

Engineering Circular No. 84

No: ENG/ISM-59(4)/97

Dated: 4th May, 2007

Sub: A) Clarification as to who is the Company as per ISM Code and what is their responsibility. B) Procedure to be followed by the ship owner / manager prior handing / taking over the management in the operation of a ship under ISM Code.

This Directorate while conducting audit of companies for issuance of Document of Compliance under ISM code certification has observed and faced number of situations. Some of the observations / question faced during the audit are:

- That the ship-owners have made various types of arrangements for the management of their ship (s) such as undertaking total ship management on their own or entrusting the crewing to an independent agency and looking after only technical management.
- There are also arrangements whereby crewing is done by the ship- owners themselves and technical management is entrusted to an independent agency. There are also instances where both technical management and crewing are entrusted to different agencies.
- Questions raised as to whether both technical management and crewing should only be carried out by the Company as defined in the ISM Code or the crewing can be outsourced by the company (DOC holder).
- Ship owner carrying out frequent change of the management of company and thus subjecting the ship to frequent Safety audit. This results the ship being operated under an interim SMC for a long time.
- The frequent change in running of the ship under different Safety Management Systems of different companies does not allow the stabilization of the system.

- The frequent change of entity that looks after the management of the ship as referred above, results in poor maintenance of ships as has been observed, many a times, by this Directorate.
- During audit the company not able to demonstrate control on the outsourced activities such as crewing, etc.

The above observations have been discussed at this Directorate and guidance notes prepared on the subject matter for compliance. All concerned, viz., the Ship owner, shipping companies holding DOC issued by this Directorate are required to comply with it prior handing and taking over of management of a ship from ship owner.

A). Clarification as to who is the Company as per ISM Code and what is their responsibility.

1. In case the ship owner decides to entrust the management of its ships to a company then they shall submit to the D.G. Shipping the details of the company (DOC holder) by filling up the ISM Form-11 of M.S. Notice 8/2004.
2. Prior submitting the ISM-11 form, the ship owner must ensure that the company has got the relevant ship type valid DOC for management of its ship.
3. The Company (DOC holder) after undertaking the responsibility for operation of a ship from a ship owner is then to be treated as Company as per ISM Code clause 1.1.2 and shall be considered to be carrying out the total ship management of the ship and they will require to demonstrate the functions of ISM code responsibilities in totality.
4. If the company (DOC holder) has outsourced a part function such as crew management either from the ship owner or from a crew management company, in such arrangements, the company (DOC holder) remains responsible for continuously improving the skills of personnel onboard ship and ashore, and

must provide for safe practices in ship operations including provision of safe working environment as well as the establishment of safeguards against all identified risks, where needed to be demonstrated during DOC / SMC Audit.

5. If paragraph 4, mentioned above is applicable to an entity, who may enter into an agreement duly registered, with the Company (DOC holder), the agreement must specifically mention as to who is "the company." The agreement also should ensure that the crew-managers, all the officers and crew appointed by them on board the vessel shall report to and comply with the instructions and advice of the "company" and that the crew and officers will have a direct link in all matters with the shore based designated person of the "company."

There must also be a clause in the agreement providing that the articles of agreement or any other document (s) that the managers enter into with the officers or crew shall specifically provide that the concerned officer/s or crew shall report and take advice from the "company", whose identity must be disclosed, and shall have a direct link and comply with the instructions of the named "designated person" of the "company." Since, very often, the crew management company appoints a sub-manager; there must be a clause which states that: *"Clauses _____ and _____ in the agreement between the ship-owners / managers and the company shall also be included for compliance in such sub-agreements."*

All necessary and concerned instructions in the matter of compliance with the ISM Code should be documented by the "company" and made available to the officers and crew individually, and their signatures taken of for acknowledging that they have carefully read the same. The "company" shall also independently conduct its own audit of the working of the crew-managers and/or their sub-managers, and obtain all necessary documents showing compliance and keep such documents available with them, to be shown at the time of the ISM audit. The essence is that, the ISM audit of the technical managers,

without the auditor having to go elsewhere, should satisfy him that the "link", as is required under the ISM Code, is properly established.

