

ReportISM



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

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Dr Phil's Diagnosis...



The date 1st April is famous as 'All Fools Day'; it is perhaps then fitting that 1st April 2007 saw the controversial European Union 'Ship Source Pollution Directive' come into force. This was in spite of fierce opposition from ship operators associations as well as seafarers associations.

From the ship operators and seafarers perspectives this will mean a Sword of Damocles hanging over their head – for there may very well be prison sentences for those who may be involved in a spill – even though it was accidental.

It is reported that the European Commission somehow believe the new directive will actually provide the seafarer with greater protection. I must admit that I have not yet quite understood how they arrive at that conclusion. We were in a situation where it had to be decided whether a problem was to be solved with a big stick or a carrot. The big stick has won!

I would have to ask however whether the Politicians and bureaucrats in Brussels realise what potential damage they are doing?

The Chamber of Shipping as well as other international shipping association members of the 'Round Table' are working hard to raise public awareness of the importance of shipping – not only to the global economy but to the life of every individual. They are also working hard to encourage young people to consider seafaring as a career.

Clearly if we are to have safe ships it is crucial that we encourage intelligent, enthusiastic and energetic young people to learn the seafaring skills and study for their professional qualifications. The problem is that those same intelligent young people are likely to ask some probing questions when it is explained to them that – 'oh, by the way, if there is an accidental spill of oil from your ship you, as Captain, may very well spend the next few years behind bars!' We should not be surprised if those intelligent young people decide to alter course and make their career ashore – leaving others to go to sea.

What worries me now, with the European Commission having succeeded with this piece of legislation, is the risk of losing the freedom the industry presently experiences with the ISM Code - in being allowed to develop a Safety Management System which best suites each particular Company.

I fear that if there are many more serious maritime incidents on our door-step the Politicians and Bureaucrats, possibly under pressure from the media and public, will turn and say: '...well, you were given the opportunity to manage safety in your way and you have demonstrated yet again that you cannot be trusted – hence, we will legislate and set out a prescriptive set of rules and regulations on how you will set up and operate your SMS...'

Clearly it will be to everyone's benefit for us to make our ISM systems work and be able to prove that they do work. If we cannot do that then we may well find Brussels, and possibly other bodies, introducing yet more punitive legislation.



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Ship Loss Conundrum

According to an interesting set of new statistics from the International Union of Marine Insurance (IUMI), there has been a dramatic decline in total ship losses over the past 15 years. This remarkable reduction in the number of total losses of merchant ships indicates that 67 ships (of 500 gross tons and over) were total losses in 2006, compared to 140 in 2000 and a peak of 182 during the 1990s.

Since the “dark days” of the late 1980’s and early 90’s there has been a major tightening of the rules and regulations facing ships. Regulatory changes which have presumably had an effect in improving safety; such as the introduction of the ISM Code, the global port State control regime, strict Class surveys, and charterer vetting provisions.

Regretably while the industry may be tempted to congratulate itself on a job well done, IUMI tempered the good news with the what it termed, “an equally dramatic increase” in serious partial losses, up by 200% since 1998.

How can this be, and why the apparent conflict? According to IUMI President, Deirdre Littlefield, the downward trend in total losses is explained by a number of factors:

- Better-designed and more robust ships
- More stringent inspections and surveys demanded by insurers, classification societies, flag states and port State control
- Enhanced safety and maintenance regulations introduced by the International Maritime Organization
- Advances in technology and communications which have ushered in the new shipboard electronic age

This all makes sense, but what of the terrible rise in partial losses?

According to Simon Beale, a member of IUMI’s executive committee, “the highly profitable levels of maritime trade has meant ships and crews being driven very hard”. Added to that he stated, “safety checks and routine maintenance may have been neglected by owners and managers in the rush to keep ships trading in these very lucrative conditions”.

