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IMPACT OF THE INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE, 2002 ON PROTECTION OF THE MARINE ENVIRONMENT

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Preliminary communication

The paper reviews the scope of the International Safety Management (ISM) Code intended to provide the international standard for safe management and operation of ships and for pollution prevention. It is focused on the ISM Code obligation for safety management system to be established by the Company being defined as a shipowner or any person, such as manager or bareboat charterer, who assumes responsibility for ships operations. An analysis is made of the objectives of providing the international standard concerning shipboard and shore-based management. In author's opinion the success of the ISM Code depends on the effectiveness of its implementation and is underpinned to a great extent by the competence and continuous commitment and motivation of individuals at all levels, both those in companies and on board ships, who are in charge of its implementation.

Key words: safety management, protection of marine environment, shipboard and shore-based management.

INTRODUCTION

The International Management Code for the Safe Operation of Ships and for Pollution Prevention or the International Safety Management Code (ISM) Code origins go back to the late 1980s, when a number of serious accidents which occurred were caused by human errors, with management faults also identified as contributing factors.

In 1989 the International Maritime Organization (IMO) adopted the resolution 647(16) Guidelines on Management for the Safe Operations of Ships and for Pollution Prevention\(^2\) with the purpose to provide those responsible for operation of ships with the framework for proper development, implementation and assessment of safety and pollution prevention management in accordance with good practice. The objective was to ensure safety, to prevent injuries and loss of life, and to avoid damage to the environment, in particular, the marine environment, and to property. The Guidelines

\(^2\) IMO Guidelines on Management for Safe Operation of Ships and for Pollution Prevention, IMO Resolution A.647(16), Adopted on 19 October 1989.
were based on general principles and objectives so as to promote the evaluation of sound management and operating practices within the industry as a whole. Furthermore, Guidelines recognised the importance of the existing international instruments as the most important means of preventing casualties and pollution of the sea and included sections on management and the importance of safety and environment policy.

1. THE INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE

The International Safety Management Code (ISM) Code was adopted in 1993 by resolution A.741 (18) as amended in December 2000 by resolution MSC.104 (73) accepted on 1 January 2002, and the amendments entered into force on 1 July 2002. Thus, the ISM Code became applicable, under chapter IX of the International Convention for Safety of Life at Sea (SOLAS), 1974, first for passenger ships, tankers and bulk carriers on 1 July 1998, thereafter for all other ships over 500 GT on 1 July 2002.

The purpose of ISM Code is to provide an international standard for safe management and operation of ships and pollution prevention and therefore Part A of this Code deals with the implementation and Part B with certification and verification.

Following the preamble, the Part A is stressing the objectives of safety management to provide for safe practice in ship operation and a safe working environment, establish safeguards against all identified risk and to continuously improve safety management skills of personnel ashore and aboard the ships, including preparing emergencies related both to safety and environmental protection. The aim of the safety management system (SMS) is to ensure compliance with mandatory rules and regulations, as well to take into account applicable codes, guidelines and standards.

The Company, which was defined as the owner of the ship or any other organization or person such as manager, or the bareboat charterer, who assured the responsibility for operation of the ship from the shipowner, should establish a safety and environment-protection policy and should ensure that the policy is implemented and maintained at all levels of the organization, both ship-based and shore-based. To insure safe operation of each ship and to provide a link between the Company and those on board, the Company, as appropriate, should designate a person or persons ashore having direct access to the highest level of management. The Company should ensure that the safety management system operating on board the ship contains a clear statement emphasizing the master's responsibility and authority, as well as to establish procedures to ensure that new personnel and personnel transferred to new assignment are given proper familiarization with their duties. Moreover, the Company should establish procedures for the preparation of plans and instructions for shipboard operation. As emergency preparedness the Company should establish procedures to

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2 Adoption of the Amendments to the International Safety Management Code, IMO Resolution MSC.104 (73), (adopted on 5 December 2000).
identify, describe and respond to potential emergency shipboard situation. The safety management system should include procedures ensuring that non-conformities, accidents and hazardous situation are reported to the Company, investigated and analysed with the objective of improving safety and pollution prevention.

Considering maintenance of the ship and equipment, the Company should establish procedures to ensure that the ship is maintained in conformity with provisions of the relevant rules and regulations and with any additional requirements which may be established by the Company. As documentation is of utmost importance and therefore the Company should establish and maintain procedures to control all documents and data which are relevant to the safety management system. The Company is obliged to ensure that valid documents are available at all relevant locations, changes to documents reviewed and approved by authorized personnel and obsolete documents promptly removed. Also, the Company should carry out internal safety audits and periodically evaluate the efficiency of and, when needed, review the safety management system.

Part B of the ISM Code deals with certification and verification, stressing the importance of periodical verification and scope of interim certification, with the elaboration of forms of certificates. In particular, the ISM Code requires a Document of Compliance (DOC) issued to a Company by the Administration in the meaning of the Government of the State whose flag the ships is entitled to fly, by an organization recognized by the Administration, or by another Contracting Government to SOLAS at the request of the Administration.

2. GUIDELINES ON IMPLEMENTATION OF THE INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE BY ADMINISTRATORS

In 1995, the IMO Assembly, recognizing the need for uniform implementation of the ISM Code and that there might be need for Administrations to enter into agreements in respect of the issuance of certificates by other Administrations in accordance with SOLAS chapter IX and ISM Code, adopted the Guidelines on Implementation of the International Safety Management (ISM) Code by Administrations by resolution A.788 (19) as of 1 July 2002\(^1\). These Guidelines were replaced with the Revised Guidelines on Implementation of the International Safety Management (ISM) Code by Administrations which were adopted by resolution A.913 (22) on 29 November 2001 and thus resolution A.913 (22)\(^2\) revokes resolution A.788 (19).

