

ReportISM



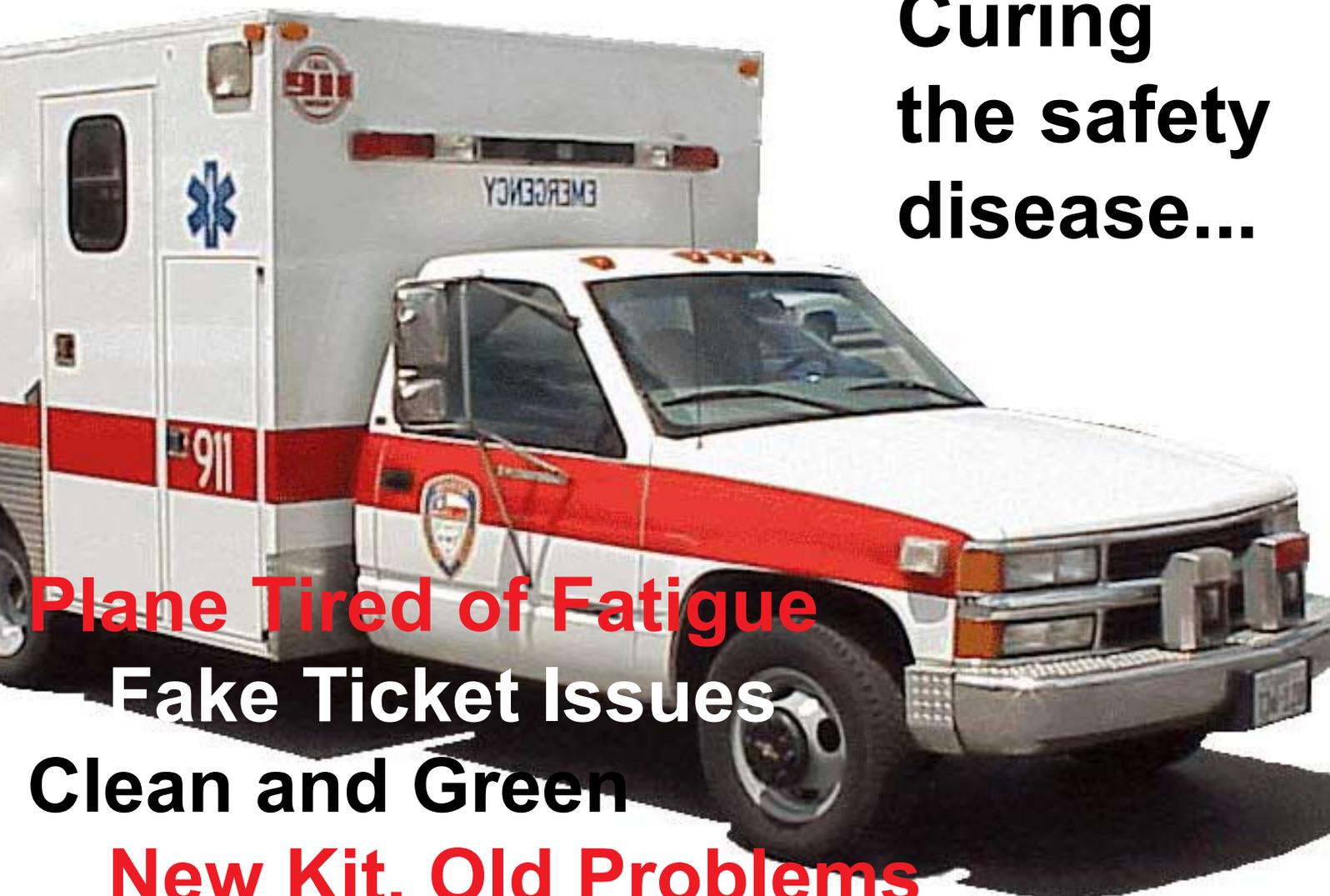
The ISM Code Magazine...
by experts for professionals.

Issue 16

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Welcome to the Autumn issue of ReportISM – our quarterly e-newsletter dedicated to marine safety management, the ISM Code and related issues.

In this issue we will be exploring a range of what I hope our readers will find interesting and thought provoking articles. These include a discussion of the USA's Environmental Protection Agency's 'Vessel General Permit' (VGP) scheme and MARPOL compliance, the continuing and possibly growing problem of forged Certificates of Competency and details of a new initiative which attempts to measure and identify fatigue.

