

## **1 Follow-up to recommendations *Collision on the Western Scheldt, river cruise ship Viking Idun and chemical tanker Chemical Marketer***

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### **1. About this report**

On 1 April 2019, shortly after midnight, a Swiss river cruise ship, the Viking Idun, collided with a Maltese chemical tanker, the Chemical Marketer, on the Western Scheldt, near the Put van Terneuzen. There were 171 passengers and 49 crew members on board the river cruise ship. There were 22 crew members on board the chemical tanker, which was laden with a cargo including benzene, heptane and methanol. A number of passengers on board the Viking Idun suffered minor injuries as a result of the collision, and the damage to both ships was considerable.

The Western Scheldt is one of the most heavily used areas of water in the world, where inland shipping traffic, sea shipping and recreational shipping come together, day and night. This intensive traffic, combined with narrow navigation channels, shallows, strong currents and tidal effects make this a high-risk navigation zone. The Dutch Safety Board concluded that despite the complexity of the area, the knowledge and competence of the crew members of inland shipping vessels are not subject to any additional requirements.

In the report, the Dutch Safety Board issues four recommendations. These relate to improving the qualification and competence of the nautical crew, the effectiveness of supervision on river cruise shipping and sharing the findings and lessons learned from the investigation within the national and international network of Rhine and Inland Navigation.

The aim of these recommendations is to remove the safety shortcomings with a view to improving safety in the inland shipping sector and specifically the river cruise sector in the Netherlands.

The Common Nautical Authority and the Dutch Minister of Infrastructure and Water Management responded to the recommendations in June 2021. On 27 January 2023, the Ministry sent a further update on the follow-up to the recommendations. Viking River Cruises responded in November 2022. The full text of the reactions is available on the website of the Dutch Safety Board. Koninklijke Binnenvaart Nederland (Dutch sector association for inland shipping) did not send a response to the Dutch Safety Board to the recommendation addressed to that organization, but did publish a reaction on its website.<sup>1</sup>

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<sup>1</sup> See: <https://www.binnenvaart.nl/nieuws/351-veilige-en-vlotte-scheepvaart-op-westerschelde>.

This memorandum contains a general conclusion about the follow-up to recommendations, followed by a short summary of the responses received to each recommendation and a conclusion about the follow-up to that recommendation.

## 2. General conclusion about follow-up

All recommendations have been or for the most part are being followed up on. According to the Minister of Infrastructure and Water Management, at present only the introduction of the obligation to take a pilot on board is not possible, because of provisions in an international treaty (the Mannheim Convention). Consideration is still being given to encouraging the Minister to call for the inclusion in the Mannheim Convention of the obligation to take a pilot on board, as intended in the recommendation. A justification for this requirement is the fact that the Scheldt area is one of the most heavily used shipping zones in the world. It is a complicated maritime traffic situation with both inland shipping and sea shipping. One of the underlying principles of the Mannheim Convention is to ensure that measures are taken in the interest of the general shipping safety. An obligation to take a pilot on board as recommended by the Dutch Safety Board could contribute to that aim.

It should be noted that inland shipping passenger vessels on the Western Scheldt are now explicitly informed about the use of pilots. In addition, Viking River Cruises always uses a pilot on the Western Scheldt if the crew on board does not have sufficient knowledge of the area.

The Minister of Infrastructure and Water Management added one further footnote to the recommendation to investigate accidents and incidents involving river cruise ships on a structural basis. According to the Minister, the possibilities available to the Human Environment and Transport Inspectorate (ILT) and Rijkswaterstaat<sup>2</sup> for conducting investigations are subject to restrictions. The Minister also identifies a role for the Dutch Safety Board in investigating such accidents and incidents.

The Safety Board does indeed use its mandate to investigate serious incidents involving inland shipping vessels. Nonetheless, this does not relieve the Ministry of Infrastructure and Water Management of its responsibility to also conduct its own investigations into accidents and incidents involving river cruise ships, and sharing the lessons learned and findings from all available investigations with international partners.

Over the coming years, practice will have to show to what extent the measures taken by the parties involved actually result in better management of the risks of (near) collisions involving inland shipping passenger ships on the Western Scheldt.

