



# TUVALU SHIP REGISTRY

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## MARINE CIRCULAR

**MC-2/2005/12/2**

6/2024

**FOR:** Ship Owners, Ship Managers, Ship Operators, Ship Masters, Ship Officers, Classification Societies

**SUBJECT: INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE**

### DEFINITIONS:

The following abbreviations stand for:

- “DOC” – Document of Compliance as required by the ISM Code
- “DP” – Dynamically Positioned
- “DPA” – Designated Person Ashore
- “FPU” – Floating Production Unit
- “FPSO” – Floating Production, Storage, and Offloading Unit
- “FSI” – Flag State Inspection
- “FSO” – Floating Storage and Offloading Unit
- “FSU” – Floating Storage Unit
- “FT” – Full Term
- “GT” – Gross Tonnage in accordance to ITC 69
- “HSC” – High Speed Craft
- “HSE” – Health, Safety and Environmental
- “IADC” – International Association of Drilling Contractors
- “ICS” – International Chamber of Shipping
- “ILO” – International Labour Organization
- “IMO” – International Maritime Organization
- “ISF” – International Shipping Federation
- “ISM Code” – International Management Code for the Safe Operation of Ships and for Pollution Prevention
- “ISPS Code” – International Ship and Port Facility Security Code implemented through chapter XI-2 Special measures to enhance maritime security in SOLAS.
- “ISSC” – International Ship Security Certificates as required by the ISPS Code
- “ITC 69” – International Convention on the Tonnage Measurement of Ships, 1969
- “MLC 2006” – Maritime Labour Convention, 2006
- “MODU” – Mobile Offshore Drilling Unit
- “MOSU” – Mobile Offshore Storage Unit
- “MOU” – Mobile Offshore Unit
- “MSC” – Maritime Safety Committee
- “SEEMP” - Ship Energy Efficiency Management Plan
- “SMM” – Safety Management Manual
- “ST” – Short Term
- “STCW” – International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended
- “PSC” – Port State Control
- “RO” – Recognized Organization as defined by IMO Resolution A.789(19).
- “SEMS” – Safety and Environmental Management System
- “SMC” – Safety Management Certificate as required by the ISM Code
- “SMPEP” – Shipboard Marine Pollution Emergency Plan
- “SMS” – Safety Management System as defined by the ISM Code

- “SOLAS” – International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended
- “SOPEP” – Shipboard Oil Pollution Emergency Plan
- “SPS” – Special Purpose Ships

The following terms shall mean:

- “Administration” – Tuvalu Ship Registry;
- “Oil tanker” – as defined in SOLAS Reg II-1/2.22;
- “Company” – the owner of the ship or any other organization or person such as the Manager, or the Bareboat Charterer, who has assumed the responsibility for operation of the ship from the Shipowner and who on assuming such responsibility has agreed in writing to take over all the duties and responsibilities imposed by the ISM Code;
- “Chemical tanker” – as defined in SOLAS Reg VII/8.2;
- “Gas carrier” – as defined in SOLAS Reg VII/11.2;
- “Bulk carrier” – a ship which is constructed generally with single deck, top-side tanks and hopper side tanks in cargo spaces, and is intended primarily to carry dry cargo in bulk, and includes such types as ore carriers and combination carriers<sup>1</sup> ;
- “High-speed craft” – as defined in regulation X/1;
- “Special purpose ship” – as defined in the Code of Safety for Special Purpose Ships (SPS Code), IMO Resolution A.534(13) as amended by MSC/Circ.739 and IMO Resolution MSC.183(79), irrespective of the date on which the keel of the ship was laid, engaged on international voyages;
- “Commercial yacht” – a yacht registered in accordance to either yacht circular YC-1/2012/1 or YC-2/2012/1 for commercial operations carrying no more than 12 passengers;
- “Mobile offshore unit” – a vessel capable of engaging in operations for the exploration for or exploitation of resources beneath the sea-bed such as liquid or gaseous hydrocarbons, sulphur or salt, mechanically propelled and capable of moving on its own on and off location.

**PURPOSE:**

The purpose of this marine circular is to advise ship Owners / Operators, and Masters of Tuvalu flagged vessels of the 2010 and 2015 amendments to the ISM Code so that their SMS can be reviewed and necessary adjustments may be implemented before the next scheduled audit of the Company and ships.

Companies and vessels seeking compliance and certification with the ISM Code should study this circular carefully as it includes the Administration’s policies and interpretations regarding application and implementation of the ISM Code. However, the contents of this marine circular are not intended to be all-inclusive or to prohibit a Company from incorporating or requiring items in its SMS beyond those contained in this circular.

Another area where Companies should prepare to ensure full implementation and compliance as part of their SMS is where the MLC 2006 overlaps with provisions of the ISM Code. These provisions include medical certification, training and qualifications, hours of work and rest, manning levels and medical care on board and ashore. The MLC 2006 requirements will be subject to both PSC and flag State inspection.

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<sup>1</sup> Refer to resolution MSC. 79(70) relating to interpretation of provision of SOLAS chapter XII on additional safety measures for bulk carriers. Owners and operators of ships which occasionally carry dry cargoes in bulk should refer to MSC.277 (85) for additional guidance.

## REFERENCES:

- (a) IMO Resolution A.741(18), International Management Code for the Safe Operation of Ships and for Pollution Prevention, 1993, as amended by IMO Resolution MSC.273(85) and MSC.353(92).
- (b) SOLAS 74 Chapter IX, Management for the Safe Operation of Ships
- (c) IMO Resolution A.1118(30), Revised Guidelines on the Implementation of the ISM Code by Administrations
- (d) IMO Resolution A.739(18), Guidelines for the Authorization of Recognized Organizations (RO) acting on behalf of the Administration, as amended by IMO Resolution MSC.349(92)
- (e) MSC/Circ.1059-MEPC/Circ.401, Procedures Concerning Observed ISM Code Major Non-conformities
- (f) MSC.1/Circ.1447, Guidelines for the Development of Plans and Procedures for Recovery of Person from the Water
- (g) IMO Resolution A.1047(27), Principles of Minimum Safe Manning
- (h) MSC.1/Circ.1182/Rev.1, Guide to Recovery Techniques

## APPLICATION:

The requirements of the ISM Code are mandatory under SOLAS Chapter IX and may be applied to all ships. Tuvalu applies the ISM Code to:

- a. passenger ships (including high speed craft) regardless of tonnage,
- b. oil tankers, chemical tankers, gas carriers, bulk carriers, cargo HSCs, SPSs, commercial yachts and other cargo ships of 500 GT and upwards, and
- c. self-propelled MOUs and DP MOUs of 500 GT and over engaged on international voyages.

## CONTENTS:

### 1. Compliance

The vessels in the "APPLICATION" section are subject to mandatory compliance. Vessels not subject to mandatory compliance may do so on a voluntary basis, but such compliance must meet all of the requirements.

#### 1.1. Exceptions

##### 1.1.1. SOLAS Chapter IX does not apply to:

- a) government-operated ships used for non-commercial purposes;
- b) cargo ships of less than 500 GT as measured by the ITC 69;
- c) ships not propelled by mechanical means;
- d) wooden craft of primitive origins;
- e) private pleasure yachts not ordinarily engaged in trade; and
- f) fishing vessels.

##### 1.1.2. Floating Production Storage and Operations Units (i.e. FPSO, FSO, FPU, FSU, MOSU) and similar units will be exempt from ISM Code compliance if:

- a) it has had its propulsion systems removed or disabled, or
- b) if the propulsion system is functional, the unit is on a fixed station for an extended period of time, and the propulsion equipment will only be used in case of emergency or to reposition or service the unit under a single voyage exemption with no cargo on board.

#### 1.1.3. Non-Propelled MOUs

Although the MSC66 decided that MOUs not propelled by mechanical means need not comply with the requirements of the ISM Code, this Administration recommends that a SEMS be established and maintained. The 2009 IADC HSE Case Guidelines may be used towards the development of a SEMS should operators decide to establish one.

#### 1.1.4. DP MOUs

A SEMS subject to ISM Code verification and certification must be established and maintained and should address any coastal State "Well Safety Case" requirements being imposed. The 2009 IADC HSE Case Guidelines are recommended for use towards the development of the SEMS.

