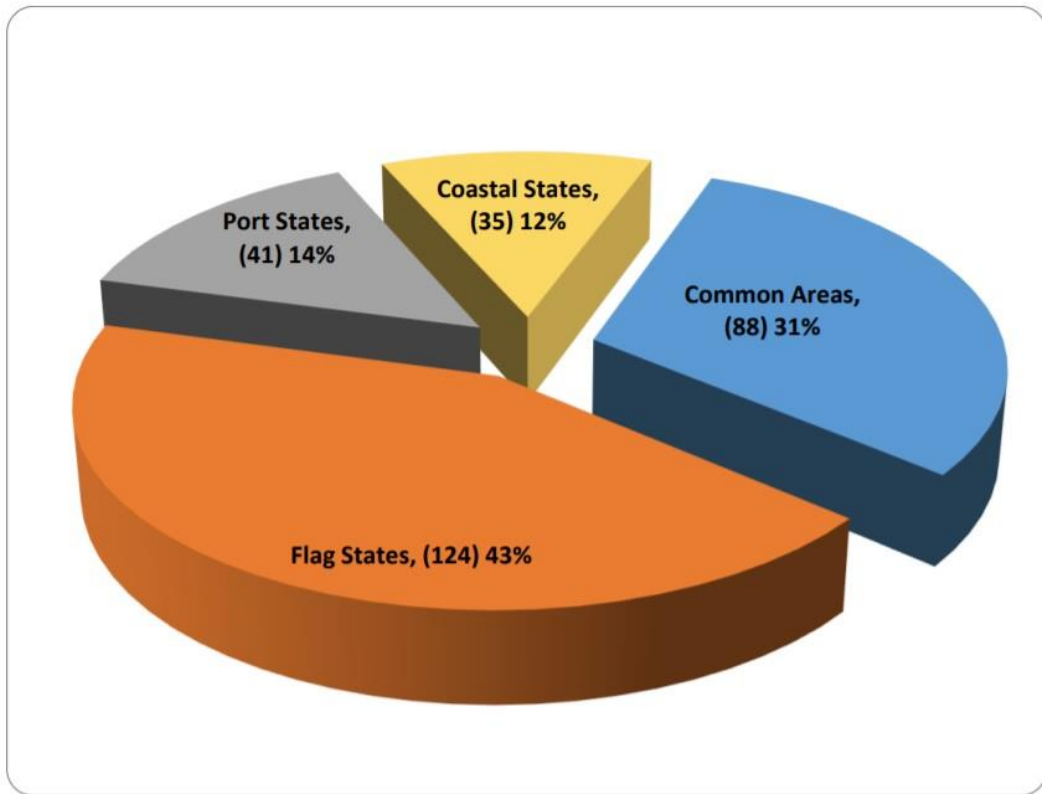


Figure 2 Total number of findings and percentage according to the parts of III Code

Source: <https://docs.imo.org/>

Each Member State views the III Code according to their own circumstances. By virtue of geographical location and circumstances, some of the States may have a greater role and responsibility as Flag State rather than as a Port State or as a Coastal State.