So there appear to be a host of factors driving these partial losses:

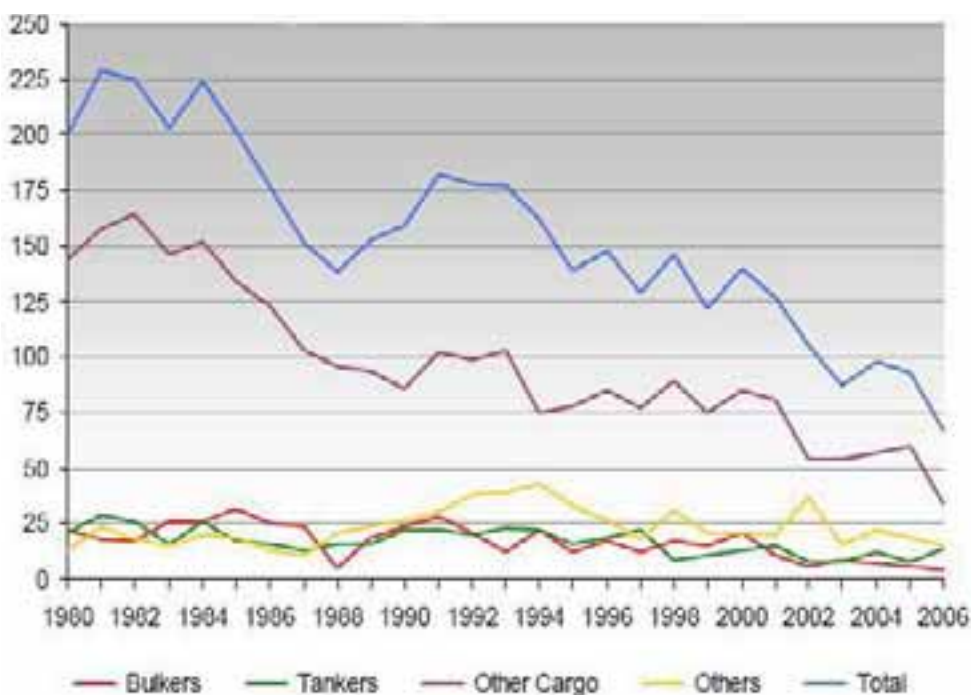
- Neglect of Safety checks and routine maintenance
- Older ships continue trading instead of being scrapped
- Strong sale and purchase demand for older tonnage
- Growing shortage of trained and experienced personnel
- New technology has made repairs and maintenance more expensive

The IUMI statistics show that machinery continues to be the major cause of serious partial losses (35 percent in the past five years), followed by groundings, and collision or contact damage.

It seems so obvious, and avoidable but high freight rates, and strong trading do lead to hard work for ships, and a potential blind eye being turned to safety and maintenance. It seems that unfortunately the relentless pursuit of profit often leads to inevitable short-cuts, and resulting losses.

The old adage of “making hay while the sun shines” tends to make light of the ongoing need to do things properly. Just because freight rates are high, with strong demand for vessels, in no way relieves any owner or operator from the requirements and duties imposed on them. The rules and regulations that have seemingly done so much to guard against the “big” losses must be embraced to guard against the “small”.

No amount of profit can mask the ongoing duty to protect people, the environment, ships and cargoes. It should also be stressed that the profits made during such lucrative times can easily be eroded by continual losses, increased premiums and by expensive legal disputes when things go wrong.



Number of losses (>500GT) 1980-2006

Inform/SM...the new website



Following a period of quiescence I am delighted to announce the re-launch of the website dedicated to the study of the ISM Code and the management of safety on board ships – under the new banner of Inform/SM - at www.ismcode.net

The whole site has been completely restructured, expanded and updated and I am sure will again establish itself as THE international source of information on the ISM Code and related issues. The site is being sponsored and supported by Consult/SM Ltd.

The site was originally set up in year 2000 and was specifically structured to help me collect data related to ISM implementation as part of my Doctoral research. This proved most useful in that I received near 3000 completed questionnaires and about 800 separate items of correspondence from all sort of individuals across the industry

– which provided a very good insight into the problems which were being encountered, and the successes being achieved with ISM implementation at the mid point between Phase 1 and Phase 2 implementation.

The website was further developed in 2002 and 2003 to provide feedback with my findings and conclusions. I was most grateful to the North East branch of the Nautical Institute for its support during that period in sponsoring the maintenance of the website.

I am now re-launching the site to provide an international focus for the advancement of knowledge, understanding and debate of the ISM Code and related topics. I certainly hope that the site will be of use to academic researchers and students but I also hope it will be helpful to seafarers and shore managers, government officers and lawyers and all others directly or indirectly interested in the ISM Code and the

management of safety on board ships and within the shipping industry.

I have collected together a whole range of legal cases, accident reports, primary and secondary source documents and much more information and data relevant to the Code. However, it is important that this becomes a dynamic website in a state of continuous development.