#### 1.2. Failure of Compliance

Vessels operated by Companies that fail to comply with the ISM Code is considered to be in violation of SOLAS which may result in its registration suspended until the vessel is deemed to be in compliance.

#### 1.3. Process of Compliance

Companies should start the ISM Code compliance process at the earliest possible date prior to entering a vessel or vessels into active trading and/or operations. Depending on the complexity of the Company, the number and types of ships involved and its operations, the development, implementation and verification process could take 18 months or longer.

### **2. Authority for Enforcement of ISM Code**

#### 2.1. Responsibility

The Administration is responsible for effective enforcement of the ISM Code and subscribes to the guidelines contained in IMO Resolution A. 1118(30).

#### 2.2. Delegation

2.2.1. IMO Resolution A.739(18), "Guidelines for the Authorization of RO acting on behalf of the Administrations," as amended by IMO Resolution MSC.208(81) and MSC.349(92), allows Administrations to delegate to ROs the responsibility for verifying compliance with the ISM Code and for issuing DOCs to Companies and SMCs to ships on behalf of the Administration.

2.2.2. The list of ROs authorized by Tuvalu for verification and certification of the ISM Code may be found at [www.tvship.com](http://www.tvship.com), which is updated whenever necessary.

#### 2.3. Rights of the Administration

The Administration may conduct audits, assessments and inspection activities independent of or in concert with those of any RO in order to verify proper implementation, application, and enforcement of the provisions of the ISM Code.

#### 2.4. Separation of Functions

2.4.1. In case where a RO provides both consulting and auditing services for ISM Code Certifications, the RO shall ensure the independence of these two (2) functions. Auditors must be free from bias and influences, which could affect objectivity. There must be a demonstrable and proven separation between personnel providing consultancy and those providing the auditing services to the same Company.

- 2.4.2. A RO may provide ISM Code verification services to vessels for which the RO also provides ship statutory certification services, provided that the ship safety management audits and assessments are conducted separately, and in addition to, existing ship statutory certification and classification survey functions.
- 2.4.3. The verification of compliance with mandatory rules and regulations, which is part of the ISM Code certification process, neither duplicates nor substitutes for surveys for other statutory certificates. The verification of compliance with the ISM Code does not relieve the Company, the Master or any other entity or person involved in the management or operation of a ship or ships of their responsibilities.

### 3. Requirements

#### 3.1. General

- 3.1.1. Every Company must develop, implement, and maintain a SMS in accordance with the requirements of the ISM Code. Failure to do so will be considered a violation of SOLAS Chapter IX, and the registration of the Company's vessels shall be suspended until deemed to be in compliance.
- 3.1.2. The ISPS Code is to be treated as an extension of the ISM Code under "Emergency Preparedness." As such, emergency preparedness planning for matters of security must be linked to the SMS for both the Company and ship.
- 3.1.3. Several regulations and standards contained in MLC 2006 should also be treated as an extension of the ISM Code as they are considered to be essential for an effective SMS.
- 3.1.4. The National policies of Tuvalu regarding the safe and secure management and operation of ships and protection of the environment shall be incorporated into the Company and shipboard SMS and compliance with them must be ensured. These national requirements are supplemental to the ISM Code and can be found in the Tuvalu Merchant Shipping Act 2008 consolidated edition, Tuvalu Merchant Shipping (Registration of Foreign Vessels) Regulations 2004, Marine Circulars, and Marine Guidance which can be downloaded at [www.tvship.com](http://www.tvship.com).
- 3.1.5. There are many regulations and guidelines, both internationally-adopted and industry-initiated, which must be taken into account by a Company when developing, managing, and implementing a SMS. This Administration recommends the publication titled "*Guidelines on the Application of the IMO International Safety Management (ISM) Code*" published jointly by the ICS and ISF. The publication includes additional guidance on risk management, safety culture and environmental management. A list of publications, in addition to this one, that should be considered in developing an effective SMS are included in Appendix I of this circular.
- 3.1.6. A strong environmental component of an SMS is critical. The Administration encourages Companies to utilize their SMS as a tool for preventing damage to the marine environment. In the event of an accident or pollution incident, the extent to which IMO and industry guidance have been considered in a SMS may play an important role in determining whether a Company has exercised "due diligence."

#### 3.2. Safety, Security and Environmental Protection Policy

- 3.2.1. Company Management must establish a Safety, Security and Environmental Protection Policy that:
  - a) is appropriate for the purpose of providing its ship services;
  - b) includes a commitment to meet the obligations of the Company under the provisions of the ISM Code;

- c) provides guidelines for the establishment of measurable safety management system objectives;
  - d) commits to remain alert for ways to improve as changes occur in regulations and in the industry; and
  - e) is communicated throughout the Company's organization, its associates and to its shipboard personnel.
- 3.2.2. The Safety, Security and Environmental Protection Policy must be approved by a senior executive officer, and shall be reviewed at regular intervals to ensure that it remains likely to achieve the established measurable safety management system objectives of the ISM Code.

### 3.3. SMS Objectives

- 3.3.1. Company Management must ensure that its policies are carried out through the establishment of SMS objectives set at relevant functions and levels in the Company's organization. These objectives must be consistent with the Safety, Security and Environmental Protection Policy and be measurable through defined service and operational goals.
- 3.3.2. Company and shipboard operational procedures must be based on formal risk assessment, and evidence of this must be demonstrated through documentation.
- 3.3.3. Certain aspects of security, corporate social responsibility, management accountability, strategic policy implementation and effective governance frameworks, will be required, particularly regarding a clearly articulated risk management policy, formalizing risk ownership processes, structuring framework processes and adopting continuous improvement programs. Companies are advised to consider such guidelines for development and implementation as are provided in Appendix I.

### 3.4. Responsibilities and Authority<sup>2</sup> of the Company

- 3.4.1. The owner of each vessel must provide this Administration with the name, address, telephone and facsimile numbers, and email address of the Company responsible for the operation of the vessel.
- 3.4.2. If the organization or person responsible for the operation of a ship is other than the owner, the owner must provide the Administration with the full name of such entity and submit details, which establish that entity as the Company to the satisfaction of the Administration. This can be complied using "Form ISMC", Declaration of Company – ISM Code, which can be found downloaded at [www.tvship.com](http://www.tvship.com) or requested from the Administration for use as required.
- 3.4.3. In defining and documenting the responsibility, authority and interrelation of personnel concerned with the SMS, the Company should consider the use of diagrammatic charts to show how the defined responsibilities of shore and sea personnel interrelate in order to achieve the systems objectives. The Company should also define the level of knowledge required of personnel for the ship types that the Company is operating and job descriptions with duties as they relate to the SMS.

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<sup>2</sup> Refer to the Revised Guidelines for the operational implementation of the ISM Code by Companies (MSC-MEPC.7/Circ.8).

### 3.5. Designated Person(s)<sup>3</sup>

- 3.5.1. In accordance with the ISM Code, the Company must designate person(s) ashore (DPA(s)) who will be responsible for monitoring and verifying proper operation of the SMS within the Company and on each ship. The DPA(s) shall have the independence and authority to report deficiencies observed to the highest level of management (i.e. the final decision maker regarding shore-side management and support, and vessel operation and safety).
- 3.5.2. The Company must provide the Administration with the full name of the DPA(s) and information to enable direct and immediate contact at all times between the Administration and the DPA(s) with regard to matters relating to maritime safety, security and protection of the marine environment. This can be complied using "Form ISMDP", Declaration of Designated Person(s) – ISM Code, which can be found downloaded at [www.tvship.com](http://www.tvship.com) or requested from the Administration for use as required.
- 3.5.3. This Administration recommends that the Company uses an alternate DPA to reduce the potential for single contact point failure.

### 3.6. Master's Responsibility and Authority

- 3.6.1. In addition to the duties of the Master prescribed in the Merchant Shipping Act, this Administration also acknowledges the importance of IMO Resolution A.443(XI), "Decisions of the Shipmaster with regard to Maritime Safety and Marine Environment Protection" which elements should be incorporated in the SMS.
- 3.6.2. Any system of operational control implemented by Company shore based management must allow for the Master's absolute authority and discretion to take whatever action he or she considers to be in the best interest of passengers, crew, cargo, the vessel and the marine environment.
- 3.6.3. The Company shall provide the Master with documentation providing the specific duties delegated to the officers under the Master's command.
- 3.6.4. The Master shall periodically review the SMS as part of the shipboard internal audit process and report any deficiencies to shore based management.