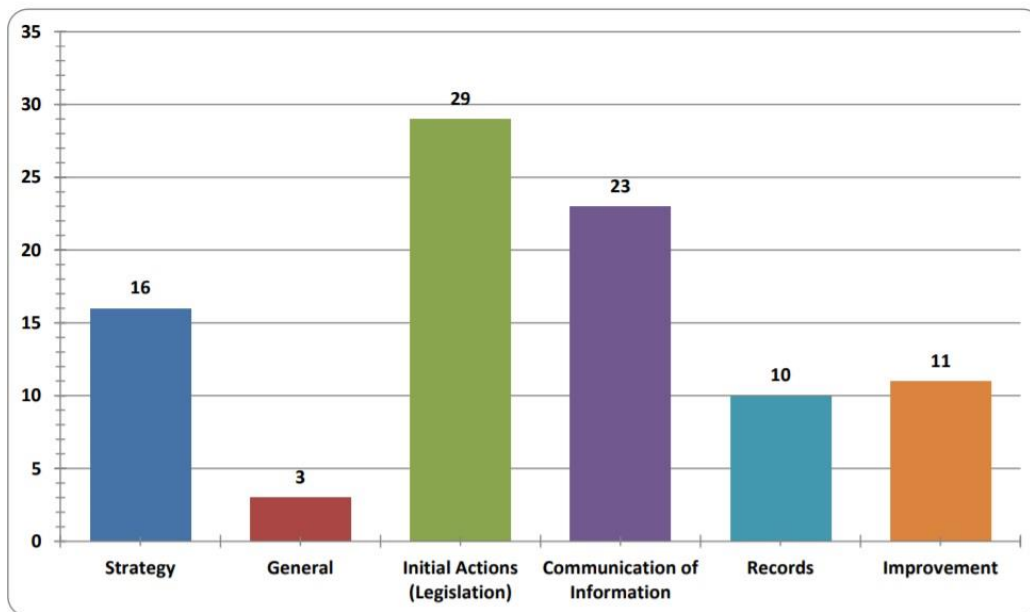


Figure 3 Number of findings under part 1 of the III Code

Source: <https://docs.imo.org/>

Figure 2, provides more detailed view on findings classified under the Common Areas part of the III Code. Graph shows that out of 92 finding and observations, the most common findings relate to the “Initial Actions” which deal more with the legislation process of the particular Member State, and makes 31.5%. This is followed by 23 findings related to the “Communication of Information” which is 25%. The rest of 16 observations are related to the “Strategy” which is 17.3%.

Looking close to the area of “Initial Actions” which is legislation, the main difficulties are related to the transposition of amendments to international instruments into national legislation and, in particular, late promulgation of amendments, which takes effect by the tacit acceptance procedure. Moreover, difficulties in time and period to promulgation of new mandatory IMO instruments and publishing of national laws in official journals, newspapers as it required in IMO conventions. Beside the documentation, lack of competent and qualified personnel to assist in the promulgation of the necessary national laws and to discharge all the responsibilities of the State, which includes reporting as required by the respective conventions, which is also accounts for the measurable number of findings.

The second most common finding in the part 1 of the III Code relates to the “Communication of Information”, which is specifically related to the communication of the texts of the majority of laws, decrees, orders and regulations. In all main Conventions of the IMO, if the text of current Convention is used in the national normative acts, such as decrees, orders, the regulations shall be reported to the General – Secretary for the depository. Moreover, providing IMO with all the reports as required by the various mandatory IMO instruments.

The third most common observation in the part 1 of the III Code is regarding the Strategy. The main findings relate to developing an overall strategy, evidenced by the lack of documentation or incapability of demonstration setting out the strategy. Moreover, it shows that there is a lack of coordination among the responsible entities and gaps in the assignment and discharging of responsibilities. Absence of continuous review of the Strategy. In order to achieve, maintain and improve the overall organizational performance and capability. Verification of the effectiveness in meeting the State’s international maritime obligations and lack of assessment of the overall organizational performance and capability. As well as lack of entity or dedicated unit, acting as a focal point among the various government bodies responsible for the coordination and monitoring of the current activities. In addition, for the “Strategy” analysis shows that in many cases Member States lacked a methodology to monitor and assess that their developed strategy ensures effective implementation and enforcement of the relevant international instruments. Some Member States even had an absence of a “Strategy” itself, and finally there was a lack of mechanism for review on periodical and continues basis of the strategy in order to achieve, maintain and improve the overall organizational performance and capability of the States which performs as Flag, Port and Coastal State.

