



ALL INDIA ANNUAL CONFERENCE ON RISK & MARINE INSURANCE



Keynote Address By

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Objective of this Keynote Address

To highlight Confluences between the Shipping and Marine Insurance Industries.

To blend theory with practice in both the Shipping and Marine Insurance Industries.

To study the impact of the mandatory ISM code in ship management and on marine insurance



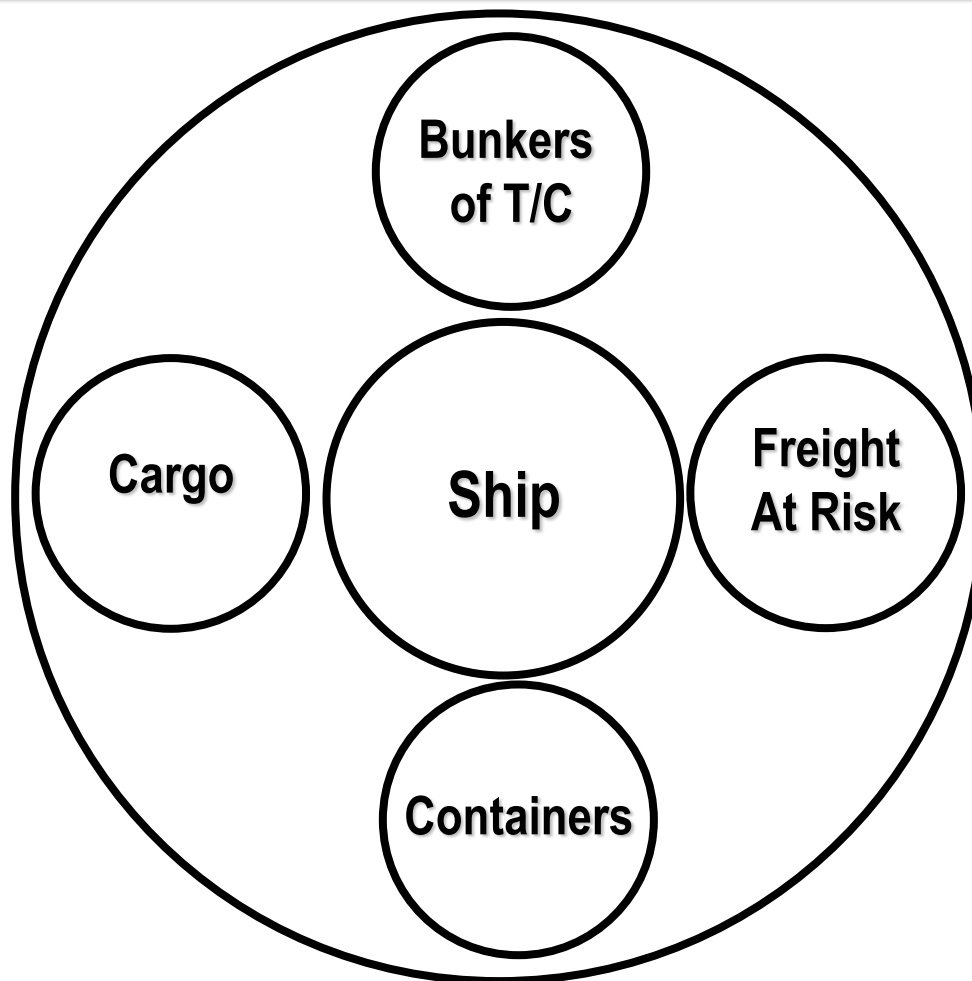
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Presentation Overview

- 1. Risk Management in the Maritime Industry**
- 2. Impact of ISM code on ship management**
- 3. Impact of ISM code on marine insurance**
- 4. Salvage & General Average**
- 5. Education & Training in Risk & Insurance in Maritime Sector**

Parties Involved in a Maritime Adventure





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RAHU
(Ignorance)

MARITIME PERILS	Disability	Death	HUMAN FRAILTY
Contractual Liability	Liability	Personnel	Property
Legal Liability		Profits	
INEVITABLE OCCURRENCES	Intangible	Tangible	INEXPLICABLE ACCIDENTS