### 3.7. Resources and Personnel

- 3.7.1. Senior management shall consider the provision of human resources in the Company suitable to the task and provide all the necessary means by which to maintain an adequate and effective SMS which complies with the requirements of the ISM Code. It is essential that appropriate and sufficient manning levels be established and maintained aboard ships in accordance with IMO Resolution A.1047(27), Principles of Safe Manning, as amended, and Tuvalu Marine Circular MC-2/2006/07/09/10/12/5, Minimum Safe Manning Scale. These human resource needs shall be continuously assessed.
- 3.7.2. Company training, hiring, manning procedures, terms of employment, personnel record keeping and reporting procedures must be consistent with the requirements of STCW, MLC 2006 and Tuvalu National Regulations to ensure the use of competent qualified personnel.

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<sup>3</sup> Refer to the Guidance on the qualifications, training and experience necessary for undertaking the role of the DPA(s) under the provisions of the ISM Code is contained in MSC-MEPC.7/Circ.6.

- 3.7.3. Compliance with the hours of rest standard, as adopted in Tuvalu Marine Circular MC-11/2012/1, is required and shall be monitored as part of the SMS. This Administration shall consider manning levels to be inadequate if crew members are unable to adhere to the above rest hour standard.
  - 3.7.4. Companies using crewing agencies shall provide them a copy of the relevant provisions of the SMS, together with necessary instructions on their use before selected personnel are appointed. The use of Recruitment and Placement Services must be in accordance to Reg 5.3 of MLC 2006.
  - 3.7.5. The Company SMS shall ensure that joining crew members have proper seafarers' certification including Tuvalu crew endorsements, special qualification certificates, seafarer's identification and seaman record books and training as required by international conventions and related Codes.
  - 3.7.6. The Company shall make provisions, including the nomination of a responsible person to control a maintenance and monitoring program for asbestos in their SMS, taking into account the Guidance provided in MSC.1/Circ.1045. It should be also noted that any documentation pertaining to asbestos-free declarations shall be additionally subject to verification by the ROs as set forth under MSC.1/Circ.1426 in order to ensure proper implementation of the SOLAS II-1/3-5.
  - 3.7.7. The shipboard SMS shall include for on-coming officers and crew procedures for the transfer of command, documented hand-over notes, documented vessel and duties introductions, familiarization training in accordance with STCW Part A-I/6, and on board documentation retention.
  - 3.7.8. The ship's complement must be able to effectively coordinate their activities in an emergency situation and in performing functions vital to safety, security and the prevention or mitigation of pollution.
  - 3.7.9. There shall be effective oral communication in accordance with SOLAS V/14 paragraphs 3 and 4 at all times on board ships.
- 3.8. Shipboard Operations Plans
- 3.8.1. A "Master's Port Arrival/Departure Safety Check List" shall be included in the shipboard SMS incorporating pre-established Company policy guidelines for "Go, No Go" situations and reporting requirements for the Master's compliance.
  - 3.8.2. The ship's operations documentation shall include a statement that its contents do not remove the Master's authority to take such steps and issue any orders, whether or not they are in accordance with the contents of the documentation, which the Master considers to be necessary for the preservation of life; the safety and security of the vessel, crew and cargo; and the protection of the marine environment;
  - 3.8.3. The ship's operations plans shall:
    - a) include procedures to ensure that all safety equipment, including life-saving and fire-fighting gear, is always in good condition and available for immediate use. Masters should be aware that PSC inspections usually focus on the condition of life-saving and fire-fighting equipment, based on the fact that these areas continue to generate the greatest number of deficiencies on the average for all vessels inspected by PSC authorities;
    - b) include procedures to ensure the FSIs are conducted in accordance with Tuvalu Marine Circular MC-8/2005/12/2 (download at: <https://tvship.com/marinecircular>);
    - c) incorporate weekly emergency drills and training sessions;



- d) direct the attention of masters, chief engineer officers and all watch-keeping personnel to the requirements, principles and guidance set out in the STCW Code and Tuvalu Marine Circular MC-2/2006/07/09/10/12/5, Minimum Safe Manning Scale, which shall be observed to ensure that a safe continuous watch or watches appropriate to the prevailing circumstances and conditions are maintained in all sea-going ships at all times;
  - e) require that watch systems are so arranged that the efficiency of all watch-keeping personnel is not impaired by fatigue and that duties are organized so that the first watch at the commencement of a voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty.
- 3.8.4. Vessels applicable to MARPOL VI Reg 22 shall keep on board a ship specific SEEMP which may form part of the ship's SMS. Please refer to Tuvalu Marine Circular MC-1/2013/1 for details.
- 3.9. Emergency Preparedness<sup>4</sup>
- 3.9.1. The Company SMS must provide that statutory, flag State, coastal State or Company required emergency preparedness plans are developed, implemented, periodically reviewed and updated, and if necessary, re-approved by the Administration or a RO on its behalf.
  - 3.9.2. The Company SMS must consider measures to enhance the safety and security of the ship through the implementation of a Ship Security Plan (SSP) as guided by the ISPS Code, MSC/Circ.443, Tuvalu Marine Circular MC-4/2010/12/2 and related IMO Circulars.
  - 3.9.3. The Company SMS shall be used to ensure that SOPEPs and SMPEPs are up to date and fully adhered to, as appropriate, during emergencies. See Tuvalu Marine Circular MC-14/2012/1 for guidelines on approval of SOPEP and SMPEP for Tuvalu flagged vessels.
  - 3.9.4. The shipboard SMS shall be enhanced with plans and procedures for the recovery of persons from the water, in order to meet the requirement of SOLAS Reg III/17-1. In developing such plans and procedures, the Company should take into consideration the guidelines provided under MSC.1/Circ.1447 and MSC.1/Circ.1182/Rev.1.
  - 3.9.5. Where the Company concludes, after having performed a risk assessment, that the use of specialized equipment is not necessary, the alternative option shall be clearly and thoroughly described within the plans and procedures. Such a scenario may rely on other ships which operate nearby and/or assistance of standby vessels. In such circumstances, the ship's Master shall review and accept the relevant plans and procedures of the other involved vessel(s) upon which his vessel relies and familiarize his crew accordingly.
  - 3.9.6. Companies and Masters shall list any equipment referenced in the Plans and Procedures within the LSA on-board maintenance schedule of SOLAS Reg III/36.
  - 3.9.7. MOUs subject to compliance shall have the Offshore Installation Manager's (OIM) duties (including his or her second in command) clearly defined in the unit's Well Safety Case document, and the Master's duties (including his or her second in command) defined in the SMS Emergency Procedures. The interfaces between these two documents (the Well Safety Case and SMS) shall be clearly defined in a "Bridging Document" with responsibilities for all operations, particularly emergency scenarios, prescribed in detail. The Bridging Document shall be signed by all parties noted and copies held by all parties.

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<sup>4</sup> Refer to the Revised Guidelines for a structure of an integrated system of contingency planning for shipboard emergencies, adopted by IMO Resolution A.1072(28), as amended.

### 3.10. Reports and Analysis of Nonconformities, Accidents and Hazardous Occurrences

3.10.1. The shipboard SMS procedures for reporting near accidents, accidents and incidents shall incorporate the provisions which require the immediate notice and reporting of incidents to the Administration and establishes duties and responsibilities for the Company, ship officers and crew. Guidance on investigating near-misses under the ISM Code as contained in MSC-MEPC.7/Circ.7 must be considered.

3.10.2. The Company and shipboard SMS shall:

- a) contain procedures for immediately reporting to the Administration oil spills and any incidents that involve other harmful substances under MARPOL 73/78 as they are occurring in accordance with Appendix I of Tuvalu Marine Circular MC-15/2012/1;
- b) contain procedures for immediately reporting to the Administration any intentional illegal discharge of waste with a request for an investigation;
- c) contain procedures for immediately notifying the Administration of port or coastal State action in response to the contravention of or non-compliance with international convention or code requirements; and
- d) incorporate provisions for accident prevention and appointment of a safety officer or committee.