3.4.1 Challenges and root causes related to the particular areas identified in the audits

After analyzing root causes and reasons why particular Member States are having the findings and observations related to the III Code. It is simple to group them into three broad areas

1. Legislation: Analysis reveal that the most frequent categories of root causes contributing to the lack of effective implementation in the major areas identified in audits were related to lack of national provisions, lack of established written procedures, lack of management system, insufficient resources in aspects of competent human power and financial, lack of technical capability such as; trained personnel, equipment. Moreover, insufficient maritime expertise and capacity in order to promulgate national legislation and to keep it updated by national journal, newspaper, official web sites or national TV channel. When it comes to the technical capability, most of the Member States have a problem with poor technical instructions and guidelines. Additionally, there is a lack of training programmes, which contribute to non-effectiveness in the areas of implementation and enforcement. The main difficulty for Member States, is the lack of national provisions and capacity to promulgate and to keep updated national legislation and internal directives, as well as a lack of assigned responsibility to government bodies or entities of the States. These three categories of root causes are the most challenging factors for non-effectiveness in the implementation of requirements, in implementation areas of flag State, coastal State and port State and in enforcement of flag, port and coastal state.
2. Policy and Procedures: Other frequently reported categories of root causes in the area of policy and procedures are lack of policies, lack of established written procedures and a lack of processes through which the State would effectively implement various requirements. It is very common, when during the audit, the auditor asks from representatives of Member State to demonstrate how a Member State perform and fulfill specific paragraph under III Code and how complied with related IMO Conventions, the representatives explains by making oral presentation without any documented procedures or guidelines. The lack of policies, procedures and processes contributed the most to non-effective implementation in the areas of implementation Flag, Coastal and Port State and enforcement Flag, Coastal and Port State.

3. Management: The most frequent category of root cause related to a lack of awareness understanding and interpretation of the requirements such as; lack of management systems, lack of resources both human power and financial stability, and lack of coordination among various government bodies and entities. Difficulties with simple awareness, understanding, interpretation and management, are considered as challenging factors for each Member States for non-effective implementation and enforcement of the relevant international instruments (flag, port and coastal State) In addition, human and financial resources if taken together present the single most frequent root cause for non-effective implementation of requirement in the area of management.

Chapter 4 Implementation of “Overall Strategy” for Turkmenistan

4.1 Importance of Strategy

“All men can see these tactics whereby I conquer, but what no one can see is the Strategy out of which, victory is involved” (Tzu, BC 500). In order to explain what strategy means in the context of the IMO Code. It is an important tool or mechanism for a Member State to evaluate and assess its effectiveness and performance in meeting its international obligations under the relevant IMO instruments. Without a strategy, roles and responsibilities of various agencies may not be clear. In certain instances, may result in non-compliance or non-timely implementation of instruments (Hebbar, 2020). A strategy is not the same as for example a national maritime transport policy or an entity's quality policy. The transport policy sets the high-level policy direction for governance, regulation and development in the maritime transport sector and is not necessarily focused on the implementation of maritime conventions to meet flag, port and coastal State responsibilities. The quality policy is a policy related to quality and again it is not necessarily focused on the implementation of maritime conventions.

4.2 Develop “Overall Strategy”

As per paragraph 3 of III Code: *“In order to meet the objective of this Code a State recommended to:*

.1 develop an overall strategy to ensure that its international obligations and responsibilities as a flag, port and coastal State are met;

The purpose of developing “Overall Strategy” is to identify relevant appropriate functions, measurements and requirements for the maritime administration to ensure the effective implementation of IMO mandatory instruments and capability to monitor through national strategy. Having a rational an “Overall Strategy” helps to have a clear understanding of authority level for each government entity or body. Designating overall coordinating body with a mandate for all maritime activities which in almost all around the world is maritime administration. No single government body fulfills all the IMO mandatory requirements. Some government entities, other than the maritime administration, may be involved. Therefore, the overall strategy should be signed at a higher level to provide a clear vision of defined functions and powers.

Turkmenistan has developed Overall Strategy, but it is not enough only to have it, therefore, there was an observation, due to lack of insufficient understanding of the scope and level of the overall strategy which means, that the whole paragraph 3 of the III Code is not met as recommended.

According to the Merchant Shipping Code of Turkmenistan, article 6 “State Bodies of Merchant Shipping Control”. The state control of merchant shipping shall be exercised by the SASNT. To perform a role as Maritime Administration with all its responsibility and obligations is assigned by the order of Cabinet of Ministers.