KETU
(Arrogance)

“Horror-Scope”
(Shipping Industry)

Owned

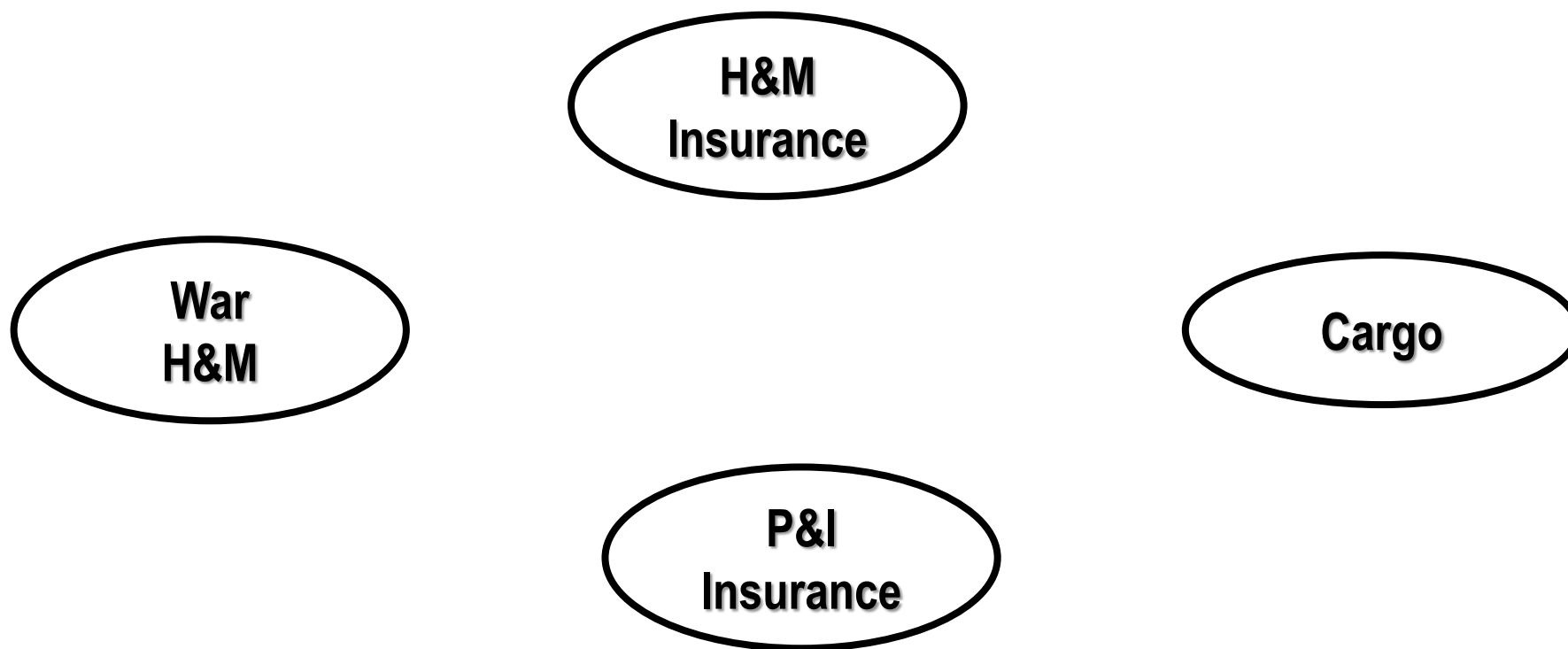
Leased /
Under Care



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Some Professional Risk Carriers





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How does a H & M Insurer reduce / control risks?

Number of ships

Types of ships

Risks of particular cargoes or trades

Claims record

Warranty of classification – IACS (?)