### 3.11. Ship and Equipment Maintenance

The maintenance system established by the Company and documented in its SMS shall

- 3.11.1. include systematic plans and actions designed to address all those items and systems covered by class and statutory survey and to ensure that the vessel's condition is satisfactorily maintained at all times;
- 3.11.2. include, as part of the Company internal audit, Tuvalu FSI as detailed in Tuvalu Marine Circular MC-8/2005/12/2. "Form FSI" (download at: <https://tvship.com/forms>) or a similar Company developed form shall be used;
- 3.11.3. provide for the logging of actions or measures taken to rectify deficiencies and non-conformities noted during internal audits, external audits, surveys, and FSIs, and the giving of notification to the Administration and the designated RO of the corrective actions taken, including measures to prevent recurrence.

### 3.12. Documentation<sup>5</sup>

- 3.12.1. The Company shall establish and maintain procedures to control all documents and data which are relevant to the SMS. This includes documents and data related to the formal risk assessment.
- 3.12.2. The SMS documentation should be limited to that which adequately covers the applications of the system to established operational standards for safety and environmental protection. Documents shall be easily identified, traceable, user friendly and not so voluminous as to hinder the effectiveness of the SMS. They shall be readily available for review by the RO, Flag State Inspectors and PSC authorities. The SMS documentation shall always be current and updated.
- 3.12.3. When a ship leaves a Company's fleet, all copies of the SMS documentation shall be returned to the DPA.

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<sup>5</sup> Refer to the Revised list of certificates and documents required to be carried on board ships (FAL.2/Circ.131, MEPC.1/Circ.873, MSC.1/Circ.1586, and LEG.2/Circ.3).

3.13. Verification, Review and Evaluation of the Company (annual DOC Company audit)

- 3.13.1. The Company must conduct internal audits shore-side and on each ship at intervals not exceeding 12 months to determine whether the various elements of the Company SMS have been fully implemented and are effective in achieving the stated system objectives of Company policy and the ISM Code. The internal audits are in addition to the annual, intermediate, and renewal audits carried out by the RO.
- 3.13.2. In exceptional circumstances, the 12 month interval for shipboard internal audits may be allowed to be exceeded, but not by more than three (3) months. The acceptability of any exceptional circumstances will be considered by the Administration on a case-by-case basis prior to the postponement of an internal audit. All requests for an extension of the 12 month interval must be presented to the Administration well in advance accompanied by documentation explaining why the internal audit cannot be conducted within the required timeframe. This documentation and the Administration's authorization for postponement shall be presented to the RO for verification at the annual Company audit and relevant shipboard audit. In all cases, there shall not be less than five (5) internal audits of the Company or any ship during the five (5) year validity of certification.
- 3.13.3. Companies shall ensure that an internal SMS audit schedule is developed and implemented. All elements of the SMS should be covered in the schedule. The purpose of the internal audit is not to allocate blame but to assess the system, and in general, should include:
- a) an evaluation as to the suitability of safety, security and environment protection policy in achieving the objectives of the ISM Code, including both the prevention of pollution accidents and incidents of deliberate pollution;
  - b) a review of safety, security and environment protection system objectives and targets;
  - c) a review of and follow-up on findings from internal and external audits;
  - d) consideration of possible changes made necessary by legislation or regulation;
  - e) consideration of changes within the Company (e.g., fleet changes, trade and market strategies, social or environmental attitudes);
  - f) an examination of training needs;
  - g) lessons learned from accidents, hazardous occurrences and nonconformities;
  - h) a review of procedures and other instructions;
  - i) the results of surveys, Company inspections, FSIs and PSC inspections;
  - j) feedback from Masters, employees and other relevant stakeholders; and
  - k) any findings as a result of emergency drills and exercises.
- 3.13.4. Written procedures detailing the arrangements for internal SMS auditing must be prepared in accordance with ISM Code Section 12.3. All internal SMS audit reports and findings shall be the property of the Company.

#### **4. Selection of a Recognized Organization (RO)**

##### **4.1. Delegation**

ROs are authorised to verify compliance with the ISM Code and issue ISM Code documents on Tuvalu's behalf. The list of the ROs can be found at [www.tvship.com](http://www.tvship.com) and are updated whenever necessary.

##### **4.2. Selection of RO by the Company**

A Company may choose any Tuvalu RO to carry out safety management audits of the Company and its ships. The choice of RO shall not be restricted by the nationality of the ship owner / operator, location of a Company's office(s), or by the Classification Society that classed the vessel or issued the statutory certificates. Once chosen, however, the Company must abide by the terms of service set by the RO, provided, however, that they are not less than the minimum standards set by the ISM Code. The Company is responsible for arranging the safety management audits with the selected RO.

##### **4.3. Fleets with Ships under various Class / ROs**

Companies operating a fleet with vessels individually classed different ROs may request for a single RO to act as sole assessor in performing the verification audit and certification of the SMS for the Company and all of its vessels. The RO does not have to be the Classification Society for any of the vessels in the fleet. ROs may establish their own service requirements, provided they do not negatively affect compliance with the ISM Code.

##### **4.4. Fleets with Ships under various Flags**

Companies operating multi-flag fleets shall propose a plan of action and request agreements by all involved flag States regarding the joint acceptance of a RO audit prior to the commencement of the audits in order to facilitate the auditing and certification process. The plan shall clearly identify the entities involved; outline how the audits will be conducted, how each flag State's national requirements will be addressed, and who will be issuing the ISM Code documents. It is essential that ROs communicate with each other on the results of the DOC and SMC audits if different ROs are involved with a ship or ships. See MSC/Circ.762 - MEPC/Circ.312, Guidance to Companies Operating Multi-Flagged Fleets.

#### **5. ISM Code Certification**

##### **5.1. Application for Certification**

5.1.1. After developing and implementing the SMS, the Company must contact a RO to arrange for an initial verification audit and certification of the Company and its vessels. The Company's application for certification to the RO, and the relevant information, must include the size and total number of each ship type covered by the SMS and any other documentation considered necessary. Vessels carrying dry cargo in bulk but which do not meet the MSC.277(85) definition for a "Bulk Carrier" are to be treated as "Other Cargo Ships."

5.1.2. Companies operating multi-flag fleets may apply to the Administration to accept the ISM Code audits conducted on behalf of another flag State.

##### **5.2. Initial Company and Shipboard Audits**

5.2.1. The Initial DOC Company audit for issuing a DOC to a Company consists of the following steps:

a) Document Review

The RO is to verify that the SMS and any relevant documentation comply with the requirements of the ISM Code by reviewing the SMM. If this review reveals that the system is not adequate, the RO may delay auditing until the Company undertakes corrective action. Amendments made to the system documentation to correct deficiencies identified during this review may be verified remotely or during the subsequent Initial DOC Company audit described next.

b) Company Audit

The RO shall conduct an initial audit in order to verify the effective functioning of the SMS, including objective evidence that the Company's SMS has been in operation for at least three (3) months, and at least three (3) months on board at least one (1) ship of each type operated by the Company. The objective evidence is to, *inter alia*, include records from the internal audits performed by the Company, ashore and on board, and examining and verifying the correctness of the statutory and classification records for at least one ship of each type operated by the Company.

5.2.2. The Initial Shipboard Audit for issuing a SMC to a ship consists of the following steps:

- a) Verification that the Company DOC is valid and relevant to the ship type, and confirmation of the existence of a valid full term DOC; and
- b) Verification of the effective functioning of the SMS, including objective evidence that the SMS has been in operation for at least three (3) months on board the ship. The objective evidence shall also include records from the internal audits performed by the Company.

5.2.3. If the Company already has a valid full term DOC issued by another RO, that DOC shall be accepted as evidence of compliance with the ISM Code, unless there is objective evidence indicating otherwise.

5.3. Annual Company and Intermediate Shipboard Audits

5.3.1. The Company is responsible for scheduling with the RO the annual and intermediate audits. Failure to schedule and/or conduct annual or intermediate verifications will be considered a violation of SOLAS Chapter IX, and the DOC and/or SMCs may be suspended or revoked.

5.3.2. The RO may conduct additional audits on the Company and/or vessels if objective evidence justifying such audits is found during the annual audit of the Company SMS, the intermediate audit of a vessel, or when directed by the Administration.

5.4. Renewal Company and Shipboard Audits

Renewal audits are to be performed before the validity of the DOC and SMC expires. Renewal audits may be carried out within three (3) months before the expiry date of the DOC or the SMC and shall be completed before the DOC or the SMC expires. Failure to schedule and/or conduct the renewal verification audit will be considered a violation of SOLAS Chapter IX, and the Company's ships may be prevented from trading.