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<sup>2</sup> Rijkswaterstaat is part of the Dutch Ministry of Infrastructure and Water Management and responsible for the design, construction, management and maintenance of the main infrastructure facilities in the Netherlands.

### 3. Follow-up per recommendation

#### Recommendation 1

*To Viking River Cruises and other operators active in the river cruise market:*

Ensure that during each journey by a river cruise ship, a fully qualified and competent nautical crew is present on the bridge/wheelhouse.

- a. Develop, implement and enforce a customized training programme for the nautical crews, with periodic skills testing.
- b. In that process, specifically focus attention on command of (foreign) languages (including nautical English) and sufficient local knowledge of the proposed shipping routes.

*Reaction from Viking River Cruises and other operators active in the river cruise market:*

Viking reports having taken a series of measures to follow up on the recommendation.

- Since the incident, only captains and officers of Viking with considerable knowledge of the area sail on the Western Scheldt. If this is not possible, Viking obtains the services of a pilot. Additional budget has been set aside for this purpose.
- The introduction and maintenance of a safety management system (ISO45001 and ISO14001). This includes investigating near accidents and incidents to ensure changes are made where necessary. There are also internal audits and drills for on-board safety procedures.
- Corporate captains and the planning team at Viking track the vessels on the Western Scheldt via vessel tracking systems; they also communicate regularly with the crew.
- A series of training initiatives for improving the sailing and navigation skills of the personnel, including: all officers receive refresher training on simulators; in 2023, in-service training will be provided to crew members on the Antwerp-Ghent-Hansweert route; an annual season start with prepared chart material for officers sailing on the Western Scheldt; extensive safety and emergency response training at the start of the season for the crew of every ship; and a chat group for sharing training information and the latest news about the Western Scheldt.
- Training programmes in 2022 on the training ship Viking Bestla, focused on nautical knowledge, language classes and wheelhouse training.
- Training on six different simulators, with a particular focus on nautical communication skills.
- All training courses for crews on the Western Scheldt are given in English.
- Training has been expanded to include a personal online environment, in which the company is able to monitor the progress and development of all officers.

Finally, Viking reported that the incident has left a lasting impression on the nautical department. Viking strives to learn from every incident that takes place within the fleet and the overall sector.

The Dutch Safety Board did not address other operators specifically. As a result, they are not expected to respond.

#### *Conclusion on follow-up*

Viking River Cruises has followed up on the recommendation. Follow-up by other operators cannot be confirmed.

### **Recommendation 2**

*To the Common Nautical Authority, the Minister of Infrastructure and Water Management and the Flemish Minister of Mobility and Public Works:*

Tighten up the authorization and competence requirements for nautical crews on river cruise ships within the Scheldt area, making use of the option of including additional provisions in the Western Scheldt Shipping Regulations to ensure safe passage by river cruise ships. Possible provisions relate to familiarity with the navigation zone and/or the obligation to take a pilot on board, if this knowledge is not present. Also investigate whether these measures can be secured internationally.

#### *Response from the Common Nautical Authority (CNA)*

The Permanent Committee on Supervision of the Scheldt Navigation (PC) that implements the rules of the CNA, has made it clear in a letter dated June 2021 that the investigation and the recommendations from the Dutch Safety Board offer useful suggestions for further improving nautical safety on the (Western)Scheldt.

The Committee first pointed out that the competence requirements for nautical crew on river cruise ships do not fall within the purview of the PC. The PC referred to the proposal from the Minister of Infrastructure and Water Management for the implementation of the European Directive on professional qualifications published in 2018 and the possibility contained in that Directive for the designation of 'Inland waterways of a maritime character' and 'Inland waterway routes with specific risks' (see below the response from the Minister of Infrastructure and Water Management).

The PC agreed to cooperate fully with the designation of the (Western)Scheldt as an inland waterway of a maritime character and in investigating the possibilities of designating the Western Scheldt as an inland waterway route with specific risks.

In addition to the measures already taken for inland shipping passenger vessels, the CNA has also taken steps to ensure the effective enforcement of a working language requirement. All

ships are now checked for working language before entering the area managed by the CNA. The CNA has also drawn up a Common Instruction for the traffic control centre and mobile traffic controllers concerned, in which the following points are included:

- Upon observation of insufficient command of one of the compulsory working languages, where there is no indication of an evidently dangerous situation, a warning is issued first.
- For repeated violations, an official report will be drawn up.
- In the case of an evidently dangerous situation, the CNA will detain the ship at a safe location, until a person is brought on board who sufficiently speaks one of the working languages (this person may also be a pilot).