Disclosure

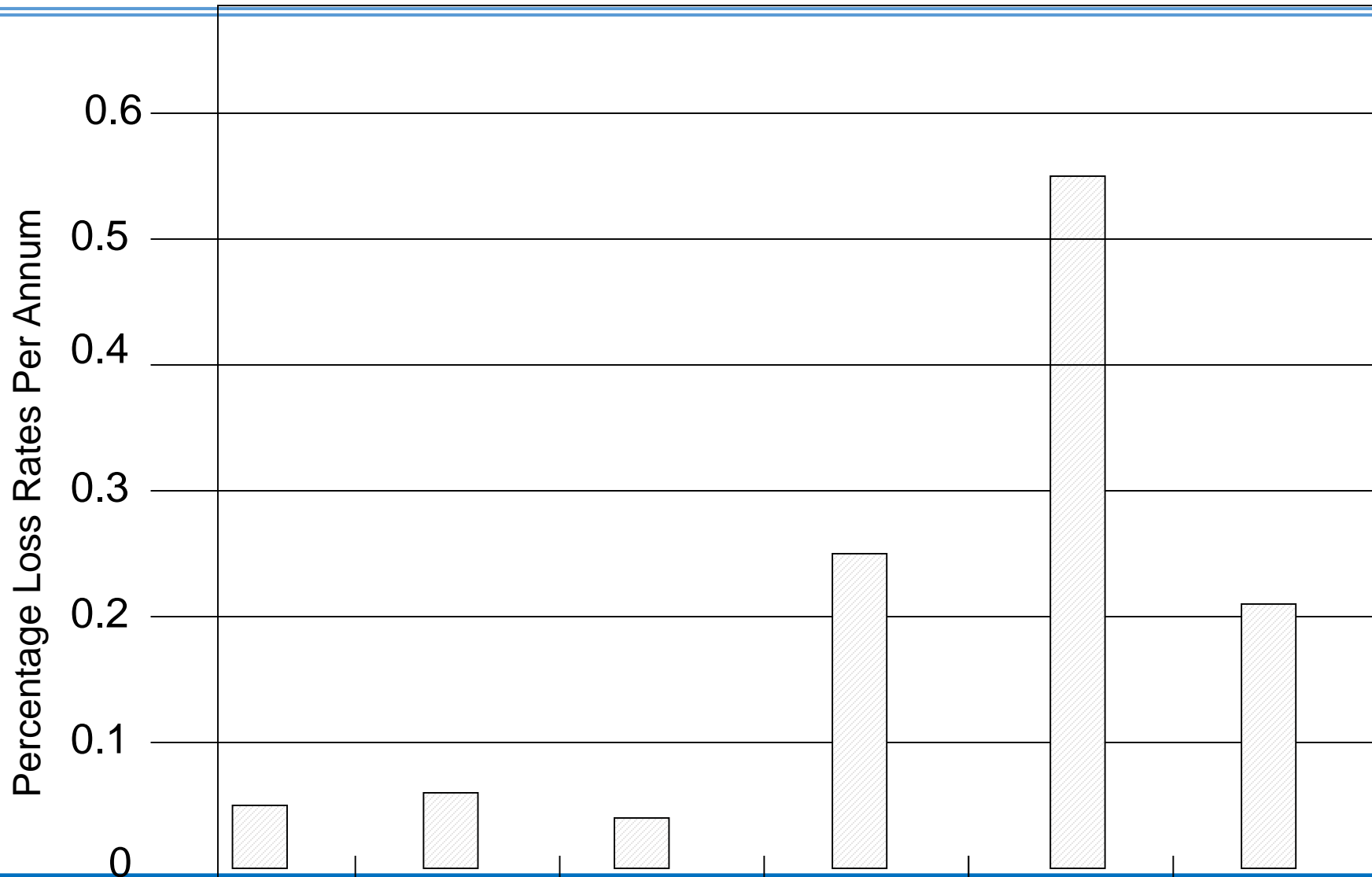
Representation



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BULK CARRIER LOSS RATE BY AGE GROUP





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How does a Shipowner reduce / control risks?

