

MEMORANDUM CIRCULAR NO. 47-A

**TO : ALL SHIPOWNERS /OPERATORS , MANNING AGENTS
MARITIME ENTERPRISES . ALL CONCERNED AGENCIES
,INSTRUMENTALITIES , AND ALL SEAFARERS.**

**SUBJECT : ENFORCEMENT OF INTERNATIONAL CONVENTION ON
STANDARD OF TRAINING , CERTIFICATION AND
WATCHKEEPING FOR SEAFARERS (STCW) 1978**

In order to give full force and effect to the provisions of Executive Order of the 1978 STCW Convenience and the provisions of Executive Order No. 125-A so as to ensure that seafarers on board ships are qualified , properly certificated , and fit for their duties considering safety of life and property of sea and the protection of the Marine environment , the following guidelines are hereby promulgated .

I. APPLICATION -The Memorandum Circular shall apply to all shipowners/Operators, manning agents, maritime enterprises , and all concerned agencies and instrumentalities and all seafarers on Board foreign registered vessels calling any Philippine Port or within Philippine waters, and Philippine flag vessels operating either in the domestic or overseas trade , except the following :

- (a) warships, naval auxiliaries or other ships owned or operated by a State and engaged only on governmental non-commercial service ;
- (b) fishing vessels;
- (c) pleasure yachts not engaged in trade; or
- (d) wooden ships of primitive build.

II. DEFINITION OF TERMS

- (1) “Convention “ shall refer to the International Convention on Standard of Training , Certification and Watch keeping for Seafarers (STCW) , 1978.
- (2) “Administration “ shall refer to the Maritime Industry Authority (MARINA).
- (3) “Administrator “ shall refer to the Administrator of the Marina .

- (4) "STCW" Certificate shall mean a valid document , by whatever name it may be known , issued by or under the authority of the Administration or recognized by the Administration authorizing the holder to serve as stated in the 1978 STCW Convention . For Philippine flag vessels engaged either in domestic or overseas trade , it shall mean the endorsement of certificates and ratings certificates issued by Marina under Memorandum Circular No. 41, as amended.
- (5) "Dispensation Certificate " shall mean the certificate issued by competent authority permitting a specified seafarer to serve in a specified ship for a specified period not exceeding six months in a capacity, other than that of the radio operator or radiotelephone operator , except as provider by the relevant Radio Regulations, for which he does not hold the appropriate certificate.
- (6) "Ocean – going Vessels " shall refer to Philippine flag vessels operating in overseas trade or outside the Philippine waters, and foreign registered vessels calling any Philippine port or authorized to temporarily engage in domestic trade or operate within Philippine waters.
- (7) "Vessels Operating in Domestic Trade " shall refer to Philippine flag vessels engaged in water transportation service within Philippine waters.
- (8) "Port" shall mean a harbor either government or privately owned which gives assistance to a vessel for anchoring , docking and / mooring alongside.
- (9) "Fishing Vessel "shall mean a vessel used for catching fish, whales, seals, walrus or other living resources of the sea.
- (10) "Wooden Ships of Primitive Build " shall refer to vessels built of wood provided with sails.
- (11) "Deficiencies posing danger to safety of life and property at sea and the environment " shall relate to uncertificated master , chief engineer officer, and officers in charge of navigational and engine watch , and where relevant , radio operator.

III. PROCEDURE FOR INSPECTION

- (1) Only MARINA authorized maritime enforcement team , in their prescribed uniform ,with proper Identification Cards , and Special Order, shall board a ship , to verify and check whether or not all seafarers serving on board who are required to be certificated under

the Convention are so Certificated or possess an appropriate dispensation. The inspection shall be conducted while the ship is at port .

- (2) Upon boarding the ship the maritime enforcers shall introduce themselves to the ship's master or his duly authorized representative that they are the duly authorized control officers for the purpose of verification in accordance with Article III of Convention, by presenting their Special Order for that inspection. They shall require the presentation of the following documents for their examination:

- 2.1 STCW Endorsement of Certificate/Rating Certificate
- 2.2 Shipping Article/Manning Certificate
- 2.3 Seaman's book
- 2.4 Any other relevant documents, e.g. dispensation certificate, authority to operate in overseas trade, CPC/PA/SP, etc.

- (3) The inspection report shall be accomplished and signed by the maritime enforcers to be acknowledged by the ship's master or his authorized representative by signing thereon, and who shall be furnished a copy thereof. In case of latter's refusal to acknowledge or sign; such fact shall be reflected on the report , to be witnessed by any competent authority / person within the premises.

- (4) The inspection team shall sign the official log book to attest that an inspection for the intended purpose was actually conducted .

- (5) In the event that deficiencies are found:

- 5.1 The Maritime Enforcers shall assess the extent of deficiencies, particularly, to determine whether or not the same shall pose danger to life, property or environment and take appropriate measure provided hereunder . Undue detention or delay shall , however , be avoided .

- 5.2 Whenever the deficiencies shall not pose danger to life, property and environment , the maritime enforcers shall forthwith give notice deficiency to the competent authority of the next port of call of the ship, with the recommendation that the same shall be corrected thereat before the ship could be allowed to sail back at sea . But if this deficiencies shall cause danger , coordination with the Philippine Ports Authority , Philippine Coast Guard and other government agencies concerned shall be made, to detain the vessel and

prohibit the uncertificated officers/ratings from performing their respective functions until the deficiencies are corrected.

