

U.S. Department  
of Transportation

**United States  
Coast Guard**



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16700/PSC  
8 October 1998

From: Commander, Eighth Coast Guard District  
To: Distribution

Subj: INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE ENFORCEMENT

1. Enclosure (1) is MSU Galveston's After Action Report following their recent detention of a foreign vessel as a result of ISM and SOLAS related deficiencies found during a Port State Control (PSC) boarding.
2. This document provides excellent background information which will help other units enforce the ISM code on foreign vessels during PSC boardings. Certain issues remain unresolved and have been forwarded to G-MOC for input into a national policy/NVIC 4-98 improvement project.

  
M. J. BROWN  
By direction

Encl: (1) MSU Galveston ltr 16700 of 21 Aug 98, After Action Report for M/V VORIOS  
IPIROS HELLAS ISM code enforcement

Dist: All Eighth District Gulf Region MSOs, MSDs and MSU

U.S. Department  
of Transportation

United States  
Coast Guard



Commanding Officer  
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21 Aug 98

From: Commanding Officer, Marine Safety Unit Galveston

To: Commandant (G-MOC)

Via: (1) Officer in Charge, Marine Inspection Houston-Galveston *Concur - Outstanding Report. 288 8/31/98*  
(2) Commander, Eighth Coast Guard District (m) *Concur - GAT 9/14/98*

Subj: M/V VORIOS IPIROS HELLAS, O.N. L7433634  
ISM CODE ENFORCEMENT  
AFTER-ACTION REPORT

Ref: (a) Navigation and Vessel Inspection Circular No. 4-98

1. SUMMARY: On 12 August 98, MSU Galveston conducted an annual examination on the Greek bulk carrier VORIOS IPIROS HELLAS when it was in the Port of Texas City. Because there was sufficient evidence that the ship's Safety Management Certificate (SMC) was not valid and Safety Management System (SMS) had not been implemented properly, a COTP order was issued to require an external audit by the authority that issued the ship's International Safety Management (ISM) Code certificates. Although there were a large number of serious non-conformities, Lloyd's Register elected not to suspend the ship's SMC. After all hazardous conditions were eliminated, MSU released the ship from COTP hold and SOLAS detention. This case was the first time that the Coast Guard required an external audit of a ship's SMS since the implementation of the ISM Code.

2. BACKGROUND: On 12 August, the VORIOS IPIROS HELLAS arrived in the Port of Texas City to load petroleum coke at Aimcor. The ship was a PSC Priority II vessel according to PSC Boarding Matrix Info 8/98. MSU Galveston conducted the annual examination while the ship was moored at the terminal. The ship is subjected to the ISM Code because it meets the definition of a bulk carrier under SOLAS Chapter IX.

a. VESSEL DATA: Greek flag, Lloyd's Register of Shipping class  
635' L, 22069 GT, Built 1981  
Diesel Direct Propulsion  
SOLAS Interim Certificate was issued by LR on 6 August 98 in Veracruz  
Document of Compliance was issued by LR on 8 August 97  
Safety Management Certificate was issued by LR on 13 July 98

b. CREW INFO:

Rank	Nationality	Time w/ Company	Time on Vessel
CAPT	Greek	5 years	1 month
C/O	Greek	< 1 year	6 months
2/O	Myanmar	< 1 year	6 months
3/O	Myanmar	< 1 year	1 month
C/E	Greek	< 1 year	< 1 month
2/E	Greek	2 years	3 months
3/E	Myanmar	< 1 year	1 month
3/E	Myanmar	< 1 year	10 months

c. CG CONTACT:

Last Annual Examination was by MSO Philadelphia on 31 July 96  
Last Boarding was by MSO New Orleans on 12 August 96  
Last U.S. Port of Call was Los Angeles on 9 October 96

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MSIS's Resolved Discrepancy Summary showed few problems, mostly related to navigation.

3. **SITUATION:** MSU PSC boarding officers discovered numerous material deficiencies that affected the safety of the ship. The ship was placed under COTP hold and SOLAS detention until those discrepancies were resolved to the satisfaction of the Coast Guard and the ship's class society.

DESCRIPTION	CITATION
Inoperable Emergency Generator	SOLAS 60, Ch. II, Reg. 26(a)
Inoperable Main Fire Pump	SOLAS 60, Ch. II, Reg. 65(b)
Overdue condition of class for life boat davit repairs	SOLAS 60, Ch. II, Reg. 36
Fireman's outfits without fireproof lifelines	SOLAS 74 (amended), Ch. II-2, Reg. 17/2
No expiration dates or service reports for bridge wing smoke signals	SOLAS 60, Ch. III, Reg. 21(g)
All three S/S generators have excessive fuel leaks	SOLAS 60, Ch. II Part C
Excessive fuel oil in generator room bilge	SOLAS 60, Ch. I

a. **Reasons for Conducting an Expanded Examination of the SMS:** When the case was reviewed for potential COTP hold and SOLAS detention, the overdue condition of class was noted. It was determined that the overdue condition constituted a "failure to correct identified deficiency" under NVIC 4-98. Additionally, the ship's poor material condition so soon after completion of a satisfactory class survey raised some concerns about whether the SMS had been implemented properly.