This issue also includes a detailed and potentially provocative article in which I raise serious concerns about the possible negative effects of tanker vetting inspections. From what I am seeing and hearing, from a number of quarters, including vetting inspectors themselves, tanker operators often find themselves struggling to get their ships through vetting inspections such that almost all their available resources are

being channelled into that activity – to deal with symptoms to get through the vetting inspection rather than dealing with underlying problems which are the cause of the symptoms.

In October 2009 we ran our first DPA Training Course workshop – in conjunction with Maersk Training Centre (UK). This was a most successful event and an article written by a freelance journalist who interviewed delegates and course tutors appears on page 10 of this issue of ReportISM.

Interestingly we have received a significant number of enquiries from ship operating companies asking whether we can run the course as an 'internal' course just for their own staff. This included not only deep sea commercial ship owners and managers but also a number of companies involved in the off-shore sector as well as deep-sea towage. Of course ConsultISM and Maersk Training Centre (UK) are delighted to accommodate such requests – although to make the courses viable we would require a guaranteed minimum of 11 delegates. Any Company that would like further details or to discuss the possibilities of such 'in-house' training is invited to contact me directly on philanderson@consultism.co.uk

DPA and Senior Managers 'ISM Awareness' courses are being arranged for the first half of 2010: Piraeus in January, Singapore in February, Glasgow in March, and Copenhagen in April – it is also intended to run courses in the USA and India before the summer. Full details of the courses can be found on our website www.consultism.co.uk

I hope you find this issue of ReportISM both interesting and useful. If I or my team at ConsultISM can be of any assistance to you then please do not hesitate to contact us accordingly.



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Plane Tired of Fatigue



There has been a media furore recently, as airline pilots across Europe have demonstrated against “flawed” new EU Rules on flying hours. Representatives of the British Airline Pilots’ Association (BALPA) claim that an increase in hours will lead to accidents and they will be left, “too tired to fly”.

It all sounds horribly familiar. We in the maritime domain are all too aware of the dangers of fatigue. Seafarers’ hours of work/rest, are regulated under relevant sections of STCW and ILO conventions - or at least in theory. However, numerous anecdotal accounts exist, suggesting excessive hours being worked and manipulation of records in an attempt to conceal the truth and suggest compliance. The working of excessive hours, with inadequate rest, can lead to fatigue which is well recognised as a major contributory factor in the causal chains leading to accidents, hazardous occurrences and near misses.

For the Danish Maritime Authority (DMA) the failure to curb seafarers’ working excesses is cause for grave concern. They are convinced, as perhaps we all are, that a large number of vessels are submitting falsified data to verify working hours.

There have long been problems with increasing paperwork, navigation

responsibilities and other onboard tasks, which have to be juggled with dwindling levels of shipboard staff. The answer, DMA feel, is to harness technology to compute realistic crew fatigue levels. Conducting the research is Force Technology, a Danish research group based in Copenhagen. They

have developed a management tool to compare a vessel’s operations with the skilled staff available.

Until now it has been difficult to break the problem into its constituent parts, looking at the whole crew as a resource divided by the tasks onboard. With this new approach there is scope for an objective assessment. The intention will be to take 20 test cases, processing data from selected vessels to determine if the crew could have realistically managed to perform the operational tasks while sailing according to legal limits. Any disparities will suggest overwork, and therefore fatigue. Such a logical and methodical approach will hopefully close the loop on falsified records, while highlighting that it is both futile and dangerous to do so.

While the ISM Code does not tackle the issue of fatigue directly, the issues of overwork, fatigue and the safety threats these pose are taken into account within **Section 1.2, “OBJECTIVES”**, which includes the following:

1.2.2 Safety management objectives of the Company should, inter alia:

.1 provide for safe practices in ship operation and a safe working environment;

.2 establish safeguards against all identified risks;

1.2.3 The safety management system should ensure:

.1 compliance with mandatory rules and regulations; and

.2 that applicable codes, guidelines and standards recommended by the Organization, Administrations, classification societies and maritime industry organizations are taken into account.

The ultimate aim is to ensure seafarers are not fatigued, and that the regulations are enforced.

However by closing loopholes and equating the problem to operational realities, we can create an environment in which seafarers are not tempted or compelled to work beyond safe limits, and that reports reflect a true picture of work onboard.

Fatigue has been a major problem for years. It is the insidious evil that erodes all other good we may achieve. We can have the most highly trained seafarers with the very best equipment, but tired people make mistakes. Mistakes lead to accidents, which bring death, injury, pollution, shattered businesses and reputations. Using the sensible approach of benchmarking operations the vessel has undertaken against the actual means of performing them should mean we can finally quantify and then tackle this danger to people and shipping.