Moreover, Article 7 of Merchant Shipping Code: “State Supervision of Merchant shipping”

States that the State Maritime authority body for maritime affairs and transport shall exercise state supervision of:

- observance of international treaties of Turkmenistan pertaining to merchant shipping and legislation of Turkmenistan on merchant shipping
- safety of life at sea

- licensing of crew members with the exception of crew members of vessels used in the harvest of water biological resources
- state registration of vessels and rights to them, except fishing vessels
- pilot service and system of vessel traffic service in seaports
- marine rescue service and its cooperation with other rescue services
- condition of sea routes
- protection of the marine environment

Maritime Administration are different in every country. Therefore, concept of developing “Overall Strategy” with its requirements under paragraph 3 of III Code, is not universally accepted. Basic objectives for a Member State strategy, is having mechanism which includes 4 keys aspects (Hebbar, 2020):

1. Method for establishing competence and areas of responsibility for entities, involved in the State’s maritime activities
2. Clear lines of authority of each entity leading to an overall coordinating body, with a mandate, for all maritime activities, which would then constitute the maritime administration
3. Process and procedures for determining each entity’s performance against its areas of responsibility and the overall organizational performance of those entities forming the maritime administration
4. A derived system therefrom to monitor, evaluate and improve the performance of maritime administration (Hinrichs)

Since, Agency is government executive body to carry out state policy in maritime transport. Initiation and responsibility of developing overall strategy relies on the Agency. To meet requirements of III Code, Agency should start with application of Plan, Check, Do, Act (PCDA) principle to achieve strategy requirements.

Plan:

1. The State Maritime Administration should start with identifying its problems. The fact that, Turkmenistan has an observation for strategy, regarding III Code. The root cause of the problem was insufficient understanding of the scope and

level of the overall strategy as recommended by the III Code. It shows that, State Maritime Administration doesn't have sufficient expertise in maritime affairs. In order to solve the problem Administration should develop training programmes to improve level of knowledge of the personnel. In addition, for the long term strategy, it would be better if Administration will fund in education system for its own personnel by sending them to get knowledge in World Maritime University (WMU) and International Maritime Law Institute (IMLI).

2. Administration should create link between involved government entities in maritime transport. In order to create harmonized cooperation between government entities, overall coordination of the interdepartmental working group should be assigned. In addition, strategy should include appointment of coordinating body, council or working group which will be responsible for discharging the duties for each involved government entity. The main course of the coordinating body or council should be as follows:

- Regulation of interaction of government bodies among each other, regarding maritime affairs.
- Analysis of the requirements of maritime conventions and IMO documents
- Development of proposal and mechanism to improve the national legislation, the system of State regulation, level of responsibility of industry entities.

The overall coordination of this group should be carried out by the State Maritime Administration. If necessary Administration should be able to organize a meeting of the involved members of this working group to discuss the issues of concern. The agenda of the working group meeting should be formed by Administration on the basis of the information received. In order to implement the instruments and documents adopted and issued by IMO into national legislation and to enforce it, members of the working group, within competence of their authorized state body, develop appropriate mechanism. such measures shall be taken permanently. Amendments to secondary legislation are inserts by the structural unit of the authorized state body whose expert is a member of the working group and whose competence includes consideration of the issues raised. The strategy should be a high-level document, decree or official

government paper, which may also provide for the appointment of a coordinating body or council and define its functions and powers. For this purpose, a maritime administration may not be a single agency but a collection of entities with the implementation and enforcement responsibilities under the applicable mandatory IMO instruments.

4.3 Establish methodology to monitor

As per paragraph 3 of III Code: *“In order to meet the objective of this Code a State recommended to:*

.2 establish a methodology to monitor and assess that the strategy ensures effective implementation and enforcement of relevant international mandatory instruments.