Number of ships

Types of ships

Risks of particular cargoes or trades

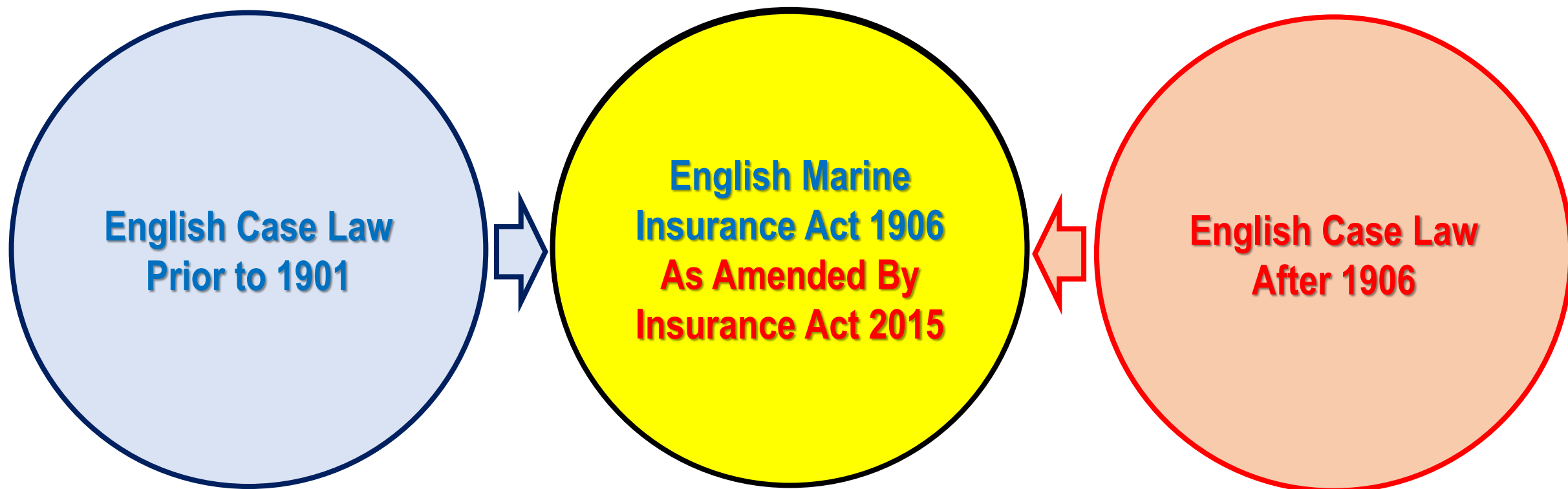
Specific additional training / seminars

Maintaining better standards

Avoidance of contracts to carry dangerous cargoes

Relationship Between Common Law & MIA-1906*

(*As Amended by Insurance Act 2015)





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International Union of Marine Insurers (IUMI) in their 2015 Annual Conference in Berlin, had a theme of - “Technical, Financial & Human Factors – is there a new normal?”

Accumulation Risk - such as car carriers 2014-2015 losses

- 1. Hoegh Osaka – 1400 cars out of which 1200 luxury cars**
- 2. Asian Empire – 4600 cars**
- 3. Baltic Ace – 1400 cars**
- 4. “hailstorm Sandy” destroyed 16000 new cars waiting to be loaded in New York port**



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IUMI asks “Technical, Financial & Human Factors – is this a new normal?”

The insurers voiced concerns with

- 1. Technical aspects: massively increasing vessel sizes**
- 2. Financial influences related to financial crisis, low interest environment**
- 3. Human factors such as the increasing difficulty of maintaining well-trained and qualified ship crews, as well as the importance of upholding the expertise in the marine insurance industry**



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The Glorious Past

A Policy in English dated 5th August, 1555, on Sailing Vessel “SANTA CRUZ”, from Calicut to Lisbon, contained this Clause:

“And if God’s will be that the said ship shall not well proceed, we promise to remit it to honest merchants and not to go to the law.”

**A History of Commercial and Maritime Law in England
The Hon’ble Mr. Justice Mackinnin, 1935.**



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Seaworthiness and Due diligence

Senior judge Lord Summer has said,

*“In the law of carriage by sea neither **seaworthiness** nor **due diligence** is absolute. Both are relative, among other things, to the state of knowledge and the standards prevailing at the time”.*

So, the prevailing **standard** and **state of knowledge** is the ISM code!



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ISM code changes the game plan

1. Shore management now shoulders total responsibility

In the words of William O'Neil, past Secretary General of the IMO,

“The ISM Code brings the managers in more senior levels of the corporate structure directly into the safety process, whereas previously everything was pretty much left to the ship.”