Safety Management 911

Commercial Issues and Safety Management – are they incompatible goals?

A practice has become apparent, both from the legal cases we are involved with, as well as reports and feedback being received from Vetting Inspectors, Ship's Masters and others, which is of great concern.

Some tanker operators appear to be experiencing considerable difficulty satisfying the requirements of Vetting Inspectors acting on behalf of Oil Majors. They appear to be 'fire-fighting' in their attempts to deal with the various problems and deficiencies being identified by the Vetting Inspectors. Sometimes they can do just enough to resolve the specific issues and manage to scrape through – until the next Inspection when a whole range of new deficiencies are identified.

This in spite of the ship operators supposedly applying the principles set out in the Tanker Management Self Assessment (TMSA) program.

When this situation is analysed closely it becomes clear that what the tanker operator is doing is dealing with symptoms and not addressing the underlying cause.

The analogy of a Physician is useful and illustrative to help understand the problem.

When a patient consults the Physician he may describe one or more symptoms which are affecting his general health and well being. He may, for example, complain of

headaches. The Physician may not go into any detail with a diagnosis but simply prescribe Aspirin – which may help to relieve the symptom – the headache – for a short time. However, a week later the patient is back to see the physician complaining of dizzy spells. On this occasion the Physician conducts a more detailed questioning of the patient and discovers that the patient has also been vomiting and has experienced blurred vision – more symptoms of an underlying problem.



Using this information and a detailed physical examination followed by blood tests and x-rays – the underlying cause is discovered – the actual illness / disease is diagnosed and the appropriate cure properly prescribed. Only once the underlying causes have been dealt with will the symptoms stop appearing and a cure properly achieved.

Returning to the situation which exists in some tanker operating companies and on board their ships – there are a number of warning signs to look for which should alert

you to a serious underlying problem:

- Numerous deficiencies and problems being identified during vetting inspections;
- Numerous deficiencies and problems being identified during Port State Control inspections;
- Zero observations or non-conformities being identified during internal audits.

Such a situation would be indicative of a Company in self denial with a seriously defective safety management system. Such a Company could continue trying to fix the deficiencies – i.e. the symptoms – but will never solve its problems until they properly develop and implement their SMS.

The reality is that the 'fire-fighting', whilst trying to provide the short term fixes to the immediate problems identified by the Vetting Inspector or Port State Control, will be an enormous drain on resources of all types. This situation also puts the Company in a poor light with the potential customer – the Oil Major.

Deficiencies being raised by Port State Control may lead to detentions with the consequences which may flow from that and in any event will attract the attention of PSC in other ports visited – which in turn will result in additional visits and the potential for more deficiencies being identified. Such problems may also come to the attention of the P&I Club or Hull Underwriter who may decide that they should have a look at the vessel and how the SMS is working – and no-doubt they will compile their own list of deficiencies and problems.

The Master, Officers and Crew onboard such a ship will make their own judgement on the situation and the top quality staff will look towards other Companies for their future careers. Of course the most important point is that such a

situation has a very high potential for accidents – and consequently claims – to arise.

Inevitably, the Company which is trapped in the ‘treating symptoms’ syndrome, doing just enough to get the ship through the latest Vetting Inspection, will find that almost all its resources are being directed to that activity. The Company adopts the position that if the ships do not get through the Vetting Inspections then they will not be taken on Charter and if they are not on charter they are not earning money – and so all priorities are spent on getting the ship through the Vetting Inspection. This whole attitude is short sighted, misguided and seriously mistaken.

Indeed the Master, Officers and Crew on board are frequently the ones who suffer most from this situation. They are often torn between trying to implement an ineffective SMS which is probably well past its sell-by date and abandoned by the Company and, on the other hand, trying to provide the quick fixes to whatever is picked up by the Vetting Inspector. The result is confusion and demotivation amongst the sea staff.

As this demotivation sets in and the experienced sea staff make their exit the result is that less experienced and competent officers move in to take their place. Vetting steps up a notch to address the issues arising from the reduced experience and competence of the officers and the spiral downwards seems to be increasing without any solutions being proposed.

The short term fix is nothing more than that – the deficiencies and problems will continue to arise and a serious accident is likely to arise at any time. The only way to solve the problem is to dig deep and identify the root cause problem and then do what is necessary to cure that disease. Invariably, the problem is an ineffective SMS which has not been either adequately developed and / or implemented.