This mechanism should be kept on evaluating and improving, since every entity reports to coordinating entity, in our case it is maritime administration. There would be some indicators that will provide and evaluate performance of each entity. However, this process should follow the scheme Plan, Do, Check, Act (PDCA). Administration will be able to monitor which aspects or government body is low performed, and where it has gaps. So that would be easy for the government, take and plan their next step forward to that problem in solving it. In order to evaluate the process and procedures for determining each entity’s performance regarding its limitation of responsibility, timeframe takes essential role and should be clearly discussed and pointed for each performance and goal in overall organizational performance. When a convention enters into force for a State, the Government of that State must be in a position to implement its provisions through appropriate national legislation and to provide the necessary infrastructure. This means that a Government must have a functioning legislative body to enact laws applicable to ships flying its flag, and to provide for their subsequent enforcement. Therefore, National Law on International Treaties, article 20 *“General supervision over the implementation of international treaties of Turkmenistan”*. Shows that the general supervision is carried out by The Ministry of Foreign Affairs of Turkmenistan. Hence, State has legal basis to monitor implementation of IMO instruments. In case of violation of obligations under an international treaty by the other participants. Relevant State bodies jointly

with MFA submit proposal on taking the necessary measures in accordance with international law. It shows that State has a legal basis, in order to monitor of implementation of international treaties. Therefore, working group should include department or representative from MFA. Another option that, Administration is identified to monitor on regularly basis the instruments and documents adopted and issued by IMO in order to maintain national legislation at the actual modern level in compliance with amendments to conventions, resolutions, guidelines, recommendations and circular letters of IMO. In addition, report on periodical basis to MFA. To ensure the systematic implementation of unified international requirements, as well as to review of effectiveness of activities as a flag, port and coastal State, strategic goals, tasks and target indicators for development of maritime field of the Turkmenistan should be defined as in table below:

Goals, objectives and target indicators

No	Goals	Objectives	Target Indicators	Implementation period			Responsible entities
				2020	2023	2025	
1	Providing hydro meteorological safety	Development of a system for ensuring hydro meteorological safety of the population and marine activities	Correctness of storm warnings about dangerous hydro meteorological events in the water areas of Turkmenistan sector of Caspian sea		X		Adm, MAEP

Adm – State Maritime Administration
MAEP – Ministry of Agriculture and Environment Protection

Table 2 Goals, objectives and target indicators

Source: Hojanepes Gulyyev (2020)

Program, with description of final results reflecting level of achievement and implementation of strategic goals and objectives by government bodies. The members

of the working group, within the competence of their state body, on periodical basis should monitor the above mentioned strategic goals, objectives and target indicators and submit information on the progress of their achievement or proposals for their updating to the Administration on periodical basis, for instance: every year in December.

4.4 Review on periodical basis

As per paragraph 3.3 “Strategy” of III Code: *“In order to meet the objective of this Code, a State is recommended to:*

.3 Continuously review the strategy to achieve, maintain and improve the overall organizational performance and capability as a flag, port and coastal State.

Mechanism of “Overall Strategy” describes how entities communicate with each other, in order to avoid overlapping in many related aspects. Some responsibilities may be divided. One entity may have authorization to implement, by issuing certificates, when the other has the responsibility to enforce, inspections, penalties and sanctions in case of violation of IMO instruments according to their national jurisdiction. Therefore, IMO standards the minimum requirements and leave to the member States to decide and use sovereignty rights as a flag, port and coastal State either government may come up to the point in order to go above the minimum standard. It is very important that “Overall Strategy” focuses on implementation of maritime conventions to meet flag, port and coastal State responsibilities” because in some countries, some member States confuses and mistaken with understanding of terming “Overall Strategy”, Although, they have a strategy but it is about the national maritime transport policy, it is not the same.

One of the main requirements of the Paragraph 3.3 of III Code is that State should be able to answer a question:

- How is performance assessed against convention obligations, future performance indicators?