5.5. Notification of Audit Results

ROs shall notify the Administration by email of the completion of an audit and make the audit report results available for review by the Administration from the RO's website.

## **6. Issuance and Validity of Interim / Full Term DOC and SMC**

### **6.1. Interim DOC**

- 6.1.1. An Interim DOC, listing the Company branch office(s) assigned to manage the vessel, may be issued to facilitate initial implementation of the ISM Code in cases where compliance with the ISM Code is a new requirement or where changes to the Company's organization or its operations have rendered the existing certification inappropriate, for example, where a Company is newly established or where new ship types are added to an existing DOC.
- 6.1.2. An Interim DOC may be issued to a Company following a demonstration, at the Company's premises, that the Company has a documented SMS which addresses all elements of the ISM Code, and that plans exist for its implementation throughout the organization and its fleet within the period of validity of the Interim DOC which should not exceed twelve (12) months. The progress of such implementation may be reviewed and verified at intervals during the validity of the Interim DOC.
- 6.1.3. A copy of an Interim DOC shall be forwarded via email to the Administration by the RO immediately upon issuance. However, an Interim DOC is not required to be authenticated or certified, but shall be placed on board so that the Master, if so requested, may produce it for verification by the Administration, or by the RO, or for the purpose of the control referred to in regulation IX/6.2 of the SOLAS Convention.
- 6.1.4. In the event of a change of flag State or Company, special transitional arrangements shall be made in accordance with the above requirements.

### **6.2. Full Term DOC (FT DOC)**

- 6.2.1. A FT DOC shall be issued to a Company following satisfactory initial verification of compliance with the requirements of the ISM Code prior to the expiry of the interim DOC.
- 6.2.2. A copy of the FT DOC shall be forwarded via email to the Administration by the RO immediately upon issuance.
- 6.2.3. The Company shall make available copies of the FT DOC to each office location covered by the SMS and each ship. The copies of the FT DOC are not required to be authenticated or certified, but shall be placed on board so that the Master, if so requested, may produce it for verification by the Administration, or by the RO, or for the purpose of the control referred to in regulation IX/6.2 of the SOLAS Convention.
- 6.2.4. The period of validity of a FT DOC shall be five (5) years, subject to annual verification carried out within three (3) months before or after the anniversary date.
- 6.2.5. If the Company operates a multi-flag fleet and already has a FT DOC issued by a RO on the behalf of another flag State that is recognized by the Administration, the RO may issue a FT DOC on behalf of Tuvalu with same validity, provided that the auditor is able to verify the successful implementation of all the Tuvalu national requirements. Should the Tuvalu national requirements found not to be successfully implemented, the auditor shall verify that plans exist for its implementation and issue an Interim DOC (please refer to Section 6.1 above).
- 6.2.6. A FT DOC is valid for the types of ships on which the initial verification was based. The list of ship types shall be reflected on the DOC, and the scope of a DOC may be amended to cover an additional ship type after the verification of the Company's capability to comply with the requirements of the ISM Code for that ship type.

### 6.3. Interim SMC

6.3.1. An interim SMC may be issued to a new vessel on delivery on the occasion of a Company's assumption of responsibility for the operation of the vessel, or when a vessel changes flag, subject to the following verifications by the RO:

- a) the DOC of the Company is relevant to the type of vessel;
- b) the SMS established by the Company includes the essential elements of the ISM Code and has been assessed relevant to the vessel type during the audit for issuance of the relevant DOC;
- c) the Master and relevant senior officers are familiar with the SMS and the planned arrangements for its implementation;
- d) operational instructions which the Company has identified as essential has been provided to the Master prior to the vessel's first voyage under Tuvalu flag;
- e) there are plans for an internal audit of the vessel by the Company within three (3) months of the issuance of the Interim SMC; and
- f) relevant information on the SMS has been provided in a working language(s) understood by the crew of the vessel.

#### 6.3.2. Multi-Flag Fleets

Each Tuvalu flagged vessel in the multi-flag fleet may be issued an Interim SMC with a maximum validity of six (6) months to facilitate implementation of the SMS subject to the provisions of Sections 6.3.3 and 6.3.4 below. Each Tuvalu flagged vessel in the multi-flag fleet shall be audited by the RO to verify implementation of the SMS. Upon satisfactory completion of the audits, a full term SMC shall be issued by the RO on behalf of Tuvalu for each Tuvalu flagged vessel in the multi-flag fleet.

#### 6.3.3. Documented Vessel Types

An Interim SMC valid for six (6) months may be issued to a vessel if the Company assuming management responsibility for the vessel is holding a valid DOC for that ship type, subject to the vessel being verified by the RO as to compliance with the provisions of Section 6.3.1 above. The SMS must be fully implemented on board the vessel within that period. Extension of the Interim SMC, not exceeding six (6) months, may be granted by the Administration on a case-by-case basis.

#### 6.3.4. Undocumented Vessel Types

If the Company assumes management responsibility for a new ship type not covered under its DOC, the RO may still issue an Interim SMC valid for six (6) months to the vessel provided the RO verifies that the Company's revised SMS is applicable to that ship type and the ship is verified in compliance with the provision of Section 6.3.1 above. The SMS must be fully implemented in the Company and on board the vessel within that period. Extension of the Interim SMC, not exceeding six (6) months, may be granted by the Administration on a case-by-case basis.

#### 6.3.5. Bareboat Charter-In Registered Vessels

Bareboat Charter-In registered vessels shall comply to the requirements of Section 6.3.3 or 6.3.4 above as applicable upon entry into the Tuvalu flag.

6.3.6. Interim SMCs shall be forwarded via email to the Administration by the RO immediately upon issuance.

#### 6.4. Full Term SMC (FT SMC)

6.4.1. A FT SMC shall be issued to a ship following an initial shipboard verification of compliance with the requirements of the ISM Code prior to the expiry of the interim SMC.

6.4.2. A copy of a FT SMC shall be forwarded via email to the Administration by the RO immediately upon issuance.

6.4.3. A copy of the FT SMC shall be available at the Company's head office.

6.4.4. The issuance of a FT SMC is conditional upon:

a) the existence of a FT DOC (not Interim), valid for that type of ship;

b) the maintenance of compliance with the requirements of a RO meeting the requirements of IMO Resolution A.739(18) or with national regulatory requirements of an Administration which meets requirements equivalent to A.739(18); and

c) the maintenance of valid statutory certificates, including a FT ISSC.

6.4.5. The validity of a FT SMC shall not exceed five (5) years and shall be subject to at least one (1) intermediate verification. In certain cases, particularly during the initial period of operation under the SMS, it may be necessary to increase the frequency of the intermediate verification. However, if only one (1) intermediate verification is carried out, it is to take place between the second and third anniversary date of the SMC.

#### 6.5. Full Term SMC (FT SMC)

### 7. Issuance and Validity of Short Term DOC and SMC

#### 7.1. Issue and Validity

The RO, subject to approval from Tuvalu, may be authorized to issue ST DOC and/or ST SMC at the closing of a satisfactory ISM Code audit to accommodate the administrative processing period required for the issuance of a FT certificate, subject to the following provisions:

7.1.1. No major nonconformities remain and the RO auditor formally recommends certification of the Company or vessel.

7.1.2. The validity of the ST DOC and/or ST SMC should not exceed five (5) months from the date of the ISM Code audit.

7.1.3. The RO shall provide a copy via email to the Administration immediately upon issuance.

#### 7.2. Change of Flag Scenario

The RO is authorized to issue a ST SMC to a vessel changing flag without the need of carrying out an initial verification audit if the following conditions exist:

7.2.1. the Company chooses not to undergo a full initial verification audit leading to a new FT five (5) years SMC;

7.2.2. the vessel is changing flag within a Company managed fleet;

7.2.3. the Company remains the same and holds a valid Tuvalu FT DOC for the ship type;



- 7.2.4. the vessel has a valid SMC, with no major nonconformities open or outstanding;
- 7.2.5. the RO remains the same for the vessel;
- 7.2.6. the crew is predominantly the same, or at the very least, is familiar with the SMS; and
- 7.2.7. a periodical external audit aboard the vessel has been satisfactorily completed by the RO within the last six (6) months or an annual shipboard internal audit has been reviewed with satisfaction by the RO at the most recent annual Company DOC audit made within that same period.
- 7.2.8. If any of the conditions mentioned above have changed or does not apply with the change of flag, then the vessel must be treated as a new vessel when flagging into Tuvalu and be issued an Interim Certificate in accordance with Section 6.1 and 6.3 above.