Clearly there must be a SMS in place – and, at some point, a Flag State Administration / Recognised Organisation must have considered the SMS adequate since, presumably, the Company was issued with a Document of Compliance (DOC) and the ship a Safety Management Certificate (SMC). Unfortunately, this does not necessarily mean that the SMS is either effective or efficient.

The reality is that a Company is expending considerable sums of money, and other resources, ‘fire-fighting’ trying to get its ships through Vetting Inspections and will also incur not inconsiderable sums doing just enough to maintain its DOC and SMCs. Whilst an initial outlay, and other commitments, may be necessary to deal with the underlying root cause problem this will be the greatest investment a tanker operator could possibly make and would be quickly recovered in the medium term. Once that investment is made the symptoms will cease to appear and all the costs and drain on resources ‘fire-fighting’ simply will not be necessary in the future.

The reputation with the customer – the Oil Major – will grow. The record with Port State Control will improve – resulting in fewer

visits. The Company will become an attractive career option to the top quality Masters, Officers and Crew - motivation will be increased and through strong leadership the people at the sharp end will make the SMS efficient and effective. Most important of all, the chance of an accident happening will have been reduced to a minimum. Everyone is a winner – including the customer – the Oil Major.

Every tanker operator should take a long, hard and honest look at itself and reflect upon whether its focus is on getting its ships through Vetting Inspections or on managing safety. These should not be seen as conflicting goals or competing for resources. The reality is that if a tanker operator gets its management of safety properly sorted then it will, quite naturally, take Vetting Inspections and Port State Control inspections in its stride.

ConsultISM can assist tanker operating Companies take an objective and constructively critical look at itself with regard to how its SMS has been set up and is being implemented in practice. ConsultISM can then work with the Company to move forward and introduce the necessary corrective action to make the SMS efficient and effective.



Keep It Clean and Green

An interesting article recently appeared in Lloyd's List, originating from the Standard P&I Club. It discussed the fact that there is a very real risk that the USA Environmental Protection Agency's Vessel General Permit (VGP) will be the next tripping hazard that crews and ship operators may stumble upon, resulting in the potential prosecution of crew members and companies alike.

Much has been written and documented with regards to MARPOL violations and the way in which the United States law enforcement agencies actively pursue convictions with close to 100 companies and almost as many crew members having been prosecuted. Indeed, only the other

week a Panamanian company were fined \$1.25 million for so-called vessel pollution crimes. It is interesting to note meanwhile, that the majority of cases have been concerned with false or bad record keeping, obstructing justice and general non-compliance with MARPOL as opposed to actual pollution, most pollution having taken place outside US waters.

And so we now come to the VGP. In effect from February 6th of this year, it cannot be exactly described as a small document, nor an easy read. One could also argue that there are insufficient prescribed benchmarks to work against, with the Company being left to some extent to determine the best management practices that are



required. The problem is also made worse by some 25 States imposing additional requirements over and above those contained in the Federal regulation.

Many companies may believe that most practices or procedures will already be contained within their safety management systems. Perhaps this is so. Nonetheless, companies trading or likely to trade to the USA should by now have made absolutely sure that best management practices are indeed in place to avoid or minimise pollution in full compliance with the VGP. Let's face the fact that it is most likely that the USCG in association with the EPA will start very soon to closely examine ships for compliance through an intensive auditing regime. Those that don't comply may find themselves in very similar situations as their colleagues before them with MARPOL violations.

It should never be forgotten that it is not just the unscrupulous ship owner that has the old rust bucket tramping around, jumping from class to class with a mixed bag of crew that will get trapped. Recent cases have shown that even some of the most respected ship operators can be caught out. Indeed it is very unfortunate that some of these ship operating companies operate a strict compliance policy but are seen to be apparently "let down" by one or more of their crew.

However it has to be noted that there is a difference between a policy and a culture. While the policy can be backed up with detailed procedures, it is only by going a few steps further, by ensuring that the procedures are being followed, that people

(ashore as well as onboard) understand the reasons behind them and by ensuring that suitable training is given will such a culture develop.

We must also be aware that cultures do not happen instantly and have to be nurtured and built upon. Companies that have succeeded in retaining loyal and highly competent staff know this fact very well with their crews' loyalties being built on through various methods, some more successful than others. Commitment from the top (a corner-stone of the ISM Code) is essential but this commitment must be present at all levels. Everyone must be committed to safety and environmental protection.

For years the industry has talked about a safety culture being required for the safe management of ships and there is evidence to suggest that slowly, but surely, safety at sea is improving with many companies being successful in adopting and developing such a safety culture. Now throw into the melting pot compliance cultures and environmental cultures. Again these will probably happen over time (just look at how slow the general public appear to be grasping the issue of recycling) but unfortunately time never seems to be on anyone's side. What can be done now to ensure compliance with the VGP and avoid being prosecuted by the law enforcers?