The mentioned guidelines establish basic principles for verifying that the safety management system of a Company responsible for operation of the ships, or the safety management system for the ships controlled by the company complies with ISM Code, for the issue and annual verification of the Document of Compliance and for the issue and intermediate verification of the Safety Management Certificate. In verifying compliance with the ISM Code the attention is focused on the ability of the safety

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management system to meet general safety management objectives and to meet specific
requirements of safety and pollution prevention. The Certification process relevant to a
Document of Compliance for a Company and a Safety Management Certificate
normally involve initial verification, annual or intermediate verification, renewal
verification and additional verification.

3. THE EFFECTS OF THE INTERNATIONAL SAFETY CODE ON
MARINE ENVIRONMENT

The ISM Code is introduced in recognition of the key role of the human
element in safe operation of ships. The task for operators is to minimise the scope for
poor decisions or actions which directly or indirectly contribute to a casualty or
pollution incident

Central to development of a safety culture is the need for senior management
to take responsibility for safe operational management within the company. It requires
Company to link the master and the crew of the ship to the Company through a named
contact ashore - the designated person - with direct access to the highest level of
management. The arrangement doesn’t detract master’s responsibility for operation on
board, but it allows managers and owners to be held accountable for their actions or
omissions in relation of safety management.

It is a flag State responsibility to ensure that ships on their register comply
with the international standards on safety and pollution prevention. In our opinion,
many flag States meet their responsibility effectively, other lack the expertise or
delegate to a less than competent organization.

Port State control is the most direct means of enforcing compliance where the
flag State has failed to do so. It is defence of a responsible flag State to a threat posed
by substandard ships to its coastline and shipping industry. Uncertified ships are readily
identified on port State inspection and may not attempt to trade in areas of strict
enforcement. The more difficult problem is to check the standard of implementation.
There is a widespread concern that some ships have acquired ISM Code certificates at
short notice for a suitable price without changing existing practice and raising the level
of safety awareness.

Effective enforcement goes beyond the immediate action of port States to
force the visiting substandard ships to comply with convention requirements. Therefore
there is a need to put pressure on flag States unwilling to take on their responsibilities,
coupled with technical assistance for those with the will but limited by lack of
expertise.

4. THE ROLE OF STAKEHOLDERS IN IMPLEMENTING
STANDARDS FOR SAFE MANAGEMENT AND POLLUTION
PREVENTION

Should marine pollution occur, as a result, among other things, of the poor
safety management of the shipping industry, there may be significant impact on coastal
states, particularly if the activities of coastal states were dependent on hospitality
industry promoting clean environment and clean sea.
Successful implementation of the ISM Code is promoting that the company has safety and environmental pollution risk under control. A proper safety management system should, among others, ensure that all applicable international standards are complied with, help prevent accident occurring, ensure the procedure are in place for dealing with shipboard emergency, ensure that there is adequate communication between ship and shoreside personnel, ensure that all individuals know their role and responsibility and are adequately trained and have appropriate resources for their job and ensure that all activities and operation are planned, controlled and verified.

In our opinion, there is an important role of service sector stakeholders of the shipping industry – insurers, brokers and charterers – who are in a position to exert commercial pressure on owners of substandard ships in order to marginalise their activities. Today, there is a shared interest in removing substandard ships and their operators from the market, both to improve safety and to provide a level playing field for responsible owners.

5. THE INSURANCE SECTOR PROMOTION OF QUALITY SHIPPING AND LOSS PREVENTION

In terms of putting pressure on shipowners to promote quality shipping and to marginalise the operation of substandard ships, the insurance sector of the shipping industry is probably uniquely placed. Insurance represent not one lever but several. Ships will trade without insurance only in extreme economic circumstances. The majority of owners are open to influence by adjustment of the conditions of insurance cover – by requiring a higher premium or higher excess payment or by refusal to accept the risk at all. Assessment of the risk will usually take account of the owner’s claim record as well as particulars of the ship and area operation, including the safe management activity of a Company and the activities done in loss prevention. Depending on the type of cover the underwriter is definitely interested in human element in ship management and pollution prevention. ISM Code compliance is an obvious starting point and is encouraging that underwriters and mutual insurers require ISM Code certification as a condition of compliance. Protection and Indemnity Clubs will have direct interest since owner members are both the insured and the insurer.

CONCLUSION

In author’s opinion evidence of an enhanced safety culture and acknowledgment of its many benefits is a measure of the global impact of the ISM Code on the shipping industry in general, and on safety in particular. The application of the ISM Code should support and encourage the development of a safety culture in shipping in order to protect marine environment. Success factors for the development of safety culture include: commitment, values and beliefs.

The ISM Code helps operators to do this by implementation of sound safety management practice with the scope of protection of marine environment. Legal consequences of ignorance by senior management of serious defects on board ships will be as severe as consequences of being informed and failing to act.
The ISM Code, based on general principles, recognising that no two shipping companies or shipowners are the same, provides with means of changing the culture in managing safety, in improving safety standards on board, and promoting pollution.

In our opinion, in first level the implementation of the ISM Code has been successfully completed and attention should be focused, on second level on the ships that have escaped the impact of compliance, or failed to implement to standards required by the ISM Code. Therefore, competent port State authorities should continue to provide strong enforcement and pressure on the ships registered with flags unwilling or too incompetent, to enforce compliance due for improving the protection of marine environment.

REFERENCES