### 7.3. Full-Term Certificates (FT Certificates)

- 7.3.1. Prior to the expiration of ST Certificate(s), the RO shall issue FT DOC and/or FT SMC(s) to the Company and vessel(s) respectively. Copies shall be forwarded via email to the Administration by the RO immediately upon issuance.
- 7.3.2. The validity of the FT DOC and/or FT SMC(s) is not to exceed five (5) years from the date of the ISM Code audit.
- 7.3.3. A FT SMC shall be issued as soon as possible after the issuance of a ST SMC where an audit is not required due to a change in flag in accordance with Section 7.2 above, but only for the remaining term of the SMC being replaced.
- 7.3.4. See Section 6.4.4 above for the conditions upon which a Full Term SMC may be issued.
- 7.3.5. A FT Certificate issued for a Company or vessel that is complying voluntarily must be marked as such on the certificate.

## 8. Renewal Shipboard Audit

- 8.1. When the renewal audit is completed after the expiry date of the existing SMC, the new SMC should be valid from the date of completion of the renewal shipboard audit to a date not exceeding five (5) years from the date of expiry of the existing SMC.
- 8.2. The Administration, or a RO on its behalf, may endorse an existing SMC if a renewal verification has been completed but a new SMC cannot be issued or placed onboard the ship before the expiry date of the existing certificate. This existing endorsed certificate may remain valid for a further period not exceeding five (5) months from its expiry date.
- 8.3. If a ship at the time when a SMC expires is not in a port in which it is to be verified, the Administration may extend the period of validity of the SMC, but this extension should be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be verified, and then only in cases where it appears proper and reasonable to do so.
- 8.4. No SMC should be extended for a period of long than three (3) months at each time, and the ship to which an extension is granted should not, on its arrival in the port in which it is to be verified, be entitled by virtue of such extension to leave that port without having a new SMC. When the renewal shipboard audit is completed, the new SMC should be valid to a date not exceeding five (5) years from the expiry date of the existing SMC before the extension was granted.

## 9. Safety Management Audit

ROs shall conduct a systematic and independent examination to determine whether the SMS activities and related results of a Company comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve stated system objectives.

### 9.1. Guidelines

The IACS "Procedural Requirements for ISM Code Certification," as amended, shall form the basis for developing and implementing audit plans.

### 9.2. Audit Objectives

Audits shall be designed to achieve at least one (1) or more of the following purposes:

- 9.2.1. to determine whether a Company's SMS elements conform to the ISM Code;
- 9.2.2. to determine the effectiveness of the implemented SMS toward meeting the safety, security and environmental objectives specified in Section 1.2 of the ISM Code; and
- 9.2.3. to provide the Company with the opportunity to improve upon its SMS.

### 9.3. Audit Activities

While acting in an ethical manner at all times and objectively remaining within the audit scope, a RO's audit activities shall consist of the following:

- 9.3.1. complying with RO's applicable written auditing procedures and other directives;
- 9.3.2. planning the audit and preparing working documents;
- 9.3.3. reviewing documentation on existing SMS activities to determine their adequacy;
- 9.3.4. collecting and analyzing objective evidence that is relevant and sufficient to permit conclusions to be reached regarding the Company SMS;
- 9.3.5. remaining alert to any indications of objective evidence that can influence the audit results and possibly require more extensive auditing;
- 9.3.6. clearly reporting to the Company and the Administration audit results on a timely basis; and
- 9.3.7. reporting major nonconformities immediately to the Company and promptly to the Administration.

### 9.4. Objective Evidence

Objective evidence shall consist of quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of a SMS element, which is based on observation, measurement or test which can be verified.

### 9.5. Document Review

- 9.5.1. As a basis for planning an audit, the RO shall review to ensure that the Company's recorded description of its methods for meeting the SMS requirements is adequate.
- 9.5.2. No further auditing shall be conducted if the review reveals that the SMS described in the documentation by the Company is not adequate to meet the requirements of the ISM Code until such time as all non-conformities are resolved to the satisfaction of the RO.

## 9.6. Audit Plans

9.6.1. An audit plan shall be prepared by the RO in consultation with the Company.

9.6.2. The RO shall design the audit plan to be flexible in order to permit changes in emphasis based on information gathered during the audit process and to permit effective use of the RO's resources. The plan is to be approved by the Company and communicated to those involved in the audit.

9.6.3. The audit plan shall include the following elements:

- a) the audit objectives and scope;
- b) identification of the individuals having significant direct responsibilities regarding the objectives and scope;
- c) identification of reference documents such as applicable international codes, bridging documents, external audits and assessments, and the Company's SMS;
- d) identification of audit team members;
- e) audit team assignments;
- f) the language of the audit;
- g) dates and places where audit is to be conducted;
- h) identification of the organizational units of the Company to be audited;
- i) the expected time and duration for each major audit activity;
- j) the schedule of meetings to be held with the Company or audited unit; and
- k) confidentiality requirements, if any.

9.6.4. The audit plan shall, upon request, be provided to the Administration for its review.

## 10. Non-conformities

### 10.1. Non-conformity (NC)

10.1.1. A NC is a deviation from the requirements of the ISM Code and/or the documented SMS of a Company that pose a low level of risk to the vessel's safety, security, protection of the environment or integrity of the SMS. NCs shall include observed situations where objective evidence indicates a minor non-fulfilment of a specified requirement that has been determined by the RO not to affect the ability of the management of the Company, nor any of its vessels from achieving the system objectives of the Company or the ISM Code.

10.1.2. The purpose of identifying NCs is to determine why the NC arose so that appropriate corrective action can be taken to avoid recurrence. The identification of NCs via the audit process allows for continuous improvement and development of best practices.

10.1.3. Corrective action for NCs shall be completed within a time period agreed to between the RO and the Company, which shall not exceed three (3) months from the date of issuance of a NC notice. The RO shall confirm that the Company and/or vessel has determined and initiated appropriate corrective action to correct the NCs or to correct the root causes of the NCs.

10.1.4. The RO shall advise the Administration of corrective actions requiring more than three (3) months and obtain approval for such extended time periods, as determined by the RO to be required, from the Administration.

## 10.2. Major Non-conformity (MNC)

10.2.1. A MNC shall mean an identifiable deviation, which poses a serious threat to personnel or vessel safety, security or serious risk to the environment and requiring immediate corrective action. In addition, MNCs shall include the lack of effective or systematic implementation of the requirements of the ISM Code. Examples of specific MNCs are, but not limited to:

- a) Operational shortcomings that would render the ship substandard by IMO standards.
- b) Ship hull/machinery damage, wastage or malfunction as a consequence of systemic faults in the SMS that would warrant a recommendation to withdraw a statutory certificate or suspension of the ship from class.
- c) Absence of required Tuvalu crew endorsements for officers as required by the Administration and the STCW, unless the officer is in possession of a valid exemption from the Administration.
- d) Discovery by the RO that there are outstanding requirements on the statutory safety certificates which, as yet, have not been dealt with within the time permitted as a result of systemic faults in the SMS.
- e) Observation of an obvious safety, security or environmental violation during an audit, which has not been or is not being corrected or documented.
- f) Observation of obvious violations of the applicable MLC 2006 requirements that have not been documented as waived or exempted.
- g) Objective evidence of flagrant violations of the Tuvalu safety, security or pollution prevention laws, Tuvalu Maritime Act and Regulations, and/or Marine Circulars is found, observed or brought to the attention of the RO.
- h) Discovery by the RO auditors that ship personnel or the Company management are not aware of or have not been instructed in the provisions of the ISM Code and the SMS as well as the importance of the DOC and SMCs.
- i) The total absence of a required SMS element or a group of nonconformities within an element.

10.2.2. MNCs shall be handled in accordance with MSC/Circ.1059-MEPC/Circ.401.

10.2.3. Any MNCs found by the RO in the course of an audit shall be reported immediately in writing to the Company, the Master of the vessel involved, and to the Administration. Neither the DOC nor the SMC will be issued during the initial audit until all MNCs are corrected by the Company or downgraded to NCs by the RO.