Companies have to fully understand what the requirements are and get the message across in simple terms to their crews with workable procedures. Put in very straightforward terms, the rules have to be followed. There

is an old saying that emanates from quality systems but holds just as good in safety and/or environmental management systems.

That is;

- Say what you do,
- Do what you say, and
- Show that you do what you say you do.

The last part of the above 3-fold mantra is vitally important and is where many companies have found themselves in deep water when quizzed by the authorities. Good, accurate and, above all, truthful record keeping is absolutely essential when it comes to environmental compliance.

Every ship visit by the superintendent must scrutinise this issue and be recorded in its own right. If this is not carried out, companies will find themselves repeating similar errors that have occurred over the past number of years with MARPOL violations.

Finally, no one should believe that their P&I Club will simply wave a magic wand when the Department of Justice issues a fine or a custodial sentence.

When rules are broken, Club cover is seen as being very much discretionary depending on the circumstances of the case. The ship owner or manager may find himself with no means of recovering his costs or financial penalties. Following the regulations, creating an environmental compliance culture, having straightforward procedures, good training and good record keeping will very much assist in retaining your "get out of jail free" card.

Fake Ticket Issues



“So, apparently it’s ok to clone sheep - but not Certificates of Competency!”

Port State control officers inspecting vessels around Europe over the past few months have identified a worrying trend, with a number of masters and officers found to be carrying forged certificates.

Authorities in Cyprus highlighted the problem after detaining four vessels, where they found that virtually none of the officers aboard was certified. The inspectors were stunned to find that 15 of the 16 officers on board the four ships had forged tickets, including each of the masters. The sole officer found to be properly certificated was one of the chief officers, who carried bona fide Egyptian papers.

Most of the others were holding certificates of competency issued by North Korea, supposedly obtained on the strength of current or expired Georgian certificates, which themselves were “highly likely” to be forged.

As a result of these findings there have been calls for shipping to act, and to realise that the problem of incompetent masters and officers

hiding behind illegitimate papers is a real danger hidden deep within the industry.

In a letter to the Paris Memorandum of Understanding (MoU) secretariat, Cyprus’ senior surveyor Andreas Constantinou noted as “alarming” the fact that the North Korean authorities had issued their own training certificates on top of the certificates of competency. This was “although the seamen in question stated that they did not attend any training course authorised or supervised by [The People’s Republic of] Korea.”

The four ships caught in Cypriot ports were all more than 30 years old and ranged between 1,521 dwt and 3,145 dwt.

The Cypriots have asked the Paris MoU specifically to mandate member countries to begin assessing the competence of seafarers whenever there are grounds for suspicion about certificates. “The focus needs to be on certificates issued by administrations of countries other than the seafarer’s nationality,” Capt Constantinou said. “That is the problem area.”

The problems are not confined to European waters, however. India’s Directorate-General of Shipping (DGS) earlier this year expressed concern after Mumbai police broke up a criminal gang distributing fake continuous discharge certificates for ships’ crew.

Arrests were made of people trying to gain seagoing employment using fraudulent certificates. As recently

as September 2009 it was found that fake CDCs had been given to more than 1,000 Indian seafarers.

The DGS has acted to assure the industry that the Indian government is aware of the problem of fake and forged seafarer certificates, and that swift and serious action is being taken to tackle the problem.

It does remain, however, for owners and managers to ensure that they are employing personnel with bona fide credentials and certificates.

With the **ISM Code Section 6: “RESOURCES AND PERSONNEL”** stipulating the following:

6.1 The Company should ensure that the master is:

.1 properly qualified for command

6.2 The Company should ensure that each ship is manned with qualified, certificated and medically fit seafarers in accordance with national and international requirements.

We can see that the recruiting, vetting, familiarization and training of sea staff will come under very close scrutiny, particularly when an incident occurs because of human error.

A company’s vetting and recruitment procedures should therefore ensure they know not simply who they employ, but that they can verify their certification.

It remains however, that those found are perhaps only the tip of the iceberg. While most of those identified have been working on old, smaller tonnage, Capt Constantinou reminded those who might think this a problem limited to sub-standard shipping, “One may argue that these seafarers are unlikely to be entrusted with the command of a fully laden VLCC [very large crude carrier], they may, however, hit one”.