For your guidance a sample of memorandum between the ship-owners and the "company", and the ship-owners and the crew-managers, as the case may be is at Annex-1 (please note the submission of a copy of your memorandum to the ISM Cell, D.G. Shipping is not a requirement, only submission of declaration form ISM-11 form by ship owner is a requirement)

ANNEX- 1

CLAUSE IN THE AGREEMENT BETWEEN SHIP-OWNERS/COMPANY AND THE CREW-MANAGEMENT COMPANY:-

The crew managers shall ensure that all the officers and crew appointed by them on board the owners' vessel shall report to the Company, M/s. _____, who are the "company", as defined in the ISM Code; and also shall comply with all instructions and advice of the "company". The Managers shall further ensure that the crew and officers appointed will also report to the shore-based "designated person" of the "company", M/s. _____, and shall have a direct link with the company, to whom the officers and crew shall provide all information required, from time to time.

In the event of your sub-contracting this agreement to any other agency, you shall provide an appropriate provision in the agreement, to the satisfaction of the company, to comply with the provisions of clause _____ above.

The crew-managers will also offer the owners / "company" to conduct an audit of its operation of the ship and matters connected with the officers and crew; and all documents in this behalf shall be handed over

and maintained by the **company**, to enable them to make it available to the ISM auditors.

The above provision shall be included in the operation manual and the attention of the officers and crew should be brought to it, at the time of signing on the articles, and their signatures be obtained in confirmation that it has been so brought to their notice.

B). Procedure to be followed by the ship owner / manager prior handing / taking over the management in the operation of a ship under ISM Code.

1. Responsibility of the ship owner prior giving management of its ships to a company:

.1 Ship owner must report to the ISM Cell, D.G. Shipping, Mumbai about the change of management at least 7 working days prior to the actual change of management

.2 To ensure that the company is in possession of a valid DOC / interim DOC for the operation of the ship.

.3 To ensure that the DOC / interim DOC of the company is relevant to the ship i.e., the ship type mentioned in the DOC / interim DOC must correspond to the ship being considered for management.

.4 To submit declaration of company (duly filled ISM-11 form) to the ISM Cell, D.G. Shipping, Mumbai.

2. Responsibility of the company (ship manager) prior and after taking over the management of a ship from the ship owner before putting into operation:

.1 To carry out a detailed pre-takeover inspection to ensure following:

a. Ship is in possession of valid statutory certificates and complies with all flag State

requirements

- b. Ship is provided with a response plan in identification of new company (ship manager).
 - c. Ship is in possession of all previous and present records pertaining to its SMS and ship security plan.
 - d. Ship staff is familiar with reporting requirements in case of emergency situation.
 - e. Ship is in possession of a valid class certificate from IACS member or IRS or both and that the ship is free from any condition of class.
- .2 On satisfactory verification of above and after deciding to take over the management of the ship, the company must impart training to its ship staff on reinforcement of best practices of company policy, objectives and its SMS
- .3 The superintendent is required to impart training to joining ship staff with ship's equipment with special focus on emergency equipment / procedures and safety management system and to ensure that the crew certification is complete as per ships manning certificate.
- .4 Familiarization of ship staff is to be done on ships lay out and loading / discharging, mooring, navigation and Engine Room procedures / operation with the existing staff.
- .5 Emergency drills and safety committee meeting, boat and fire drills, safety rounds to be conducted by the ship staff and reported to the superintendent.
- .6 After rectification of all deficiencies / defects and finding that the ship's condition is satisfactory for

operation, the designated person to make a request to Administration / R.O. (presently IRS) for Interim SMC Audit.

- .7 On the basis of the level of ship staff's familiarization, training, experience, the company may decide on the requirement of sailing of the vessel with entirely new set of ship staff or mixture of old and new ship staff and with or without superintendent.

This issues with the approval of the Chief Surveyor with the Government of India.

Sd/-

(D.Mehrotra)

Dy.ChiefSurveyorcumSr.DDG(Tech)