In consultation with representatives of the sector, the CNA has also published a brochure listing all special local features and contact details in case the ship wishes to call in the services of a pilot.<sup>3</sup>

#### *Response from the Minister of Infrastructure and Water Management*

The Minister argues that the European Directive on professional qualifications in inland shipping (2018) largely meets the recommendation. This includes the introduction of a compulsory EU qualification certificate for inland shipping deck crew, a specific licence for waters of a maritime character and a specific licence for inland waterway routes with specific risks. In February 2022, the Directive was partially implemented via an amendment to the Inland Shipping Regulations. For complete implementation, according to the Ministry, an amendment will also be needed to the Inland Shipping Act and the Inland Shipping Decree. This process is expected to be concluded by mid-2023. The central element of these amendments is that the current experience-based qualification system will be altered to a competence-based qualification system for crew members in inland shipping. The Ministry expects the implementation to make an important contribution to the tightening up of the authorization and competence requirements.

In an additional response from the Ministry of Infrastructure and Water Management, the Ministry states that via implementation of the Directive, the Western Scheldt is now a waterway of a maritime character. Therefore, higher examination requirements apply to newly trained skippers. In addition, the senior secondary vocational education study programme is already being generally adjusted/reinforced. The CNA is investigating whether the competences that apply for a waterway of a maritime character are sufficient to guarantee safety on the Western Scheldt, or whether additional requirements must be imposed. A number of additional competences are being discussed between the policy departments in the Netherlands and Flanders; their discussions will be continued within the CESNI.<sup>4</sup> The aim is to introduce additional competences for inland waterways of a maritime character. On this basis, the

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<sup>3</sup> The brochure is available on the [website of VTS-Scheldt](#).

<sup>4</sup> The European Committee for drawing up standards in the field of inland navigation.

Ministry intends to refrain from designating the Western Scheldt an inland waterway route with specific risks.

The Minister is also in discussion with the Permanent Committee on Supervision of the Scheldt Navigation (PC) (with both Dutch and Flemish representatives) with the aim of adjusting the Western Scheldt Shipping Regulations to mitigate the risk of similar incidents to that involving the Viking Idun, as far as possible.

According to the Minister, it is not possible to introduce an obligation to take a pilot on board. This impossibility relates to the Mannheim Convention<sup>5</sup>, which states that all vessels admitted to the Rhine navigation are entitled to select a route of their choice in transiting the Netherlands on their way from the Rhine to the open sea or to Belgium, and vice versa. According to the Minister, this convention leaves no room for an obligation to take a pilot on board. The Minister has indicated the aim of seeking a different solution within the Permanent Committee (see also response from the CNA above).

#### *Response from the Flemish Minister of Mobility and Public Works*

For this response, see the response from the Common Nautical Authority (see above) in which the Flemish government is represented.

#### *Conclusion on follow-up*

The recommendation has been partially followed up on. The obligation to take a pilot on board cannot be realized, due to a provision in the Mannheim Convention. The CNA does however now expressly inform inland shipping passenger vessels on the Western Scheldt about the possibility of pilot services.

Consideration is still being given to encouraging the Minister to call for the inclusion in the Mannheim Convention of the obligation to take a pilot on board, as intended in the recommendation. A justification for this requirement is the fact that the Scheldt area is one of the most heavily used shipping zones in the world (see also the investigation report). It is a complicated maritime traffic situation with both inland shipping and sea shipping. One of the underlying principles of the Mannheim Convention is to ensure that measures are taken in the interests of the general shipping safety.<sup>6</sup> An obligation to take a pilot on board as recommended by the Dutch Safety Board could contribute to that aim.

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<sup>5</sup> The Mannheim Convention specifies the legal system for the Rhine as a waterway and records the authorities of the Central Committee of the Rhine Navigation. Signatories to the Convention are Belgium, Germany, France, the Netherlands and Switzerland.

