

Shipping Consultative Committee

**Implementation of the Amendments to the STW Convention
and the STW Code in HKSAR**

Background

The revised STW Convention and the STW Code was adopted by IMO in June 2010 (i.e. the Manila amendments) and entered into force globally on 1 January 2012 under IMO tacit acceptance procedure.

2. Marine Department (MD) is in the process of amending the relevant provisions in the Merchant Shipping (Seafarers) Ordinance - Cap. 478 and its subsidiary regulations to implement the Manila amendments within the HKSAR.

3. During the legislative amendment process, MD have found three issues that may require the input from the industry before policy decisions can be made for the implementation of the requirements on:

- (i) whether suitable persons qualified under Regulation III/6.5 and III/7.5 are required to be certificated;
- (ii) whether an Electro-technical officer (ETO) or an Electro-technical Rating (ETR) is a dedicated person; and
- (iii) how to implement Section A-VIII/1.10 of the STW Convention on alcohol abuse effectively without dispute.

Discussions

Whether suitable persons qualified under Regulation III/6.5 and III/7.5 are required to be certificated

4. STW Regulations III/6.1 to 6.4 and Regulations III/7.1 to 7.4 have specified that ETO and ETR serving on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall be duly certificated. However, Regulation III/6.5 and III/7.5 permit other suitable persons qualified to carry out certain functions of an ETO or ETR but fell short in explaining further whether an ETO or ETR is still required to be employed under the circumstances. IMO secretariat had been consulted on these issues.

5. IMO secretariat confirmed that during the debate in Manila and in the previous sessions, many countries indicated that they already employed ETO's and ET ratings on some of their ships to perform the function of ETO in accordance with their national regulations. Some countries employed Electrical Officers and Electrical engineers/ratings on their ships based on some training and seagoing experience.

6. The consensus was that those who already served at sea in some capacities carrying out some of the functions in the competence tables for ETO/ETR in regulations III/6 and III/7 should not be prevented from carrying out those of the functions because of the new requirements in III/6 and III/7, provided the Party considered that they had relevant training

and experience for the specific functions they will carry out on board a ship. Hence, the paragraphs III/6.5 and III/7.5 of the Manila Amendments.

7. What it meant was that a Party could consider allowing a person to carry out some of the functions in the relevant tables of section III/6 and III/7, subject to the Party being satisfied that the person concerned had the required training and experience for those functions, and do so without having to be certificated as ETO/ETR.

8. However, such persons, if they are to carry out ALL the functions in tables A-III/6 and A-III/7, they MUST be certificated in accordance with the requirements of regulations III/6 and III/7 and others who only carry out certain functions of an ETO or ETR need not be certificated.

Whether an Electro-technical officer (ETO) or an Electro-technical Rating (ETR) is a dedicated person

9. It is also our understanding that ships normally employ electrical engineers to carry out the maintenance of electrical equipments such as cleansing of motors, electrical generators or the repair of faulty switches and electrical circuits (which are not ALL the functions in tables A-III/6) while others do not. Those that do not do so have tasked engineer or deck officers with the duties to maintain the equipments under their charge. If these persons are permitted by the STW Convention to continue to work on ships, it will be logically that shipowners will not employ ETOs when they are not forced to. In reality, the employment of ETOs becomes an option and that these persons may be existing seafarers who are also serving in other capacities on ships. In other words, the employment of ETO or ETRs is not mandatory provided that Regulation III/6.5 and III/7.5 have not been fulfilled.

How to implement Section A-VIII/1.10 of the STW Convention on alcohol abuse effectively without dispute

10. Section A-VIII/1.10 of the STW Code requires each Administration to establish, for the purpose of preventing alcohol abuse, a limit of not greater than 0.05% blood alcohol level (BAC) or 0.25 mg/l alcohol in the breath or a quantity of alcohol leading to such alcohol concentration for masters, officers and other seafarers while performing designated safety, security and marine environmental duties.

11. Under Sections 4(d) & 10 of Merchant Shipping (Seafarers) (Disciplinary Offences on Board Ships) Regulation - Cap. 478N (a copy of it is enclosed with this document), a seafarer under the influence of drink or drug to such an extent that he behaves in a disorderly manner or is unfit to be entrusted with his duty or with any duty which he might be called upon to perform may be subject to a fine of not exceeding 1 day's pay. The difference between Section A-VIII/1.10 in STW and Cap. 478N is that the former is a preventive measure to prevent alcohol abuse while the later is a measure disqualifying a seafarer from performing his duties after the effects of alcohol has been shown.

12. MD believes that the effects of both Section A-VIII/1.10 and Section 4(d) of Cap. 478N are the same. The penalty for the disciplinary offence should therefore be equal. It would be impossible to establish a violation of Section A-VIII/1.10 without measuring the level of alcohol. MD is also not in a position to judge when a complaint has been received to dispute the decision of the master. To implement Section A-VIII/1.10 without dispute,

MD intends to require shipowners to equip all ships with instruments for the purpose of measuring the quantity of alcohol in blood and breath.

Consultation

13. Members are requested to give comments/views on the followings policies adopted by MD for Hong Kong registered ships:

- i) qualified persons performing certain functions of ETO/ETR may be existing seafarers who are serving in other capacities on a ship;
- ii) suitable persons qualified under Regulation III/6.5 and III/7.5 are not required to be certificated; and
- iii) proper instruments are required to be carried on board to measure the blood alcohol level or alcohol concentration in the breath of a suspected seafarer and to avoid future disputes.

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