Engineering Circular No.5 of 2013

NO: ENG/ISM-59(4)/97-VII	Dated: 4th July 2013

Subject: Declaration from Top Management of the 'Company'.

1. General:

The International Safety Management (ISM) Code for the Safe Operation of Ships and for Pollution Prevention was adopted by the International Maritime Organisation (IMO) by Resolution A.741(18) as amended. The Code was implemented in India through the Merchant Shipping (Management for Safe Operation of Ships) Rules 2000, as amended.

Any organisation holding the Document of Compliance (DOC) issued by the Government of India, is the "Company" within the meaning of Clause 6(h) of the said Rules. Hence, any DOC holding Company, including the management companies who have assumed the responsibility for the ISM management of the ships from the ship-owners, necessarily must have sufficient resources, both technical and financial, to ensure that adequate shore based support is extended to the vessels under its management, at all times and promptly.

2. Purpose:

A few recent marine casualties, involving the Indian companies, have raised serious doubts about the capabilities of a few of such DOC holding companies to effectively discharge their duties and responsibilities envisaged under the Code, placing several legal, technical and social challenges before this Directorate, as the maritime administration of the country.

The matter was extensively deliberated at the Directorate amongst various stakeholders and it has emerged that a balanced, pragmatic and non-intrusive mechanism be essentially required to be put in place by the Administration to bring-in more accountability and transparency amongst the companies.

The purpose of this Circular is to introduce a 'self-affirmation' from the Top management of the Company, urging them in effect to recall their statutory obligations under the Code for the safe operation of the vessels under their management.
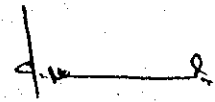
3. Applicability:

This Circular is applicable to all "Companies" as defined in the ISM Code and holding a Document of Compliance issued by the Directorate General of Shipping, except for the ships owned and operated directly by the Government owned companies/ organisations.

4. Declaration from the Top Management of the Company:

A self "Declaration from the Top Management" in the prescribed format has been developed and attached to this Circular, which needs to be endorsed by a duly authorized person of the Top management of the company holding the Document of Compliance as issued by the Directorate General of Shipping. All the existing companies are required to submit this declaration Form No. DGS/ISM-14 along with requisite information, to this Directorate at the time of application for any DOC audit after the issuance of this Circular, but not later than 31st October, 2013. Any new company intending to obtain DOC from the Directorate, is required to submit this Declaration at the time of their applying for the Interim DOC audit.

This is issued with the approval of the competent authority and comes into effect from the date of issue of this circular.

(K.M. Rao)
E&SS-cum-Dy. DG (Tech)

To,

1. The Principal Officer, Mercantile Marine Department, Mumbai/Kolkata/ Chennai/ Kandla/Cochin.
2. The Surveyor-in-charge, Mercantile Marine Department, Goa/Jamnagar/Port Blair /Visakhapatanam /Tuticorin /Delhi /Haldia/ Paradip /Mangalore.
3. Indian National Shippers Association (INSA), Mumbai
4. All Shipping Companies
5. All Recognized Organizations.
6. CS/NA/CSS/Jt.DG
7. Hindi Cell
8. Guard file
9. Computer Cell

International Safety Management (ISM) Code (Form No.DGS/ISM-14)

Declaration from the Top Management

I, -------------------- presently serving as ---------------------- of --------------, hereby state that I represent the Top Management (Board of Directors) of the Company and is authorized to affirm as follows:-.

1. That the Top Management (Board of Directors) of M/s --------------------------------, recognizes that by virtue of being the holder of the Document of Compliance No-------------- issued by the Government of India on ----------, M/s--- is the "Company" within the meaning of rule 6(h) of Merchant shipping (Management of Safe Operation of Ships) Rules 2000 as amended and the organization vested with the responsibility and the authority to ensure the safe operation of the ships under its management, and,

2. That the Board acknowledges that as the 'company' defined under the ISM code responsible for the safe operation of ships. we are duty-bound to ensure that the company has sufficient wherewithal, both technically and financially, to provide adequate and prompt shore based support to the vessels under its management at all times, and,

3. That the Board takes cognizance of the requirements relating to the Company's responsibilities towards ensuring adequate resources under the International Safety Management Code as defined in para 3.3 of the Resolution A.741(18) as amended by MSC.104(73), MSC.179(79), MSC.195(80) and MSC.273(85), and,

4. That towards compliance with the aforementioned requirements of the ISM Code, the Company has provided and will continue to provide prompt and adequate resources in terms of skilled manpower, material and services for safe operation and pollution prevention in compliance with all applicable rules and regulations. In support of this contention we are submitting herewith the statement for the preceding financial year as vetted by our bonafied Chartered Accountant, and,

5. That the Company has paid, on time, necessary dues to the providers of all services including seafarers, suppliers of stores, spares, bunkers etc and other service providers including Recognized Organizations, and,

6. That we are aware that the failure from the Company to provide timely resources and services to a vessel can render her unseaworthy and unsafe within the meaning of Section 334 and 336 of the Merchant Shipping Act 1958 as amended and that the Company is liable to be proceeded against, as per the applicable statues, for such lapses.

Enclosed: As stated at Para.4

(Chairman/ Managing Director/ Authorized Signatory)
(Signature with Designation)
M/s -------------------------

Date:-