Strategy includes goals which has to be achieved by the time, which are planned and have been put into agenda. This is considered as indicator, each goal should have a

deadline, so working group may evaluate during the period condition of that aimed goal. It will create clear picture of the stage of the strategy. If deadline is close and that particular goal is not achieved, working group may push that specific entities which are involved in that particular mission to make it on time. Therefore, for the long run, working group with involved entities should set primary goals, such as

- Setting clear objectives, frameworks for implementation and regulatory environment for commercial vessel industry;
- Assess the impacts and conduct a review of regulations systematically to ensure that they meet their intended objectives efficiently and effectively;
- Ensuring that regulatory processes are nondiscriminatory;
- Carrying out a review and where necessary enhance the scope, effectiveness and enforcement of policy on the competitiveness of the maritime industry, enhance regulatory process that strengthens economic efficiency and competitiveness;
- Develop a framework for approving IMO supplementary instruments for enabling the effective implementation of regulations.

Main duties for achieving those goals

- Have effective legislation and standards in place
- Effectively engage with industry on new legislative and operational arrangements
- • Draw up a penalty system in order to take legal action against ships which have been identified as not being in compliance with the international instruments;
- Develop effective systems and methods of dealing with and accelerating the process of incorporating amendments into the national legislation.

Performance indicators

- Proportion of regulations that adequately addressed net benefit to the community

- Communication with regulated entities is clear, targeted and effective
- Actions undertaken are proportionate to the regulatory issues being managed

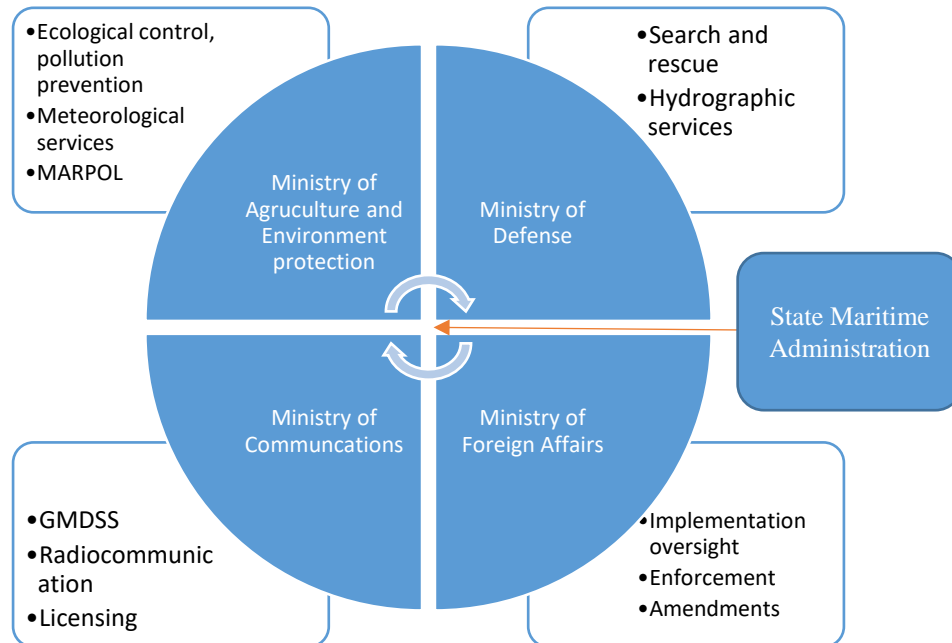


Figure 4 Proposed chart for cooperation and discharging responsibilities

Source: Hojanepes Gulyyev (2020)

4.5 Communicate its strategy to IMO

As per paragraph 9 of the III Code “Communication of information”, State should communicate its strategy, as referred to in paragraph 3, including information on its national legislation to all concerned.

Communication is vital when it comes to the International Maritime Organization, besides that, communication is mandatory in IMO procedures. Member States should not forget about its contribution to the entire world, for its safety, security and being environment friendly. Set of UN SDG’s 17. Partnership for the Goals (IMO, 2015). Communication of Information is essential aspect of IMO, by providing information to IMO, it positioning itself as a warning or best practices platform through which other member States benefits by gathering that information to avoid accidents in new areas. As simple example of “Overall Strategy”, moreover in III

Code, it states 4 times about communication to Organizations, which shows, that it is essential in contributing for the entire world.