New Kit, Old Problems



All too often new equipment can bring with it old problems. Installation of complex technology can lead to improper use, with avoidable accidents linked to crew unfamiliarity. Problems of familiarisation and training are commonplace,

Britannia P&I Association recently addressed the issue of Electronic Chart Display Information System (ECDIS) problems within their Risk Watch publication. They echoed the concerns of many, "A number of recent incidents have demonstrated that bridge watchkeeping officers are not always properly trained in the use of the ECDIS (Electronic Chart Data Information System) and that the correct use and limitations of such equipment may not be properly understood".

This view was borne out in the UK Marine Accident Investigation Branch (MAIB) on the grounding of the "M/V CFL Performer". The report stated, "The ship's course had been laid directly over the shallow water of the Sand. The ship's Electronic Chart Display Information System (ECDIS) was the primary means of navigation. Unfortunately, none of the ship's officers had been trained in the use of the particular model of ECDIS installed. Thus, features on

the ECDIS that might have prevented this grounding were not utilized."

The vessel's owners did, apparently, conduct onboard training for their crew, and were in the process of obtaining feedback from officers. Training is of course a vital key to managing the usage of new technology. ECDIS is a "system" that is meant to help the user make informed decisions. It is not infallible, nor a replacement for sound judgment. So it is vital that proper and effective training is given.

With the IMO implementing a mandatory ECDIS fit programme commencing in 2012 for new ships (passenger vessels and tankers), through 2013-14 for others. It is expected, therefore, the final STW41 revision of the STCW Convention and Code (due in January 2010) will include a significant change to current ECDIS training, with certificated deck officers required to have passed a Flag State approved course.

Vessel owners and operators have an obligation to provide a trained and competent crew. Currently, companies are already taking measures under "best practice" to satisfy their ISM Code responsibilities

and stipulating that their employees are to have completed the IMO Model "1.27", Flag State approved ECDIS course, and/or type specific training before being responsible for paperless digital navigation.

Training should of course mitigate the problems, but is it the right training? The very generalised nature of many courses can lead to further problems, as the goals of proficiency and competence are not guaranteed.

We spoke to Malcolm Instone of ECDIS Ltd (pictured left) about training. He stated, "the current standard of training falls far short of that required by the professional mariner. We firmly believe in a package that takes the mariner from base principles and legal aspects for compliance, through to passage planning, execution and quality control. In short, training which manages the change in mind-set needed to shift from paper to electronic charts intensifies the risks caused by lack of adequate ECDIS training."

However, it is important to note that personnel having conducted simulator training that includes an ECDIS element may not satisfy this criteria. Courses such as a Navigation And Radar ARPA Simulation (NARAS) course, which may well include the word ECDIS on the certificate, but may not be Flag State approved.

To enable "best practice" to be taken into account by managers, it is therefore recommend that specific training is given.

ECDIS Ltd training is approved by the UK Maritime and Coastguard Agency (MCA) to deliver ECDIS training. To find out more of their views on training and of the services they can provide visit their website www.ecdis.org.uk/

New Course Boosts Safety

A new marine training course to reduce the number of marine deaths and incidents and save shipping companies millions of pounds in hefty fines and insurance costs has been hailed a success.

The Designated Persons Ashore (DPA) course, which was developed by Maersk Training Centre and the leading authority on marine safety management, Dr Phil Anderson and his company – ConsultISM Ltd, launched recently with its first delegates.

The unique course combines computer-based training with two days of practical exercises to help DPAs monitor safety management systems effectively and implement change where necessary. A number of DPAs from global companies such as Shell, MOL and Acergy attended the course.

Brian Mennie is the DPA and security officer for sub-sea construction company, Acergy, with responsibility for ten vessels. Signing up for the course to broaden his knowledge and ensure he was doing his job properly, Brian is pleased with the skills he acquired.

Brian said: "I found the course extremely useful, particularly the role-play exercise, which involved a collision scenario between a large ship and a ferry. In a highly charged situation, when emotions are running high and everything is at stake, it's amazing how easily you can get tripped-up and end up with words in your mouth that could potentially have very serious consequences in the real world. The course taught me to stick rigidly to the ISM (International Safety Management) framework and ensure that all safety systems

adhere to this under scrutiny." With no other practical-based DPA training available, the course has also proved an invaluable platform for sharing best practice and networking.

Course delegate, Kaushik Roy, DPA and company security officer from MO LNG (Europe) Ltd, said: "Hopefully no DPA will ever have to deal with a major incident like the one we acted out on the Maersk course, but as an exercise it was extremely valuable. It enabled us as DPAs to discuss our roles and learn from each other's experiences to find the most effective and safe way forward.