I would therefore urge visitors to the site to share your thoughts and experiences on the BlogISM page as well as submitting additional articles, reference sources, and other information relevant to the ISM Code which can be shared through the website.

Let me tell you a little more about the structure and content of the site:

There is of course the usual Home Page, Information about the Site, Links Pages but the main body of the website resides in the 'ISM Info' section. As already mentioned, there is also Blog/SM which I hope will turn into a truly international authoritative forum for debating ISM related issues. However, in this article I would like to provide you with a flavour of the contents of the 'ISM Info' section.



There are 14 individual topics covered within 'ISM Info':

HOT NEWS

PRIMARY SOURCE DOCUMENTS

SECONDARY SOURCES

RESEARCH PROJECTS

PAPERS AND ARTICLES

REPORTISM

LEGAL AND TECHNICAL REPORTS

ACCIDENT AND NEAR MISS REPORTING

HUMAN FACTORS

FATIGUE

AUDITING PROCEDURES

PROVIDERS

FORTHCOMING EVENTS

THE LIGHTER SIDE OF ISM

Hot News

The ISM Code and Safety Management generally are dynamic issues which are in a constant state of development. Related issues regularly feature in the national as well as international shipping newspapers, magazines and journals. On this page I will post topical articles which come to my attention.

Primary Source Documents

In addition to the ISM Code itself, there are a number of other IMO Resolutions as well domestic laws, regulations and guidelines which are relevant to

the Code. I include on this page those Primary Source Documents of which I am aware and provide links to copies of the full text.

Secondary Sources

There are relatively few books and other reference sources available specifically dealing with the subject of the ISM Code – although there are many other books which deal with subjects where the ISM Code and the management of safety are key underlying issues. Within this section I have listed those books and reference sources of which I am aware and which I think will be of use and interest.

Research Projects

I am aware that there have been various research projects undertaken into the ISM Code and related issues. However, there does not appear to be a central reference source to identify what research has been undertaken, the results of that research or what research is presently being undertaken – although the IMO Library does hold details of some of the projects.

The purpose of this page is to provide such a central reference source and thus provide an opportunity to access completed research projects, raise awareness of what other research projects have been undertaken, what projects are currently being undertaken and what projects might be planned for the future. With the permission of the Researchers and their Research Institution I will also publish their contact details such that researchers, or others, who may also

be involved in a particular area or otherwise have information to share may contact each other. I will also provide details of Institutions who provide facilities which would allow research programmes to be developed in ISM related subjects.

Papers and Articles

I have started to collect together on this page a number of papers and articles relating to the ISM Code and safety management issues generally. The topics covered in the papers are wide ranging but papers and articles on specific topics within the website, such as Human Factors or Fatigue for example will be posted within those particular sections.

Report/ISM

Report/ISM is the electronic quarterly newsletter produced by Consult/ISM and is dedicated to exploring issues relating to the ISM Code and the management of safety. The latest edition of Report/ISM, as well as all back copies, can be accessed through this section of the Inform/ISM website.

Legal and Technical Reports

I have been collecting together both legal and technical reports on issues which are either directly linked to ISM implementation or the operation of Safety Management Systems or at least involved an examination of the way in which safety and / or management systems were conducted and became influential in the conclusions.

These have been separated out into 'Legal Reports', 'Technical Reports and Formal Inquiries'.



Accident and Near Miss Reporting

Clearly the old saying 'prevention is better than cure' is a truism with which few would disagree. However, if an accident does happen then it is important that we do not lose the opportunity to study the circumstances carefully and learn whatever lessons we can and make sure such mistakes are not repeated.

We do not need to wait for accidents to happen to realise that something is going wrong. Hazardous occurrences, near misses and non-conformities are all learning opportunities – by reporting and analysing these incidents we can understand what is starting to go wrong and we can introduce corrective action before the accident actually occurs.

Included in this section of Inform/SM are details of a wide range of organisations who either provide reports of maritime accidents and incidents or otherwise provide guidance and instructions on investigating, reporting and / or analysing accidents and incidents.

Human Factors

I have started to collect together a range of information sources as well as relevant articles and reports dealing with 'Human Factors' or, as some prefer to refer to it, the 'Human Element' – I will take these terms to be synonymous – although I am in no doubt that there are some who would not agree.