b. **Reasons for Requesting an External Audit:** On 12 August, MSU Galveston initiated an expanded examination of the ship's SMS. During the examination, the ship's Master and Chief Engineer were evasive when asked to address specific questions and concerns regarding the ship's SMS and material condition of the ship. Boarding team members were often left alone in the Conference Room while ship's officers seemingly disappeared. There was a general impression given to all team members that SMS issues were of little importance.

(i) Despite poor cooperation, MSU personnel found evidence that the ship's SMC may not be valid:

- When Lloyd's conducted the initial audit of the ship's SMS on 5 April 98, the auditor issued a major non-conformity and recommended that a SMC not be issued until the major non-conformity was remedied;

- A SMC was issued to the ship on 13 July 98, however, there was no evidence on board whether a follow-up audit was performed to clear or downgrade the identified major non-conformity;

- The inoperative computer system, which the major non-conformity identified, had not been repaired nor replaced; and

- The ship's Master could not provide an explanation for this discrepancy.

(ii) There was also evidence that the ship's SMS had not been implemented properly. The following major non-conformities were identified:

- The ship could not produce a documented maintenance system;

The ship's Master had not reviewed the ship's SMS;

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- The ship's Master and Chief Engineer were not familiar with the internal audit requirements or procedures;

- The Chief Engineer's English proficiency was poor, contrary to qualification requirements of the ship's SMS; and

- All ship's officers had very limited knowledge of the ship's SMS.

(iii) The most convincing evidence of the ship's non-working SMS was a written report from a contractor who repaired the ship's cranes when it was in Veracruz, Mexico on 5 August 98. The report states:

"... All cranes are in poor condition, showing complete lack of maintenance. Vessel owners should supply correct service manuals and drawings for the installed cranes. They should also delegate responsibility for crane maintenance to specific officers and crew, and accept the financial cost of supplying spare parts to maintain the cranes in a serviceable condition ..."

On 13 August, MSU Galveston issued another COTP order to require a determination of the validity of the SMC and the proper implementation of the SMS by the authority that issued the ship's ISM Code Certificates. On 14 August, a Lloyd's ISM Auditor contacted MSU Galveston to confirm our requirement. He indicated that the ship's owner was very upset with the Coast Guard requirement for an external audit of the ship's SMS.

c. **Verification of the SMC:** On 14 Aug, Lloyd's provided documentation to show that:

(i) A follow-up audit was conducted;

(ii) The major non-conformity was downgraded;

(iii) The attending Auditor recommended the SMC be issued to the ship; and

(iv) The attending Auditor required an external audit to be conducted within 6 months after the issuing of the SMC.

d. **MSU Observations of the External Audit:** On 15 August, Lloyd's conducted an external audit of the ship's SMS. The audit lasted 14 hours and was witnessed by MSU personnel. Although there were a number of areas of the SMS examined by the Auditor, the most telling observations were with respect to the attitude of the crew towards both the SMS and the audit process. The Auditor grew quickly frustrated, as it became soon evident that the level of cooperation from the crew would be much less than hoped. A typical example was, when randomly checking Material Safety Data Sheets, it took forty-five minutes to be shown where onboard the vessel the boiler treatment chemicals were located. The simplest of tasks put forth to the ship's officers evolved into painfully protracted events. Crew unwillingness to participate or expedite the audit was further demonstrated when it took forty minutes of waiting on the Bridge for the Second Mate to appear for an interview and the Auditor was made to wait over three hours to speak to the Second Engineer, who was aboard and available the entire time.

It was of great interest to monitor the position of Lloyd's Register during the audit. It was evident from the outset of the audit that, to some degree, political considerations would play a role in the outcome of the audit in the sense that Lloyd's would be hard pressed to explain why it was felt necessary to suspend a SMC that had been issued the previous month, should that action be determined to be appropriate. There were several instances that the Auditor was faced with which would have in other cases resulted in the immediate recording of a major non-conformity.