"It was good to meet with other people in a similar role to myself and to feel that, together, we are helping to raise safety standards in the marine industry."

Richard Booth, Maersk Training Centre Manager, said: "We're delighted that this first course went so well and that the delegates got so much out of it. It is clear that many shipping companies realise the importance of taking their ISM obligations seriously rather than simply paying lip-service and we are now receiving scores of enquiries for this course and tailored versions of it."

Dr Phil Anderson said: "In reality there are very few people in the world who know what goes on within the four walls of a shipping company's board room and are able to run a course like this. We can give DPAs a real sense of what could happen should their safety management systems not be up to scratch - luckily it's in a secure and safe environment where the worst repercussion is embarrassment.

"This course helps ensure that

DPAs are equipped with the skills and knowledge to examine safety systems and identify where the weaknesses are to make the system watertight under scrutiny."

The next DPA course is scheduled for 18th and 19th January 2010 in Piraeus, with others following in Singapore, Glasgow, Copenhagen and the USA.

This article was prepared by freelance journalist Judy Stirling, following interviews with delegates as well as course instructors.

To raise awareness of the consequences when things do go wrong, Maersk and ConsultISM, have also developed a one day workshop for senior executives to sit alongside the DPA course.

To find out more visit www.consultism.co.uk or to book your place please contact the Maersk Training Centre on (0191) 269 2450 or www.mtc-maersk.com.



IMPORTANT ANNOUNCEMENT

DPA Training and Senior Managers ISM Awareness Courses

Registrations now being taken

Delegate places strictly limited - register now to avoid
disappointment

***No ship operating company can afford to miss these important
training opportunities***



Piraeus

DPA Workshop - 18-19 January 2010
Senior Managers Course 20 January 2010
DPA Workshop - 21-22 January 2010

Singapore

DPA Workshop - 22-23 February 2010
Senior Managers Course 24 February 2010
DPA Workshop - 25-26 February 2010

For full details visit our website at www.consultism.co.uk

To register visit the Maersk Training Centre website
www.mtc-maersk.com or call +44(0)191 2692450

**If you would like to discuss your individual requirements
or would like any further information contact the team at
ConsultISM:**

enquiries@consultism.co.uk or call +44(0)1434 605512

Superyachts and ISM

Marcus Blondel and Jon Gray of Scan Marine, Southampton look at Superyachts and the ISM Code



When does a billionaire's yacht get caught up in the regulatory web applying to commercial merchant vessels?

There are various target tonnages applicable to international maritime regulations, 300 GT for GMDSS, 400 GT for MARPOL and at 500 GT the ISM Code comes into force. In the world of super/megayachts, 500 GT is now considered small fry with hundreds of yachts breaking that barrier. Some are built deliberately at around 499 GT but even then 'mini-ISM' recommendations come into play.

Large yachts of more than 24m in length and less than 3000 GT are generally constructed under the rules of the UK's MCA 'Large Commercial Yacht Code', also known as the 'LY2' Code. This Code governs the construction, equipping, manning and operation of large yachts.

The LY2 Code also requires every vessel of 500 GT and above to comply fully with the requirements of the ISM Code. Under 500 GT the MCA recommends that a yacht 'should implement an effective safety management system', hence 'mini-ISM'.

Some of those involved with superyachts consider their particular

niche to be distinct from other sectors of the maritime industry. However when it comes to the regulatory authorities all vessels are the same, whether superyachts or bulkers and the vessel and operating company must understand and comply with ISM, including the need for an effective Designated Person.

Any yacht owner or yacht management organisation that merely pays lip service to the ISM Code runs the risk of having the yacht detained by Port State Control or worse, having the SMC or DOC revoked by the Flag state. As well as the loss of revenue, imagine the embarrassment if the owner happens to be on board at the time or the yacht is chartered out!

Whilst the objectives of the ISM Code are the same for every type of vessel and operating company, there is no doubt that, from an operational viewpoint, a superyacht is not the same as a commercial merchant vessel:

- They are managed differently; often the master being the manager, reporting directly to the owner for all functions including operations, crewing and accounts.
- There is no clear schedule; yachts often spend long periods alongside but can often move

from one port to another at short notice, visiting out-of-the way places.

- The daily operational demands are different; tenders, helicopters, jet-skis, mini submarines etc all have to be operated and maintained with the appropriate procedures in place.
- The purpose of the yacht and crew is to provide a service to the owner and/ or a small number of guests.
- Crews need to match the requirements of the yacht and the owner as well as being certificated to LY2 Code and/or STCW standards.