Fatigue

Accident and incident reports frequently draw a causal connection between the fatigued condition of individuals on board and the events

leading up to the incident. Further, there are numerous reports of causal links being made between the manning, or rather under manning, of ships and fatigue. Yet some sections of the shipping industry seem reluctant to accept that these underlying factors and causal links even exist.

IMO Resolution A.890(21) sets out guidelines on Principles of Safe Manning yet despite attempts by some Governments to adopt this Resolution as mandatory, it remains a voluntary set of guidelines.

The Nautical Institute is actively involved in investigating the problem of fatigue on board ships and anyone interested in this subject is encouraged to visit, and participate in, the Institute Fatigue Forum on their website at <http://www.nautinst.org/fatigue/index.htm>

I have started to collect on this page a range of articles and details of studies linked to issues of fatigue.

Auditing Procedures

Auditing is an important feature of any management system and this clearly includes the ISM – Safety Management System.

There are at least two related but quite different audits which will be carried out to verify compliance with the ISM Code:

- External Audits carried out by the Flag State Administration, or Recognised Organisations on their behalf, and
- Internal Audits carried out by the Company.

It is possible that port State Control may also conduct an external audit in certain circumstances.

On this page I have started to pull together a collection of articles and sources of information relevant to both External and Internal auditing.

Forthcoming Events

During the course of each year there are numerous events being held around the world such as seminars, conferences and training courses on subjects linked to the management of safety and protection of the marine environment. I hope to use this page of the Website to promulgate information about such events.

The Lighter Side of ISM

OK, we all agree that the management of safety and protection of the marine environment are very serious issues. However, I would suggest that there is nothing wrong – every now and again – in standing back and seeing the entertaining or funny side of things!

So, on this page I am introducing a little entertainment and possibly even humour! Included is a collection of jokes, photographs, stories, poems etc which have been sent to me and which have some link, although on occasions admittedly a somewhat tenuous link, with the management of safety and / or protection of the marine environment.

Please take some time now to explore the Inform/SM site at www.ismcode.net

I hope you find something useful and interesting but please do make this a two way experience and make your own input, and please pass on the site address to your friends, colleagues, crewmembers onboard, and anyone who you think may find the site useful.



Rusty People...and Ships!



The statistics released by IUMI (see page 3) highlight an apparent shift in the very nature of maritime accidents.

We appear to have reached a point where the really big losses are avoided, but in which "partial losses" have reached almost epidemic proportions.

This change has seen the finger of blame pointed squarely at the human element. The increase of these serious partial losses, up by 200% since 1998, has led to claims that the erosion of standards of personnel is now beginning to be felt across the industry.

The Classification Society, Det Norske Veritas (DNV) has stated "growing incompetence among crews, possibly brought on by new recruits, poor retention and overworked seafarers, could be the reason behind an increase in the frequency of serious maritime accidents since the start of the new century". (*"DNV suggests incompetence among crews is behind rise in accidents" Lloyd's List, 22/03/2007*)

These concerns were supported by data purporting to show that while accident figures today are half the levels of the late 1980s, DNV believes "the trend is about to turn".

According to further statements from DNV, the storm clouds are indeed

gathering, and we can expect a major increase in claims and accidents which could be attributed to a "loss of competence" among crews, linked with stress and fatigue.

Though DNV were very quick to point out that, despite admitting the prevalence of stress and fatigue, they are adamant that this is "not necessarily attributable to fewer crew members per ship".

DNV's own navigational accident figures for large containerships, ro-ros and crude/chemical tankers show a downward trend from 1987 through to 2001. This is followed by an increase from that point on, with even the tanker sector, with its robust safety focus, reporting more accidents than five years ago.

The society says collisions, strandings and contact damage are areas of high concern, and Dr Espen Cramer, head of DNV Maritime Solutions, said in a statement: "In sum, the general level of experience on board vessels has been reduced. There are more new recruits, less retention and faster promotion".

"In addition, onboard workloads with respect to paperwork and inspections have increased while crew size is stable. Loss of experience is a stress factor for those... who have

to continuously train newer crew members."

Dr Cramer suggests, "more focus on the crew onboard and management onshore" as a way to reduce accidents. He stressed, "the crew has to be more involved in safety, and management has to demonstrate more commitment to safety". He ended by setting out the challenge ahead, stating "shipping still has more to learn from industries such as offshore and aviation."