<sup>6</sup> See among others Protocol 10, Basis for the interpretation of the Mannheim Convention.



### Recommendation 3

*To the Minister of Infrastructure and Water Management:*

Improve the effectiveness of supervision on river cruise travel:

- a. Develop a supervision arrangement for coordinated supervision of river cruise shipping.
- b. Develop a set of tools for effective enforcement of the working language requirement.
- c. On a structural basis, investigate accidents and incidents involving river cruise ships. Subsequently take action based on the lessons learned and share these lessons and findings with international partners.

*Response from the Minister of Infrastructure and Water Management*

Re a:

Together with the various supervisors and enforcement partners, the Minister is preparing an action plan to improve the coordination and implementation of supervision on the Western Scheldt. In the meantime the current supervision system will be continued.

Supervision of compliance with the Inland Shipping Act and the Working Hours (Transport) Decree is risk-based. In these inspections, a regular component is focused on all ship types, with a possible theme component for a specific ship type. For river cruise travel, the Human Environment and Transport Inspectorate (ILT), the police and the SZW Inspectorate (now the Netherlands Labour Authority) have together conducted theme-based inspections according to these regulations, supplemented with specific subjects such as crew exploitation. Although the details of inspections by the various departments are exchanged for regular inspections, there is as yet no nationally coordinated supervision system. Consequently, according to the Minister this will be included in the supervision arrangement, with a focus on the qualification of the nautical crew and conduct of river cruise shipping, on the water.

In an additional reaction, the Ministry has indicated that within tactical consultation sessions (in which the enforcement partners concerned collaborate) passenger shipping has been identified as a priority. A basic plan has been drawn up for tackling the enforcement efforts. This is a national plan that should also be nationally coordinated and elaborated in terms of enforcement, under the auspices of the tactical consultation *Safe transport by water*. The plan is currently being implemented.

Re b:

The Police, ILT and Rijkswaterstaat have identified priorities in their enforcement plan, such as enforcement of sailing and rest times, and the presence of sufficiently qualified personnel on ships. Rijkswaterstaat has identified communication as one of its priorities. This includes enforcement of the compulsory working language. On the Western Scheldt, the working

language must be either Dutch or English. Therefore, the following policy line has been agreed with all enforcement partners:

1. Upon observation of insufficient command of one of the compulsory working languages, but where there is no indication of an evidently dangerous situation, first a warning.
2. For repeated violations, an official report.
3. In the case of an evidently dangerous situation, detain the ship at a safe location and require them to take a person on board who speaks one of the working languages.

CNA, ILT and Rijkswaterstaat are jointly investing in targeted checks for the above, in particular advance checks. A new brochure has also been published and widely distributed, for the cruise season.

According to the Minister, it is not always easy in practice to determine whether there is sufficient command of the working language. This has been a problem for some time, according to the Minister. Checks on command of the working language are carried out on board. According to the Minister, it is both difficult and dangerous to cross from a patrol vessel to a river cruise ship, in particular because river cruise ships mainly sail at dusk and during the night. In addition, the area covered by a single patrol vessel is considerable. As a consequence, according to the Minister, it is not always possible to enforce rules against ships on which there is insufficient command of the working language. To be able to enforce a rule, a (special) investigating officer must be present on board, to interview the skipper.

Nonetheless, the Minister recognizes the necessity of increasing the effectiveness of enforcement, also of the working language requirement. On the Western Scheldt, lists of expected river cruise ships are now being requested, in advance, from the adjacent ports. This offers the enforcement partners an opportunity to inspect these ships before they enter the operating zone, in relation to the regulations and in respect of the working language requirement. On that basis, together with the other enforcement partners, Rijkswaterstaat will organize a number of targeted inspection days in which this system of pre-inspection will be employed for passenger vessels, also in respect of working language. These inspection days will then be evaluated.

Enforcement interventions are reported to the Permanent Committee. The picture at the CNA is that the tighter inspection regime for passenger ships appears to be bearing fruit. According to the Ministry, equipment on board these ships and communication with the ships has vastly improved.