Because of globalization and high development in technology, every convention is a matter of updating with relevant amendments. While these procedures do not seem easy, they are achievable. The maritime world itself is very dynamic and changing, in addition new technologies accelerate this process, in near future, maritime shipping tends to moving to autonomous ships, and this is also a huge amount of work of challenges and limitations, to undertake all these procedures and processes, at the same time being contemporary, would not be possible without having rational strategy. Overall Maritime Strategy it is just a first step of the ladder of the whole procedure that's need to be accomplished, by looking only to the last step of ladder country may fail in at first step and fell down avoiding the first step. That is why it is very important to develop a planned strategy, that basically clarifies mission and vision of member a Member State regarding the ensuring that international obligations and responsibilities are fully met.

Chapter 5 Conclusion and Recommendation

Administration should take serious approach when dealing with the IMO instruments. It is seen that participation of Turkmenistan to IMO meetings, assembly, sub-committees is 0 for the last 5 years. Although, one of the main issues is wrong understanding of III Code regarding the strategy. Therefore, Administration should take proactive position and participate in those meeting at least, in order to have opportunity to see the problem solving and discussion inside. Exchange experiences with other representatives from other Member States. This is beneficial both for the IMO and for the Member state to take proactive position and presence in those meetings (Mansell, 2009).

It should be noted that technical assistance is available to flag States experiencing difficulties in meeting their treaty responsibilities. It is beneficial opportunity, which IMO provides, technical cooperation especially regarding the IMSAS processes. Member State which is awaiting to conduct an audit have a right to

request technical assistance from the IMO. Since audit is conducted with interval of 7 years, for the next IMO audit, Turkmenistan should request that technical assistance. In 7 years a lot might be changed, with today's technology and the fact that maritime transport is looking forward to apply autonomous shipping. Hence, strategy and legislation system, number of mandatory IMO instruments under III Code also might be changed (Mansell, 2009).

In additional, it is not only for one ministry's or entity's strategy, and performance evaluation. Instead, performance measurement is an umbrella and collective evaluation of all ministries and agencies performing maritime functions relating to those mandatory IMO instruments to which the State is Party. In reviewing the overall strategy, accounts should be taken of the division of responsibilities among involved entities of a State, which participate in the implementation and enforcement of the mandatory IMO instruments. A mechanism should exist for all involved entities of a State to contribute to the overall effectiveness of the State in the discharge of its obligations and responsibilities that are collected from the applicable mandatory IMO instruments. In that context, the overall strategy should present a framework, which effectively coordinates their maritime related work and provides a mechanism for assessing the overall effectiveness of the State in meeting its international obligations under the mandatory IMO instruments (Mansell, 2009).

Administrations should improve the adequacy of the measures which are taken to give effect to those conventions and protocols which they have ratified, adopted or acceded to and ensure that they are effectively monitored. Improvement can be made through rigorous and more effective application and enforcement of national legislation. The use of these Guidelines for flag States on how to administer maritime safety and environmental protection responsibilities can help achieve this improvement.

The global technical cooperation programme on IMO Member State Audit Scheme (IMSAS) which is also provided by IMO, specifically in their preparation for the audit, based on Section 9 of the Framework for the IMO Member State Audit set out in part 1 of the annex to resolution A.1067(28) on the Framework and Procedures

for the IMO Member State Audit Scheme. Pursuant to the Framework, the provision of technical assistance facilitates the preparation of the audit, the identification of obstacles to completing the audit, the effective implementation of actions to address the findings of the audit and any related capacity building. This cooperation is focused on MSA module and GISIS. Participation in the audit process of suitably qualified individuals nominated by developing countries and included in the roster of auditors under the Scheme has also been ensured through the aforementioned global programme. The assistance provided through this programme includes participation of such individuals as part of audit teams during the conduct of audits in other Member States (IMO, IMSAS - IMO Member State Audit Scheme, 2015).