The concerns voiced by DNV are echoed across the industry, and Lloyd's Register and UK P&I Club recently joined forces to hammer home the message about the dangers of shipping interests suffering commercial disruption, criminal proceedings, fines and imprisonment. Karl Lumbers, loss prevention director at the UK P&I Club claims, "It is rusty people, not rusty ships, that cause us problems." Before going on to add that in the eight years to 2004, 52% of the club's claims by number and 72% in monetary terms were the result of human error. (*"Owners face crackdown by port states on ship pollution" Lloyd's List, 13/02/2007*)

These comments emerged at the launch of a new guide for vessel operators and personnel to better manage their relations with port State Control authorities. We too recognise this vital relationship and would therefore like to remind readers of an upcoming port State concentrated inspection campaign (CIC) which will be conducted from September to November 2007.

The CIC operated by the Paris MOU and the United States Coast Guard will focus on the ISM Code, and will mark the end of the first five-year cycle of the Code. We will look at the requirements of the CIC in more depth in the next issue, but if you require more information on the ISM Code and port State Control please do not hesitate to contact us through enquiries@consultism.co.uk

Port State Powers

The UK Maritime and Coastguard Agency (MCA) sent out a message condemning the owners and operators of sub-standard ships recently when they detained the Bahamas flag bulk carrier, "Golden Glory".

After a tip-off from Customs, the MCA found the overall condition of the vessel to be very poor, and also reported insufficient food for the crew. The vessel had incurred heavy weather damage, which had not been reported to the MCA or to the vessels' Classification Society.

The inspection revealed in excess of 30 deficiencies, including:

- Serious crack in deck
- Sounding pipe sheared
- Fire main holed and leaking
- Pipe-work leaking
- Insufficient generator power
- Defective fire doors
- Insufficient food on board

Due to the large number and serious nature of deficiencies found a major non-conformity was raised against the Safety Management System, under section 10 of the ISM Code, maintenance of the ship and equipment.

The port State Control inspection was suspended and the vessel detained until the deficiencies could be rectified and the Recognised Organisation responsible for the ISM Certification could carry out an audit. The MCA also noted that the vessel had been detained in Hamburg on 8th January 2007.

Pat Dolby, Head of the MCA's Inspection Branch said, "This is a classic case of serious neglect by the vessels owners and operators, and to



allow the "Golden Glory" to continue to trade in its present condition would pose an unacceptable risk to the safety of its crew and other seafarers.

"Operators who are not prepared to maintain their vessels in accordance with internationally agreed standards must appreciate that the Maritime and Coastguard Agency will not hesitate to detain dangerously substandard vessels."



The 17th Annual Meeting & Conference of the Inter-Pacific Bar Association was held in Beijing from 20th – 23 April 2007 when nearly 1000 lawyers gathered for this important event.

In addition to those from the host country China, including Hong Kong, There were delegates from Japan, Singapore, Indonesia, Korea, Malaysia, Philippines, Taiwan and Thailand, Also The USA and Canada, India and Sri Lanka, Australia and New Zealand, the United Arab Emirates and South America as well as from across Europe.

At the invitation of Alec Emmerson, from Clyde and Co Dubai, who chairs the Maritime Law Committee of the IPBA, and the Dispute Resolution and Arbitration Committee, Dr Phil Anderson, of ConsultISM, acted as Expert Witness in a 3 ½ hour mock arbitration with a team of very eminent lawyers and experts from across the region. The arbitration tribunal comprised Philip Yang of the Hong Kong International Arbitration Centre, Raymond Burke, Jr. lawyer from New York and Singapore lawyer Leona Wong. Roger ter Haar Q.C. of Crown Office Chambers in London represented defendant Hull

Underwriters and Chilian lawyer Ricardo Rozas appeared on behalf of the claimant shipowner. The dispute involved a claim for constructive total loss of a vessel, following a serious fire, under the Hull and Machinery Insurance Policy which had been declined by Underwriters on account of allegedly sending the ship to sea in an unseaworthy condition with the privity (including bind eye knowledge) of the assured, a lack of utmost good faith and a failure to provide full disclosure by the assured as well as a raft of failures within the requirements of the ISM Code.

Following intense examination of the witnesses the Tribunal concluded that there had been a failure by the 'Assured, Owners or Managers' to exercise due diligence under the Proviso to Clause 6.2 (the Inchmaree Clause) – and found in favour of the insurers.

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