

**[MIA MEMORANDUM CIRCULAR NO. 47-A,
November 05, 1993]**

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

In order to give full force and effect to the provisions of the 1978 STCW Convention 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 at sea and the protection of the marine environment, the following guidelines are hereby promulgated.

I
Application

This 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 Standards of Training, Certification and Watchkeeping 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 provided 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 at 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, or 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 and 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 teams, 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 the Convention, by presenting their Sepcial Order for that inspection. They shall require the presentation of the following documents for their examination:

2.1STCW Endorsement of Certificate/Rating Certificate

2.2Shipping Article/Manning Certificate

2.3Seaman's book

2.4Any 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 and to be acknowledged by the ship's masters or his authorized representative by signing thereon, and who shall be furnished a copy thereof. In case of the 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 measures as 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 of 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 these 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 Shipowner/Operator and Manning Agent and the uncertificated officers/ratings, either directly or through the Ship Agent and/or the Master of the Ship, that he/she/they are charged with violations stated in a charge sheet, and the administrative liabilities attached to the violation which shall be in accordance with the herein sanctions/penalties. The latter shall be given the option, either to:

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

5.3.2 Post a cash bond corresponding to the imposable fines, to be supported by a sworn undertaking, stating the name and address of authorized resident representative or agent upon whom show cause orders, notices of hearing and other processes may be served and the person to attend the hearings. The latter's failure to appear and defend the case shall be taken against the principal party/ies and shall be construed as waiver of his right to a hearing and shall be declared in default and the case shall be decided accordingly.

5.4 Submit the inspection report to the Administrator, furnishing the Maritime Legal Affairs Office, for appropriate action, and who, in case of foreign vessels, shall inform in writing the Consul or, in his absence, the nearest diplomatic representative of the maritime authority of the State whose flag the ship is 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