Moreover, developing the proper strategy for the Turkmenistan according to the III Code, will have a positive effect not only for implementing IMO instruments but also for the economic stability and prosperity of the nation. Having a policy to enhance the safety, security and environment protection will create a good image in international arena. When a country has a good image and policy of being environmental friendly it shows that the State's political ambition of good faith towards neighbours is a concern for the country. Hence, double land-locked country Uzbekistan is borders with Kazakhstan and Turkmenistan. May have an access to the free shipping through the transit states to the Caspian Sea by making bilateral agreement with neighbouring countries. Uzbekistan choice for making agreement will fell on the country which has an image of high standard of safety, security and environment protection. Because these matters are an evidence of that, the State's legal base is acting well.

Finally, to the above activities, which mainly related to the legal framework needed for the implementation of instruments, the Administration also attributes significant importance to the training of its personnel in order to keep it up to date with changes to conventions as well as the implementation of other instruments.

References

- Abilov, S. (2017). *Legal Status of the Caspian*.
- Barchue, L. (2009). The Voluntary IMO Member State Audit Scheme: An Accountability Regime for States on Maritime Affairs. *WMU Journal of Maritime Affairs*(Vol. 8).
- Chatterjee, A. (2018). *The effectiveness of IMSAS Audits of Member States in Implementation of IMO Regulations*. INMARCO.
- Hebbar, A. (2020). *Strategy*. Retrieved from <https://academics.wmu.se/mod/folder/view.php?id=7498>
- Hinrichs, S. (n.d.). Retrieved from <http://www.traceca-org.org>: http://www.traceca-org.org/fileadmin/fm-dam/TAREP/68ta/1/1_Maritime_Conventions.pdf
- IMO. (2015). *IMSAS - IMO Member State Audit Scheme* (Polestar Wheatons ed.). London: International Maritime Organization.
- IMO. (2015). *International Maritime Organization*. Retrieved from www.imo.org: <http://www.imo.org/en/MediaCentre/HotTopics/Pages/SustainableDevelopmentGoals.aspx>
- IMO. (2020). *International Maritime Organization*. Retrieved from www.imo.org: <http://www.imo.org/en/OurWork/MSAS/Pages/default.aspx>
- Mansell, J. (2009). *Flag State Responsibility*.
- TP. (2016, August 12). Retrieved from <http://turkmenpetroleum.com>: <http://turkmenpetroleum.com/en/2016/08/12/turkmenistan-maintains-tight-control-over-the-protection-of-the-marine-environment-of-the-caspian-sea/>
- Tzu, S. (BC 500). *The Art of War*.
- UN. (1982). *United Nations Convention on the Law of the Sea*.
- IMO, Resolution A.1070 (28) IMO Instruments Implementation (III) Code
- IMO, Resolution A.1067 (28) Framework and Procedures for the IMO Member State Audit Scheme
- IMO, Resolution A.1068 (28) Transition from the Voluntary IMO Member State Audit Scheme to IMO Member State Audit Scheme
- IMO, Resolution MSC.366 (93) Amendments to The International Convention for The Safety of Life at Sea, 1974, As Amended
- IMO, Resolution MEPC.246(66) Amendments to The Annex of The Protocol of 1978 Relating to The International Convention for The Prevention of Pollution from Ships, 1973 (Annexes I – V; Resolution MEPC.247(66) – Annex VI) (Amendments to MARPOL Annexes I, II, III, IV and V to make the use of the III Code mandatory)
- IMO, Resolution MSC.373(93); Resolution MSC.374(93) - STCW Code Amendments to The International Convention On Standards ff Training, Certification and Watchkeeping for Seafarers (STCW), 1978
- IMO, Resolution A.1083(28) Amendments to The International Convention On Load Lines, 1966
- IMO, Resolution MSC.375(93) Amendments to The Protocol of 1988 Relating to The International Convention On Load Lines, 1966, As Amended

IMO, Resolution A.1084(28) Amendments to The International Convention On
Tonnage Measurement of Ships, 1969
IMO, Resolution A.1085(28) Amendments to The Convention on The International
Regulations For Preventing Collisions At Sea, 1972
Convention on the Legal status of the Caspian Sea, 2018

National Laws of Turkmenistan

Decree of President of Turkmenistan in 29 of January 2019, PP-479
Merchant Shipping Code of Turkmenistan
Law on International Treaties of Turkmenistan