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## **Unfamiliar ships**

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The theme for World Maritime Day 2015 is Maritime Education and Training. Education and training is a life-long pursuit. It does not end when you graduate from a maritime academy or school, receive a certificate, and get your first job. Not only do you have to gain more knowledge and skill to get a promotion, you have to gain more knowledge and skill just to retain your current position. This is particularly true for those serving at sea. Equipment on ships is regularly upgraded. Most mariners change ships with alacrity – and each ship is different.

### **ISM Code**

On 6 November 1991, the IMO assembly adopted Resolution A.680(17) entitled “IMO Guidelines on Management for the Safe Operation of Ships and for Pollution Prevention”. While not mandatory, the Resolution established standards for measures that owners and operators should implement to reduce the risk of marine casualties. The concept was to identify steps necessary to safeguard the shipmaster in the proper discharge of his or her responsibilities in regard to maritime safety and protection of the marine environment. The Company was identified as responsible not only for ensuring that its ships were adequately manned for the trade in which they were engaged, but also for ensuring that ship’s personnel have the proper knowledge of the technical aspects of the ship and its operation as necessary for performance of their duties, and receive the necessary training for familiarization with the particular ship or equipment.

This concept that ‘familiarization with the particular ship in which the seafarer was engaged’ was a Company responsibility had not previously been articulated. Back when ships were more basic and less technical, ships (at least those in the same trade) were very similar. The equipment on the bridge of one ship was generally the same as that found on the bridge of other ships. By 1991, that was beginning to change. GPS was becoming common, but was not yet ubiquitous. Electronic charts were being introduced, but were still considered experimental. AIS was truly experimental. The IMO recognized that, as ships became increasingly differentiated, it was important that seafarers be made aware of the particular characteristics of the vessel to which they had been assigned, even if that concept was not mandatory.

In 1993, when the ISM Guidelines became the ISM Code, the ‘familiarization’ provision was reworded to:

*The Company should establish procedures to ensure that new personnel and personnel transferred to new assignments related to safety and protection of the environment are given proper familiarization with their duties. Instructions which are essential to be provided prior to sailing should be identified, documented and given.*

The 1994 Conference of Contracting Governments to the International Convention for the Safety of Life at Sea (SOLAS) 1974 adopted a new chapter IX on Management for the Safe Operation of Ships, with the effect that the ISM Code, including the ship familiarization provision, became mandatory on 1 July 1998 for passenger ships, including passenger high-speed craft; oil tankers; chemical tankers; gas carriers; bulk carriers; and cargo high-speed craft of 500 gross tonnage and upwards, regardless of their date of construction.

The ISM Code was adopted for the United States by means of section 602 of the Coast Guard Authorization Act of 1996 (codified at 46 U.S. Code, Chapter 32 – Management of Vessels) and became mandatory for covered US-flag vessels on 1 July 1998. The ISM Code was implemented for the United States by means of a new Part 96 to title 33 of the Code of Federal Regulations – Rules for the Safe Operation of Vessels and Safety Management Systems, promulgated as a final rule on 24 December 1997.

## **STCW Convention**

The International Convention on Standards of Training, Competency, and Watchkeeping for Seafarers, 1978 (STCW Convention) reflects the increasing challenges with regard to seafarers. When first adopted, it utilized the standard terminology for crew members on board commercial vessels, such as deck officer and engineer officer, with terms such as officer in charge of a navigational watch appearing only occasionally. Radar was the only means of electronic navigation specifically mentioned.

## **The 1995 Amendments**

The first comprehensive amendments to the STCW Convention were made in 1995. The terms deck officer and engineer officer were largely consigned to history. The use of simulators as a training tool was formally recognized and the ship familiarization provision was added. Many of the details were moved to a new STCW Code. Part A of the Code became mandatory, while Part B consisted of recommendations (best practices). Flag administrations were also required to inform the IMO concerning measures taken to ensure compliance with the Convention.