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ISM code changes the game plan

2. Designated person

Designate a shore person

This person responsible for safety and pollution prevention

The D.P. must have access to highest level of management



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ISM code changes the game plan

3. Give resources to ship. Give shore-based support to ship.

The D.P. responsible for supplies to ship

Master to be given necessary shore support



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ISM code changes the game plan

4. Monitor and Verify compliance of management system

Audit ships and all offices – document N/Cs

Take corrective actions

Verify by superintendent's /manager's visits

Scrutinise ship's reports

Management review and master's review

Maintain communication between ship and shore

[the_lady_gwendolen_court_of_appeal_1965.pdf](#)



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ISM code changes the game plan

5. Accident analysis, feedback and learning

Receive reports of Accidents, near misses from ships.
Analyse.

Determine and take corrective action.

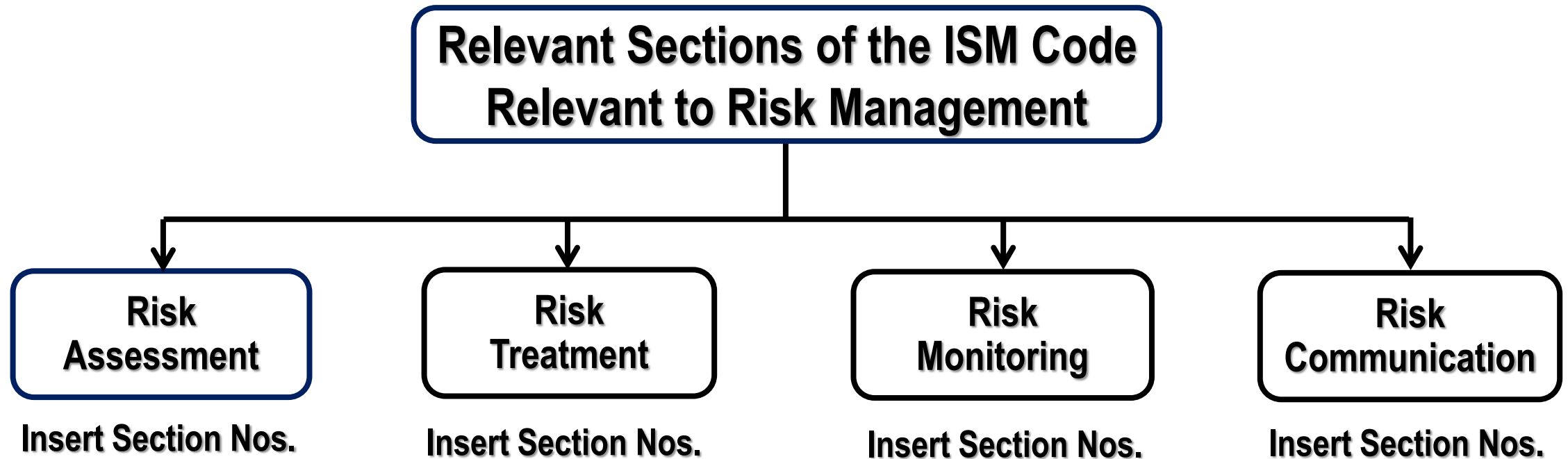
Send feedback to ships and to others.

Ensure ship's staff is aware of newly learnt risks

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ISM Code* & Risk Management



***As amended by xxxxxxxxxxxxxxxx**



Risk analysis

- **ISM code is in effect result of risk analysis done on operation of ships**
- **The analysis has identified hazards which will be reduced or eliminated by the Code**
- **For example, common hazards identified by NTSB are**
 - ✓ **Not having or not following proper procedures**
 - ✓ **Not monitoring operations**
 - ✓ **Not checking errors**



ISM Code requires the Company to

- to establish safeguards against all identified risks
- Continuously improve skills of all involved in managing safety and emergency preparedness

(*Element 1.2.2*)



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How Do All 16 elements Of ISM Address Risk Management ?