10.2.4. The RO shall determine the nature and extent of MNCs found during intermediate, renewal or additional audits and recommend to the Administration not to issue the DOC or SMC, or the issuance of a time specific Interim DOC or SMC to allow for the completion of corrective action, or withdrawal of an existing DOC or SMC.

### 10.3. Risk Assessment

A Company SMS that does not address risk assessment shall be considered a MNC which requires immediate corrective action and a preliminary corrective action plan. A MNC for a risk assessment may be downgraded by the RO on receipt of an acceptable plan of action.

## 11. Withdrawal & Invalidation of Certificates

Certificates may be withdrawn by the Administration or by the RO.

### 11.1. Justification for Withdrawal

11.1.1. failure to conduct internal, periodic or intermediate verification audits;

11.1.2. the Company's failure to fully implement its SMS;

11.1.3. the Company's failure to maintain its SMS in substantial compliance with the requirements of the ISM Code;

11.1.4. the Company's failure to maintain its SMS in substantial compliance with the requirements of the ISPS Code;

11.1.5. NCs that remain uncorrected beyond their due date; and

11.1.6. the recommendation of the RO based upon objective evidence of the existence of a MNC or an ineffective SMS.

### 11.2. Withdrawal of Company DOC

11.2.1. Upon the withdrawal of the DOC, the RO shall immediately notify the Company and the Administration, when acting on its behalf. When the RO is authorized by the Administration to withdraw the DOC, the RO shall give a letter to the Company clearly specifying the date that the DOC is withdrawn, and request that the DOC be surrendered. A copy of the letter shall immediately be sent electronically to the Administration.

11.2.2. Withdrawal of the Company DOC invalidates the SMCs of all related vessels. Should the Administration authorize the RO to withdraw the Company DOC, the SMCs of all related vessels shall also be withdrawn by the RO. Therefore, the Company shall be required to immediately notify the appropriate ships that the DOC is invalid and proceed with the immediate withdrawal of the SMCs covered by the DOC.

### 11.3. Withdrawal of Vessel SMC

When the RO is authorized by the Administration to withdraw the SMC, the RO shall immediately notify the Company, give a letter to the Master of the ship clearly specifying the date that the SMC is withdrawn and request that the SMC be surrendered. A copy of the letter shall immediately be sent electronically to the Administration.

### 11.4. Reinstatement of Certificates

The reinstatement of a DOC and related vessel SMCs, which have been withdrawn as the result of MNCs, shall only occur after the RO confirms to the Administration that there has been closure to the satisfaction of the RO on all outstanding NCs verified by the performance of an additional audit.

## 12. Appeals

In the event a Company disagrees with a determination made by the RO, the Company, through its DPA, after exhausting the RO appeals procedures, may make a direct appeal to the Administration

which shall then make a final determination based upon both the substance of the appeal and the recommendations of the RO.

Yours sincerely,

Deputy Registrar  
Tuvalu Ship Registry

## Appendix I

### Useful Regulations and Guidelines

The following is a list of publications that should be used as a reference when developing, implementing or auditing a SMS. This list is not all inclusive, but is intended to serve as a good starting point.

#### **1. PRINCIPAL INTERNATIONAL SHIPPING CONVENTIONS AND CODES**

##### **a. International Convention for the Safety of Life at Sea, 1974, as amended, including the 1988 Protocol (SOLAS 74)**

SOLAS lays down a comprehensive range of minimum standards for the safe construction of ships and for basic safety equipment (e.g. fire prevention, navigational, life saving and radio) to be carried on board. SOLAS also contains operational instructions, particularly on emergency procedures, and provides for regular surveys and for the issue of certificates of compliance.

The following IMO Codes, *inter alia*, are mandatory under SOLAS:

- International Safety Management (ISM) Code;
- International Ship and Port Facility Security (ISPS) Code;
- International Maritime Dangerous Goods (IMDG) Code;
- International Maritime Solid Bulk Cargoes (IMSBC) Code<sup>6</sup>;
- International Bulk Chemical (IBC) Code;
- International Gas Carrier (IGC) Code;
- International Gas Fuel (IGF) Code<sup>7</sup>;
- International Code for Ships Operating in Polar Waters (Polar Code)<sup>8</sup>;
- Code for the Construction and Equipment of Mobile Offshore Drilling Units (MODU Code);
- Code of Safety for Special Purpose Ships (SPS Code);
- Code of Safe Practice for Cargo and Securing<sup>9</sup>;

##### **b. International Convention for the Prevention of Pollution from Ships as modified by the Protocol of 1978 (MARPOL 73/78)**

MARPOL contains measures to prevent pollution caused both accidentally and in the course of routine operations. Six annexes to the Convention cover, respectively, pollution by oil, noxious liquid substances in bulk, harmful substances carried in packaged forms, sewage, garbage and atmospheric pollution.

##### **c. International Convention on Standards, Training, Certification and Watchkeeping for Seafarers, 1978 as amended (STCW 78)<sup>10</sup>**

STCW establishes minimum standards of competence and qualifications for ships' officers and ratings and other personnel at sea, and requirements for certification by labor supply nations and flag States. It also sets out mandatory requirements for Company responsibilities and crew familiarization.

##### **d. Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended (COLREG 72)**

The COLREGS lay down the "rules of the road", such as rights of way, safe speed, action to avoid collision, and procedures to observe in narrow channels and in restricted visibility.

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6 The IMSBC Code supercedes the Code of Safe Practice for Sold Bulk Cargoes (BC Code).

7 The IGF Code should be mandatory under SOLAS on 1 January 2017.

8 The Polar Code will take effect upon entry into force of the new Chap XIV of SOLAS on 1 January 2017.

9 Only some requirements are mandatory.

10 IMO adopted amendments to the STCW Convention in June 2010.

**e. International Convention on Load lines, 1966, including the 1988 Protocol (LL66)**

The Load Line Convention sets the minimum permissible freeboard, according to the season of the year and the trading area of the ship; special ship construction standards are laid down with regard to water tightness.

**f. International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (BWM 2004)**

The BWM Convention includes technical standards and requirements for the control and management of ships' ballast water and sediments, to prevent the import of alien marine organisms into local ecosystems.

**g. International Convention for Safe Containers, 1972 (CSC)**

The CSC Convention establishes structural safety requirements and tests for containers, and requirements for inspection and approval by Administrations.

**h. Maritime Labour Convention, 2006 (MLC 2006)**

The MLC 2006 creates a single coherent instrument embodying as far as possible all up-to-date standards of existing international maritime labour Conventions and Recommendations, as well as fundamental principles to be found in other international labour Conventions and introduces new inspection and certification requirements.

**2. IMO GUIDELINES**

- a. **MSC/Circ.443**, Measures to Prevent Unlawful Acts Against Passengers and Crews On Board Ships, 26 September 1986
- b. **MSC/Circ.762-MEPC/Circ.312**, Guidance to Companies Operating Multi-Flagged Fleets, 11 July 1996
- c. **MSC/Circ.1059-MEPC Circ. 401**, Procedures Concerning Observed ISM Code Major Non-Conformities, 16 December 2002
- d. **MSC-MEPC.7/Circ.8**, Revised Guidelines for the Operational Implementation of the ISM Code by Companies, 28 June 2013
- e. **MSC-MEPC.7/Circ.6**, Guidance on the Qualifications, Training and Experience Necessary for Undertaking the Role of the Designated Person Under the Provision of the ISM Code, 19 October 2007
- f. **MSC-MEPC.7/Circ.7**, Guidelines on Near-Miss Reporting, 10 October 2008
- g. **MEPC.1/Circ.683**, Guidance for the Development of a Ship Energy Efficiency Management Plan , 17 August 2009
- h. **A.443(XI)**, Decision of the Shipmaster with regard to Maritime Safety and Marine Environment Protection, 15 November 1979
- i. **A.787(19)**, Procedures for Port State Control, 23 November 1995, as amended by IMO Resolution A.882(21), Amendments to Procedures for Port State Control, 25 November 1999
- j. **A.851(20)**, General Principles for Ship Reporting Systems and Ship Reporting Requirements, 27 November 1997
- k. **MSC.1/Circ.1045**, Guidelines for maintenance and monitoring of on-board materials containing asbestos, 28 May 2002