## **The Manila Amendments of 2010**

The STCW Convention and Code were changed again in 2010 by means of the Manila Amendments. In addition to recognizing various increased complexities, a number of wholly new provisions were added. Measures were added to address the risk of fraudulent certificates of competency and to closely monitor flag administrations' compliance with Convention. Requirements relating to hours of work and rest and for prevention of drug and alcohol abuse were strengthened. Specific requirements regarding training in and use of such technology as electronic chart displays and information systems (ECDIS) were added. Use of electro-technical equipment and dynamic positioning systems were recognized, with training and certification standards defined for the first time. Guidance was added relating to personnel serving on board ships operating in polar waters. Security training was mandated. Distance learning and web-based learning were recognized as alternative or supplementary approaches.

Regulation I/14 (originally dating from 1995) now states, in pertinent part:

*Each Administration shall . . . hold companies responsible for the assignment of seafarers for service in their ships in accordance with the provisions of the present Convention, and shall require every such company to ensure that . . . seafarers, on being assigned to any of its ships, are familiarized with their specific duties and with all ship arrangements, installations, equipment, procedures and ship characteristics that are relevant to their routine or emergency duties and the ship's complement can effectively co-ordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution.*

The STCW Code, in the mandatory Section A-I/14, contains detailed provisions for implementation of this responsibility for familiarization, including the requirement for written instructions to the master, allocation of a reasonable period of time for newly employed seafarers to gain the necessary familiarity, and designation of a knowledgeable crew member who will be responsible for ensuring that an opportunity is provided to each newly employed seafarer to receive the essential information.

In the non-mandatory Section B-I-14, the STCW Code recommends that companies should provide ship-specific introductory programs aimed at assisting newly employed seafarers to familiarize themselves with all procedures and equipment relating to their areas of responsibility. That section further recommends that the master should take steps to implement the company instructions.

The STCW Convention and Code (as amended in 1995) were implemented for the United States by the US Coast Guard interim rule promulgated on 26 June 1997 and entered into effect on 28 July 1997. The pertinent provisions are now codified in Title 46, Code of Federal Regulations, Subpart J – Vessels Subject to Requirements of STCW. Section 15.1105(b) provides:

*On board a seagoing vessel, no person may assign a shipboard duty or responsibility to any person . . . unless [that person] is familiar with it and with all vessel's arrangements,*

*installations, equipment, procedures, and characteristics relevant to his or her routine or emergency duties or responsibilities, in accordance with STCW Regulation I/14.*

## **Generally**

The ISM Code and STCW Convention and Code provisions regarding the vessel familiarization requirement are basically the same, although the STCW Convention and Code includes greater detail. Both have been adopted by the United States and have been implemented and are enforced by the US Coast Guard. Both have been adopted by the vast majority of national governments. Thus, it can fairly be said that the vessel familiarization requirement is universal.

## **Nonobservances**

Experience has taught us, though, that the practice of vessel familiarization has not been universally applied. Investigations following marine casualties commonly include findings indicating that one or more seafarers on the unfortunate ship was unfamiliar with an important piece of equipment or an important procedure. Matters rarely go any further.

An exception was the 7 November 2007 allision of the COSCO BUSAN with the Delta Tower of the San Francisco-Oakland Bay Bridge and subsequent oil spill. Investigations by both the US Coast Guard and the National Transportation Safety Board (NTSB) noted that the master and deck officers (all of whom were newly assigned to the ship only 24 hours prior to departure on this voyage) were unfamiliar with pertinent provisions of the ship's Safety Management System (SMS). On 13 August 2009, Fleet Management Limited, operator of the COSCO BUSAN, entered into a plea agreement with the US Department of Justice (DOJ) admitting its failure to provide vessel familiarization to the crew regarding bridge procedures, bridge team management, the ship's Electronic Charting System, or voyage passage planning prior to the ship's departure on this voyage as required under the ISM Code. In addition to paying a substantial fine, the company entered into an agreement to conduct internal audits of its safety management system and to hire an outside and independent third party audit to review the company's safety management system as applicable for navigation, crew familiarization, and training.

## **Conclusion**

Ship owners and operators cannot assume that each newly-assigned mariner is fully familiar with the ship or with the equipment that he or she will have to use to perform required tasks. There is a legal obligation for owners and operators to make newly-assigned mariners fully familiar with their vessel prior to assuming their duties. The day of the departing mariner passing his or her replacement on the gangway is past. Governments will increasingly hold owners and operators responsible if there is a casualty or spill due to a mariner's unfamiliarity with the ship.

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