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## **Seafarer competency – the Manila Amendments to STCW**

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The first International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention) was adopted in 1978. It proved to be largely toothless and vague to the point that it actually established no meaningful standards. While it was a first step, the 1978 Convention was not a good first step.

After many years of effort, the Parties to the 1978 Convention met again in 1995 to overhaul the process. As noted in the Foreword to the publication of the results on the 1995 Conference: "Complete revision to the annex to the 1978 STCW Convention became necessary in order to clarify the standards of competence required, introduce qualification requirements for trainers and assessors, provide effective mechanisms for enforcement of its provisions and allow greater flexibility in the assignment of functions on board ship and thus broaden the career opportunities of seafarers." The amendments adopted by the 1995 Conference of Parties to the STCW Convention, 1978 were quite successful in establishing meaningful standards against which to measure the quality of training, certification, and watchkeeping of seafarers.

The world, though, does not stand still. Some would argue that the 1995 standards were obsolete before the ink was dry on the signatures adopting the amendments. Certainly, much has changed in the interim between 1995 and today. Electronic navigation was in its infancy in 1995. Maritime security was a minor consideration. The use of simulators and other electronic training aids was rudimentary. Additionally, forgery of seafarer certificates was not particularly widespread at that time.

After some years of work, the Parties met again, this time in Manila, the Philippines. There, they agreed to a wide-ranging update of the STCW Convention and Code. They also agreed to an ambitious timetable for implementation of the changes. The rapid coming into effect of many of the changes may come back to haunt the various Administrations tasked with implementing the new provisions and the maritime community – the world's merchant mariners and their employers.

At the end of the Conference in Manila on 25 June 2010, the Parties approved a Final Act reporting adoption of what are commonly called the Manila Amendments. The Parties also adopted a number of resolutions that are related to, but somewhat outside the strict terms of the

STCW Convention. One resolution recommends that Administrations take appropriate steps to establish electronic databases to assist in verifying the authenticity and validity of certificates of competency and endorsements and to respond promptly to requests from other Administrations for verifications. Another resolution recommends that Administrations make arrangements to ensure that shipping companies take steps to promote the technical knowledge, skills, and professionalism of seafarers. The Parties invited the International Maritime Organization (IMO), in cooperation with the International Labour Organization (ILO) and the World Health Organization (WHO), to develop guidelines to implement the medical fitness standards for seafarers. The Parties invited the IMO to revise and update existing model courses and develop new model courses consistent with the STCW Convention as amended. A resolution was approved recommending the governments adopt measures to ensure that masters and officers of ships that operate in polar waters have the appropriate training and experience. Other resolutions were adopted to attract new entrants, particularly women, into the maritime profession. Finally, in recognition that the world will continue to change, a resolution was adopted calling for further amendments to the STCW Convention and Code on a five-year cycle and a comprehensive review on a ten-year cycle.

Among the direct amendments to the STCW Convention and Code are the following: (1) revised requirements for hours of work and rest; (2) new requirements relating to training in modern technology, such as the electronic chart display and information system (ECDIS); (3) new requirements for marine environment awareness training; (4) new requirements for training in leadership and teamwork; (5) updated competence requirements for personnel serving on all types of tankers; (6) new requirements for security training, including training for potential pirate attacks; (7) introduction of modern training methodology, including distance learning and web-based learning; (8) training for operations in polar waters; (9) training for operation of dynamic positioning systems; and (10) new requirements for maintaining standards for competence and refresher training.

The 2010 Manila Amendments enter into force on 1 January 2012. Specific requirements are to be phased in. The new minimum rest hour requirements and a limited number of new standards will take effect immediately. Commencing 1 July 2013, new entrants must be provided training in accordance with the Manila Amendments. Also on that date, Administrations will commence issuance of Manila Amendment certificates. As of 1 January 2014, all seafarers must be provided with security training. All provisions of the Manila Amendments become mandatory for all seafarers as of 1 January 2017.

The US Coast Guard recently issued a Supplemental Notice of Proposed Rulemaking (SNPRM) to implement the Manila Amendments for the US merchant marine, as well as to make other non-STCW changes to reorganize, clarify, and update related provisions. Unfortunately, the marine industry was only being provided until 30 September 2011 to submit comments. This short timeframe was dictated somewhat by the 1 January 2012 entry into force of the Manila Amendments. It is hoped that the Coast Guard will issue an Interim Rule, as opposed to a Final Rule. An Interim Rule can include a further request for comments and expedite the making of changes to the regulations to address rubbing points that arise as the rule comes into effect.

One of the Coast Guard's goals with this rulemaking is to better separate the STCW requirements and the non-STCW requirements. A significant proportion of US mariners are not subject to the STCW, but the current regulations engender some confusion concerning which requirements apply to non-STCW mariners and their employers.

The SNPRM also provides entry paths from domestic endorsements to the equivalent STCW endorsements. The Coast Guard proposes to accept various methods for assessment of competence, preserving the "hawsepiper" program which permits the use of on-the-job training or practical experience to obtain endorsements and foster career paths. Mariners serving on the Great Lakes and inland waters would be eligible for sea service credit toward STCW and domestic endorsements of unlimited tonnage. Applicants serving on Great Lakes waters would be credited with one day of ocean service for every day of Great Lakes service, because operations on the Great Lakes closely resemble ocean service. Applicants serving on inland waters would be credited with one day of ocean service for every two days of inland service for up to 50% of the total required service.

The regulatory changes required to implement the 2010 Manila Amendments, as well as those required to otherwise bring the Coast Guard regulations up to date, are numerous and detailed. They will impact every US merchant mariner and every one of their employers. The timeline for these changes is ridiculously short given their breadth and depth. The Coast Guard and the regulated community must work together in good faith to bring those changes into effect. The regulated community must work hard to understand and implement the changes, while recommending appropriate changes to the Coast Guard. The Coast Guard must avoid playing "got you" and not take immediate adverse action based on technical non-compliant situations. The regulated community will need guidance and occasional prodding to come into full compliance. A draconian approach by the enforcement side of the Coast Guard will prove distinctly unhelpful and counter-productive. We are all in this together.