- Aiming at **Prevention of loss**
Elements 3, 4, 5, 6, 7, 10, 11
- Ensuring **Mitigation of loss**
Element 8 (Emergency preparedness)
- Trusting '**Experience transfer**'
Element 9 (Accident reporting & analysis)
- Providing **Evidence of managing the risks**
Elements 12, 13, 14, 15, 16

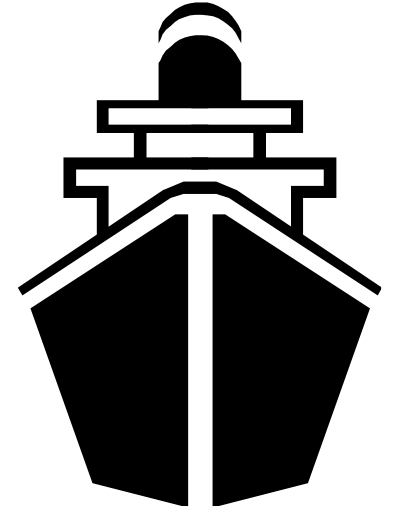


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The Loss of the “Eurasian Dream” and the ISM Code

(Case study based on the actual Court proceedings and Court verdict published in Lloyds Law Reports 2002 Volume 1)





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Eurasian Dream

- 13000 dwt Pure Car Carrier (PCC)
- Capacity 2500 cars
- 12 car decks beneath the boat deck, numbered from top to bottom.
- These grouped into 5 fire zones A to E i.e.
 - A (Boat deck, decks 1 ,2) B (decks 3 , 4)
 - C (decks 5,6,7) etc.



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The Incident of Fire

- Ship alongside at Sharjah port on 23rd July 1998
- Discharging of cars in progress.
- Stevedores were probably putting fuel in the carburetor
- Battery terminals from a service van were used to jump-start the particular car.
- A fire started on the 4th deck at about 1800 hrs. apparently from or near a car



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Facts

- Cargo handling instruction manual not available.
- Emergency plan not ship specific
- No exercises with CO2 system carried out
- Fire Extinguishers not maintained ready for use
- Lack of training - closing gastight doors
- Master new to type of ship – No company briefing
- Master used wrong method of F.F. initially
- CO2 was opened to all decks
- C/E unaware of which deck the fire is.
- Maintenance of fire extinguisher was inadequate
- Industry standard



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The Court Action

Incident occurred in July 1998

Action was brought by cargo interests claiming B/L carrier's liability for loss or damage to cargo.

Judgement was delivered in February 2002.



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The ISM Code relationship

ISM Code No.	lessons to learn
6.1	Master to be made aware of SMS and given shore based support
6.5	Company to identify training required for SMS and give that training to all personnel.
3.3	Company to provide adequate resources
12	Company to regularly verify SMS
1.2.2.3	Continuously improve skills...
8.1 8.2	Emergency preparedness incl.drills



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COMPONENTS OF SEAWORTHINESS

A. Manning:-

- Adequate number
- Qualified & in fact competent to perform their functions
- **Must have adequate specific knowledge as to characteristics of ship and cargo which must be provided on an on-going basis in relation to each voyage**
- Not enough to rely on crew's documentation; Owners/ Managers must satisfy themselves of competence / efficiency by interviews and enquiries with previous employers



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COMPONENTS OF SEAWORTHINESS (contd.)

B. Elements of inefficiency / incompetence:-

- Want of knowledge about vessel / her systems
- Want of skill
- Disinclination to perform

C. Equipment and supplies:-

- Not necessarily the statutory minimum
- Bunkers & provisions allowing for contingencies



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Judge found that the loss occurred because

1. Master & crew ignorant about fire hazards on the PCCs.
2. Manuals did not provide guidance on stevedore supervision and PCC fire hazards
3. Crew permitted simultaneous fuelling and jump-starting of cars. Crew was inadequately instructed and drilled in fire fighting.
4. Vessel inadequately equipped particularly as to fire extinguishers and walkie talkies.



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The Judgement

- The Judge, therefore, held that the vessel was unseaworthy and that the carriers had failed to exercise due diligence
- Consequently the judgement was in favour of the cargo interests and against the B/L carriers.



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Thank You