#### Re c:

To successfully safeguard nautical safety, the Minister underlines the importance of learning from incidents so that their recurrence can be avoided in the future. In line with the recommendation, according to the Minister, serious incidents on national waters are being investigated by ILT and Rijkswaterstaat for lessons learned. Learning from incidents is also included in the Maritime Safety Policy Framework, an area in which the Minister has



announced the wish to achieve further improvements.<sup>7</sup> This can for example take the form of agreements on investigating incidents and near misses within the organization, and discussing the outcomes of those investigations with other nautical managers. Based on the risk classification in this policy framework, incidents involving passenger ships have priority. In the additional response issued in January 2023, the Minister announced that a consultation structure has been established for incident investigation with Rijkswaterstaat, DGLM and seaports and that within that structure, agreements will be reached on incident investigations and the sharing of lessons learned.

According to the Minister, the possibilities open to ILT and Rijkswaterstaat for conducting investigations are limited. For example, ILT and Rijkswaterstaat have no authority to interview parties involved in an incident (such as crew members) in the framework of an accident investigation. In many cases, the crew or the operator are unwilling to cooperate on a voluntary basis, because their cooperation could have consequences for them in future criminal proceedings or civil lawsuits, in terms of liability. Because of these restrictions, such investigations are often unable to penetrate to the heart of the matter, according to the Minister. In the Minister's words, this is above all the case in the event of incidents with human involvement (such as sailing behaviour and communication) and/or on-board operation, on the ships. Against that background, the Minister intends to consult with the Dutch Safety Board on the possibilities for commissioning the Safety Board to investigate all serious incidents involving inland shipping vessels, on a structural basis, so that the structural underlying causes of incidents can better be identified, with a view to learning lessons from those incidents. According to the Minister, the Dutch Safety Board is a body with the necessary authorities and capabilities to carry out independent investigations.

#### *Conclusion on follow-up*

Recommendation 3a has been followed up on, recommendation 3b has mainly been followed up on and recommendation 3c has been partially followed up on. With regard to the follow-up to 3b, practical experience over the coming year will have to demonstrate the extent to which enforcement is effective.

In the framework of the follow-up to recommendation 3c, discussions have already taken place between the Ministry of Infrastructure and Water Management and the Dutch Safety Board concerning investigations into serious incidents involving inland shipping. The Dutch Safety Board will use its mandate to investigate serious incidents involving inland shipping vessels. Nonetheless, this does not relieve the Ministry of Infrastructure and Water Management of its responsibility to also conduct its own investigations into accidents and incidents involving river

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<sup>7</sup> In the [Letter to Parliament dated 1 December 2022](#), the Minister of Infrastructure and Water Management announced that actions aimed at a more risk-based approach have been initiated, but that given the scale of the task, it will still be some time before they have been fully executed, and the approach fully implemented. The Dutch House of Representatives will be issued with an overview of the current state of affairs before the summer of 2023.

cruise ships, and sharing the lessons learned and findings from all available investigations with international partners.

#### **Recommendation 4**

*Central Office for Rhine and Inland Shipping (CBRB):*

Share the findings and lessons learned from this investigation within your national and international network, including the Passenger Transport Member Group.

*Response from the CBRB/Koninklijke Binnenvaart Nederland<sup>8</sup>*

Koninklijke Binnenvaart Nederland (KBN) did not send a response to the Dutch Safety Board but has published a reaction to the recommendation, on its website.

This reaction makes it clear that KBN is already sharing the findings and lessons learned from the investigation with its network. In addition, in collaboration with the CNA (see the response from the CNA above), KBN has published a new brochure clearly explaining a number of important safety rules for inland shipping passenger vessels. Those rules cover the following:

- Being conversant with marine radio procedures. Ships are required to notify their arrival in the shipping zone via marine radio.
- Communication in Dutch or in English.
- Notifying the number of people on board the ship upon arrival in the zone.
- Sailing is permitted up to a wave height of not more than 1.5 metres and in visibility of at least 1000 metres.

The brochure has been distributed among members and is available on the KBN website.<sup>9</sup>

*Conclusion on follow-up*

The recommendation has been followed up on.

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<sup>8</sup> CBRB has now merged with Binnenvaart Logistiek Nederland to form the sector association Koninklijke Binnenvaart Nederland.

<sup>9</sup> See: <https://www.binnenvaart.nl/nieuws/351-veilige-en-vlotte-scheepvaart-op-westerschelde>