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resulting in the suspension of the SMC. Safety issues discovered in the engine room and the complete lack of a documented preventative maintenance system for engineering equipment were just two examples of such cases. The Auditor stated to the Master on a number of occasions during the audit that particular situations would require immediate resolution or they would be entered as major non-conformities. At the Closing Meeting, the Auditor stated outright that had this been an initial audit, he would not recommend that a SMC be issued.

e. **Results of the External Audit:** The auditor not only confirmed MSU's findings but also identified the following additional non-conformities:

- (i) The ship did not have a garbage disposal plan as per Annex V of MARPOL 73/78 Reg 9;
- (ii) The ship's records of engine room checks, hot work permits, cold work permits, confined space entry permits, and drills were not in order;
- (iii) MSDS's were not available at chemical store;
- (iv) Safety meetings were ineffective and poorly recorded;
- (v) Training, for both emergency and normal operations had not been established; and
- (vi) There was no evidence that the ship's Master has used the SMS to report and correct non-conformities that were identified by the Coast Guard.

f. **Actions by the Authorized Organization:** Although the identified non-conformities were numerous and serious, Lloyd's elected not to suspend the ship's SMC, but took the following actions:

- (1) Requiring the owner to conduct an internal audit at the ship's next port of call; and
- (2) Requiring a follow-up visit by Lloyd's within one month to close out the issued non-conformities

g. **Actions by the Ship's Owner:** On 16 August, the ship's Master submitted a written "report of a non-conformity, accident or hazardous condition" to MSU for review. At the ship's next port of call, the owner intended to replace the chief engineer with a qualified individual who has a good command of the English language.

h. **Actions by MSU:** Once a written report addressing all of the non-conformities was received and all hazardous conditions were eliminated, MSU released the ship from COTP hold and SOLAS detention. The ship's MSIS record was updated to partly reflect outstanding ISM deficiencies.

#### 4. DISCUSSION:

a. **Did the Coast Guard Do the Right Thing?** Based on the results of the external audit and the decision of the owner to replace the Chief Engineer, this was a case where a ship's SMS had not been implemented properly. It is very disturbing that the external audit revealed all of these serious non-conformities so soon after the ship's SMC was issued.

b. **Did the Authorized Organization do the Right Thing?** Although there was tremendous pressure on the Auditor not to suspend the SMC, there is no question that some of the discrepancies could have been easily categorized as major non-conformities. The Auditor should have suspended the ship's SMC

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c. **What Are the Lessons Learned?** Although reference (a) is well written, further guidance and clarification in several areas would serve to minimize some of the potential for confusion in the decision-making process as well as establish a degree of across-the-board consistency in dealing with ISM issues.

(i) **We Need a Better Mechanism to Determine Major Non-conformities** – Because NVIC 4-98 does not provide concrete criteria for determining major non-conformities, it leaves the OCMI in a very vulnerable position for others to second-guess his decision. In this case, it was easy because the ship was already under SOLAS detention and there was so much evidence of the SMS not working properly.

If specific major non-conformities cannot be identified then perhaps a point system could be incorporated into the checklist. A good point system will not only help the OCMI easily determine when an external audit is required but also give him the option of whether to keep a vessel in port until the SMS audit is performed.

(ii) **We Need to Ensure the Integrity of Third Party Audits** – It is of paramount importance that it be recognized at the policy development level the political dynamics in play at the policy implementation level. In this case, the list of non-conformities readily attests to the marginal degree of compliance of the ship with its SMS. The short-age of the SMC served to make it overwhelmingly in the best interests of Lloyd's to minimize the adverse impact of the audit. The suspension of the SMC so soon after its issue would have called into question the entire process leading up to the initial award of the SMC.

Once an OCMI has decided to pursue a third party audit of a ship's SMS, he should stay on top of the process by having his ISM-trained personnel attend the audit. If possible, a representative from the flag state should also attend. If the results from a third party audit are questionable, Commandant should forward a copy of the auditor's report and the Coast Guard concerns to the flag state for consideration.

(iii) **We Need to Define Procedures for Handling Cases Where the SMS is Found in Compliance But There Are Outstanding Non-conformities** - If a ship is found in compliance, NVIC 4-98 indicates that "it should be released from detention after all deficiencies and non-conformities have been properly addressed." Although some non-conformities may be so grave as to require correction prior to leaving port, others may be serious but not require immediate resolution. We need a mechanism to track and verify resolution of the latter.

Outstanding non-conformities should be entered into the MSIS. Additionally, OCMI's should enter a VPI notice in MSIS that an external audit was conducted on the ship and there are outstanding non-conformities that may have to be addressed prior to the ship's entry into port.

## 5. RECOMMENDATIONS:

a. Commandant (G-MOC) should follow up on results of the corrective actions taken regarding the VORIOS IPIROS HELLAS' non-conformities.

b. Commandant (G-MOC) should communicate our concerns with Lloyd's performance in this case to the Government of Greece.

c. Commandant (G-MOC) should revise NVIC 4-98 to reflect the lessons learned in this case. It would also be helpful if the revised NVIC include a decision flowchart.

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d. Commandant (G-MOC) should provide a copy of this report to other marine safety units for information.

e. RTC Yorktown should use this as a study case for its ISM training.

6. For additional information or clarification, please contact LCDR Hung Nguyen at (409) 766-3638.



S. P. GLENN