- l. **MSC.1/Circ.1354**, amendments to the Elements to be taken into account when considering the safe stowage and securing of cargo units and vehicles in ships (resolution A.533(13)), 30 June 2010
- m. **MSC.1/Circ.1426**, Unified Interpretation of SOLAS Regulation II-1/3-5, 13 June 2012
- n. **MSC.1/Circ.1352/Rev.1**, Guidance on Providing Safe Working Conditions for Securing of Containers on Deck, 30 September 2014
- o. **MSC.1/Circ.1353/Rev.1**, Revised Guidelines for the Preparation of the Cargo Securing Manual, 30 September 2014

### 3. INDUSTRY GUIDELINES ON BEST PRACTICES

Many useful publications, guidelines and circulars potentially relevant to the SMS are produced by:

- International Maritime Organization (IMO);
- International Labour Organization (ILO);
- Baltic and International Maritime Council (BIMCO);
- International Association of Drilling Contractors (IADC);
- Cruise Lines International Association (CLIA);
- International Association of Classification Societies (IACS), Procedural Requirements for ISM Code Certification;
- International Association of Ports and Harbors (IAPH);
- International Association of Dry Cargo Ship Operators (INTERCARGO);
- International Association of Independent Tanker Operators (INTERTANKO);
- Nautical Institute (NI);
- Oil Companies International Marine Forum (OCIMF), and
- Society of International Gas Tanker and Terminal Operators (SIGTTO).

The following best practice guidelines and tools might, where relevant (and depending on ship type), be taken into account when developing and implementing the SMS:

- Assessment and Development of Safety Management Systems (ICS);
- Bridge Procedures Guide (ICS);
- Guide to Helicopter/Ship Operations (ICS);
- Guidelines for the Preparation of Garbage Management Plans (ICS);
- Guidelines on Good Employment Practice (ISF);
- International Safety Guide for Oil Tankers and Terminals (ICS/OCIMF/IAPH);
- ILO Maritime Labour Convention 2006: A Guide for the Shipping Industry (ISF);
- On Board Training Record Books for Deck Cadets (ISF);
- On Board Training Record Book for Engineer Cadets (ISF);
- On Board Training Record Book for Deck Ratings (ISF);
- On Board Training Record Book for Engine Ratings (ISF);
- Health, Safety and Environmental Case Guidelines for Mobile Offshore Drilling Units 2009 (IADC)
- Maritime Security: Guidance for the Ship Operator on the IMO International Ship and Port Facilities Security (ISPS) Code (ICS);
- Marlins English Language Test for Seafarers (ISF);
- Model Ship Security Plan (ICS);
- Peril at Sea and Salvage - A Guide for Masters (ICS/OCIMF);
- Personal Training and Service Record Book (ISF);
- Pirates and Armed Robbers - Guidelines on Prevention for Masters and Ship Security Officers (ICS/ISF);
- Prevention of Oil Spillages through Cargo Pumproom Sea Valves (ICS/OCIMF);
- Tanker Safety Guide (Chemicals) (ICS);
- Tanker Safety Guide (Liquefied Gas) (ICS);
- The STCW Convention: Incorporating STCW Checklists (ISF);
- Safe Transport of Containers by Sea - Guidelines on Best Practices (ICS/World Shipping Council);
- Shipping and the Environment - A Code of Practice (ICS);
- Ship/Shore Safety Checklist for Bulk Carriers (ICS);
- Ship to Ship Transfer Guide (Liquefied Gases) (ICS/OCIMF/SIGTTO);

- Ship to Ship Transfer Guide (Petroleum) (ICS/OCIMF);
- Watchkeeper (IMO/ILO work hour record program) (ISF); and
- Guidance on the Use of Oily Water Separators (ICS).

National shipowners' associations, national maritime administrations, classification societies and P&I Clubs also produce many other important publications, and guidance notes, related to safety and environmental protection.

#### **4. TUVALU MARINE CIRCULARS AND MARINE GUIDELINES**

It is recommended that Tuvalu Marine Circulars (MC) and Marine Guidelines (MG) must be taken into account when developing an SMS. These documents include, but are not limited to:

- **MC-7/2011/1** – MAINTENANCE & TESTING REQUIREMENTS OF FIRE-FIGHTING SYSTEMS
- **MC-2/2010/12/2** – INTERNATIONAL SHIP AND PORT FACILITY SECURITY (ISPS) CODE
- **MC-4/2010/12/2** – UPDATES TO ISSUES RELATING TO PIRACY AND ARMED ROBBERY AGAINST SHIPS IN WATERS OFF THE COAST OF SOMALIA AND OTHER HIGH RISK AREAS
- **MC-13/2012/1** – GUIDANCE FOR IMPLEMENTATION OF MLC 20006
- **MC-16/2011/1** – LIFEBOAT EQUIPMENT SERVICING & MAINTENANCE REQUIREMENTS
- **MC-10/2010/12/3** – CARRIAGE OF FIREARMS & EMPLOYMENT OF ARMED SECURITY PERSONNEL FOR DEFENSE AGAINST PIRACY
- **MC-2/2014/1** – RECOVERY OF PERSONS FROM WATER
- **MC-15/2012/1** – RECORD KEEPING AND REPORTING REQUIREMENTS FOR MARPOL
- **MC-14/2012/1** – SHIPBOARD OIL POLLUTION EMERGENCY PLAN (SOPEP) FOR TUVALU VESSELS
- **MC-1/2013/1** – ENERGY EFFICIENCY ON SHIPS
- **MC-8/2005/12/2** – FLAG STATE INSPECTIONS
- **MC-2/2006/07/09/10/12/5** – MINIMUM SAFE MANNING SCALE
- **MC-5/2011/12/2** – STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING
- **MC-17/2012/1** – PRINCIPLES OF WATCHKEEPING
- **MC-6/2010/13/3** – MANDATORY REQUIREMENTS FOR ECDIS & BNWAS UNDER SOLAS
- **MC-2/2007/12/2** – MEDICAL CARE ON BOARD TUVALU SHIPS AND ASHORE
- **MC-7/2012/1** – STANDARDS FOR ACCOMMODATION, RECREATIONAL FACILITIES, FOOD/CATERING, AND WATER ON BOARD TUVALU SHIPS
- **MC-8/2012/1** – STANDARDS FOR SEAFARERS RECRUITMENT AND PLACEMENT SERVICES IN NON-CONVENTION COUNTRIES
- **MC-9/2012/1** – HEALTH & SAFETY ISSUES FOR SEAFARERS UNDER THE AGE OF 18 AND HAZARDOUS WORK
- **MC-12/2012/1** – PROVISION FOR SEAFARERS WAGES
- **MC-11/2012/1** – REQUIREMENTS FOR MINIMUM HOURS OF REST
- **MC-10/2012/1** – ONBOARD COMPLAINT PROCEDURES
- **MG-2/2012/1** – GUIDANCE ON MEDICAL EXAMINATIONS AND CERTIFICATES FOR SEAFARERS
- **MG-3/2012/1** – GUIDANCE ON THE BASIC ELEMENTS OF A SHIPBOARD OCCUPATIONAL HEALTH AND SAFETY PROGRAM
- **MG-1/2012/1** – GUIDANCE ON THE HANDLING, PREPARATION & STORAGE OF FOOD

#### **5. ISO 31000:2009 – RISK MANAGEMENT**

The International Organization for Standardization (ISO) published ISO 31000 on 13 November 2009 to provide a standard on the implementation of risk management. The purpose of ISO 31000 is to be applicable and adaptable for “any public, private or community enterprise, association, group or individual.” Accordingly, the general scope of ISO 31000 - as a family of risk management standards - is not developed for a particular industry group, management system or subject matter field in mind, rather to provide best practice structure and guidance to all operations concerned with risk management.

ISO 31000 provides generic guidelines for the design, implementation and maintenance of risk management processes throughout an organization. This approach to formalizing risk management

practices facilitates broader adoption by Companies who require an enterprise risk management standard that accommodates multiple “silo-centric” management systems.

The scope of this approach to risk management is to enable all strategic, management and operational tasks of an organization throughout projects, functions, and processes to be aligned to a common set of risk management objectives. Accordingly, ISO 31000:2009 is intended for a broad stakeholder group including:

- executive level stakeholders;
- appointment holders in the enterprise risk management group;
- risk analysts and management officers;
- line managers and project managers; and
- compliance and internal auditors;

ISO 31000:2009 addresses the entire management system that supports the design, implementation, maintenance and improvement of risk management processes.