Therefore the requirements of the ISM Code to have a SMS in place, to have a Company responsible for the operation of the yacht and to have a Designated Person must be dovetailed into the special operational requirements of the yacht itself. A successful (and compliant) SMS relies on there being a close working relationship between the yacht personnel, the Company and its DP. It is not possible for a yacht to 'do its own thing' ISM-wise.

The ISM Code is now firmly established as a central plank in the maritime regulatory framework and superyachts must pay as much attention to the requirements of the Code as to any other part of that framework. The Designated Person should also seriously consider undergoing suitable training in this important role.

Jon Gray is also an ad-hoc consultant for ConsultISM Ltd, and we can provide a wide range of ISM support services and guidance for the Mega-Yacht sector of the industry including training for DPAs and other staff. Contact us to discuss your requirements – enquiries@consultism.co.uk



Late summer and early autumn has proved a particularly busy schedule of presentations and lectures.

Members of the ConsultISM team continue to be invited to present papers at some of the industry most prestigious events. In recent months Dr Phil Anderson has addressed the annual conference of the International Chamber of Shipping in London, the annual conference of the International Union of Marine Insurers (IUMI) in Bruges and the INFORMA P&I seminar in London. In the coming months

Managing Director, Dr Phil Anderson and Business Adviser Captain Peter Cooney will be presenting a joint paper to the annual general meeting of INTERMANAGER, Dr Anderson will be addressing the Tanker Safety Conference in London as well as joining the Belgium DPA networking group at their six monthly luncheon meeting to share some thoughts.

IUMI Conference – Bruges 13-16 September 2009

Around 700 of the most senior players in the marine insurance industry came together for the annual meeting of the International Union of Marine Insurers (IUMI) in the historic city of Bruges for three days in September.

For anyone other than an actual insurer / underwriter to be allowed to attend IUMI is a very rare privilege. Dr Phil Anderson, of ConsultISM was delighted therefore to join Captain Sunit Das of Anglo Eastern Ship Management in representing GlobalMET to present a joint paper at the conference. The paper was to encourage the marine insurance sector and maritime education and training establishments around the world to cooperate in a combined

effort to tackle the root cause of accidents and claims.

Both ConsultISM and Anglo Eastern are members of the GlobalMET organisation – which has NGO status at IMO – and are both very much involved in practical training activities.

It became apparent from speakers at the conference that whilst some categories of claims were continuing to fall – e.g. total losses – there was a continuing increase in the value of marine claims generally. The marine insurance market was reportedly failing to make a profit for the 12th successive year.

All the presentations from the Bruges Conference can be accessed on the IUMI website at www.iumi.com

ICS Annual Conference -London 9 September 2009

Earlier in the year Dr Anderson had been commissioned by the International Chamber of Shipping and the International Shipping Federation to help bring their 'Guidelines on the application of the IMO International Safety Management (ISM) Code' up-to-date.

The ICS / ISF Guidelines is widely regarded internationally as the authoritative commentary on the ISM Code. However, the current edition (third edition) was actually published as far back as 1996 – two years before ISM Phase One deadline of 1st July 1998. The first draft of the Fourth Edition was completed by Dr Anderson in July and submitted for review and editing – and it is hoped that the ICS / ISF will make the Fourth Edition available very early in 2010.

The Annual ICS conference provided

Dr Anderson with an opportunity to describe some of the changes, additions and improvements which would be appearing in the Fourth Edition of the Guide as well as to share some thoughts about the crucial issues which will continue on the ISM Code agenda in the years ahead.

Flag Training - St Kitts & Nevis

ConsultISM's project manager, David McFarlane, recently conducted a two-day ISM awareness training course for the entire staff at the St Kitts and Nevis International Registry in Romford, Essex. The Registry is undergoing training in different areas of the maritime business in order to make its staff even better equipped and ever more aware of the industry's and its customers' needs.

Terry Powell, General Manager, was delighted with the training given and said, "ConsultISM tailored a course for our specific needs which delivered the level of knowledge that the team needed."

It is hoped that other Flag Administrations will take note of the importance of the ISM Code and follow St Kitts and Nevis by requesting training in this field. Sometimes it is all too easy to leave the entire ISM package to the Recognised Organisations (RO) acting on behalf of Flag. However even if all of the auditing of ships and companies is done by the RO, Flag Administrations need to appreciate the reasons behind the Code, its structure, the complexities of Safety Management Systems, the Master's role, the Company's role and, of course, the Flag's role in the implementation of the Code.

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