5.3 In addition thereto, the maritime enforcers shall inform the Ship owner/Operator and Manning Agent and the uncertificated officers /ratings , either directly through the Ship Agent and /or the Master of the Ship , that she/he/they are charged with violation stated in a charge sheet, and the administrative liabilities attached to the violation which shall be accordance with the herein sanction /penalties. The latter shall be given the option, either to:

5.3.1 Executive under oath a written waiver of the right to hearing and voluntarily pay the fines; or

5.3.2 Post a cash bond corresponding to the impossible fines, to be supported by the sworn under taking , stating the name address of authorized resident representative or agent upon whom show cause orders, notice of hearing and other processes may be deserved and person to attend the hearings. The latter 's failure to appear and depend the case shall be taken against the principal parties and shall be construed as waiver of his right to a hearing and shall be declared in default and the case shall be decide accordingly.

Non-compliance with Item 5.3 shall be ground for the detention of the vessel until the case is settled.

5.4 Submit the inspection to the Administrator , furnishing the Maritime Legal Affair Office. For appropriate action, and who , in case of foreign registered vessels, shall inform in writing the Consul or, in his absence , the nearest diplomatic representative or the maritime authority of the State whose flag the ship entitled to fly, so that appropriate action shall be taken thereon. Such notification shall specify the details of the deficiencies and the grounds on which the Marina determines that these deficiencies pose danger to life, property or the environment , in accordance with Regulation I/4 of the Convention.

IV. PENALTIES/SANCTIONS

A. For the inability to present valid STCW endorsement of certificate/rating's certificate or valid dispensation certificate of any officer/ratings required to be so certificated, and violation of the limitation set forth in the certificate .

(1) For Oceangoing Vessels

The Shipowner /Operator/ Manning Agent shall be imposed the following fines:

a. First Offense-----P25,000.00

2nd & succeeding Offenses-----P50,000.00

b. In addition, in cases where the deficiencies shall pose danger to life , property or environment , the uncertificated officers/ratings shall be prohibited from performing their respective functions until all deficiencies shall have been corrected before the vessel shall be allowed to leave the port, either by having them certificated or by replacement with qualified and properly certificated officers/ratings.

(2) For vessels Operating in Domestic Trade

The Shipowner/Operator shall be imposed the following penalties :

(a) Ships of less than100 GRT-

First Offense-----P5,000,00

Second & Succeeding Offense-----P10,000.00

plus the of the ship
until correction of
deficiency and/or
suspension/revocation
of CPC/PA/SP

b). Ships over 100 GRT and above-

First Offense	P50,000.00
Second & Succeeding Offenses	P25,000.00 plus detention of the ship until correction of deficiency shall have been made and/or sus- pension/revocation of CPC/PA/SP

B. For the presenting spurious fraudulent or tampered STCW Certificate or Endorsement of Certificates/authentication.

- (1) Without prejudice the criminal prosecution , the seafarer concerned shall be not allowed to board the vessel until correction of the deficiency shall have been made and shall be subject to the following administrative fine:

OFFICERS	FIRST OFFENSE	SECOND AND SUCCEEDING OFFENSE
Master	P 7,000.00	P 14,000.00
Chief Engineer	6,000.00	12,000.00
Chief Mate/2 nd Engr.	5,000.00	10,000.00
Second Mate/3 rd Engr.	4,000.00	8,000.00
Radio Operator/Electrician		
Third Mate /4 th Engr.	3,000.00	6,000.00
RATINGS	2,000.00	4,000.00

- (2) Shipowner/operator/manning agent who , by themselves or their employees/liaison officers, has tampered or with any person participated in securing spurious, fraudulent or tampered STCW Endorsement of Certificates / authentication shall be subject to the following administrative penalties :

First Violation	P 25,000.00
Second Violation	50,000.00
Third Violation	100,000.00

In addition , to the above administrative fines, the MARINA shall have the power to:

- (a) prohibited the uncertificated officers/ratings to board the vessel until correction of the deficiency shall have been made ;
- (b) detain the vessel until correction of deficiency ;
- (c) suspend/cancel the authority of the ship to operate such as, CPA/PA/SP;
- (d) recommend for suspension/cancellation of the company's license; and
- (e) prosecute the responsible officials and employee/liaison officer of the company for the appropriate offense under the Revised Penal Code .

C. For violations of the 1978 STCW Convention by Philippine Flag Vessel found by competent authority of other countries , the following penalties/sanctions be imposed :

- (1) If no administrative fines had been imposed and collected by the apprehending country , the latter shall be liable to the following fines:

First Offenses-----P50,000

2nd & Succeeding Offenses-----P100,000

- (2) If administrative fines had been imposed and collected by the apprehending country, the shipowner/operator manning agent shall be liable for the difference.

V. DUE PROCCESSE CLAUSE

On the basis official inspection reports, the MARINA shall issue show cause orders against the party/violator, and case shall be heard in accordance with the administrative rules on practice and procedure complying with the requirements of notice and due process .

VI. EFFECTIVITY This Memorandum Circular shall take effect fifteen (15) days after its publication once in a newspaper of general circulation.

A copy of this Memorandum Circular duly published, shall be furnished the International Maritime Organization (IMO) Secretary General , through the Department of Foreign Affairs , pursuant to Article IV of the 1978 STCW International Convention.

PACIENCIO M. BALBON, JR.
Administrator

CERTIFICATION

This is to certify that Memorandum Circular No. 47-A was approved in the meeting of the Maritime Industry Authority Board held on 05 November 1993.

EMERSON M. LORENZO
Deputy Board Secretary