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*To enjoy the fruits of democracy,  
The citizens must guard against persons in authority spoiling the fruits*

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## **THE INCOHERENT THINGS THAT WE SEE IN THE ADMINISTRATION OF PRC'S MARINE CERTIFICATION SYSTEM vis-à-vis STCW Regulations**

(Data provided by Amigos-Marino, Inc. member organizations)

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President, Amigos-Marino, Inc.

### **Note:**

This dissertation is made in behalf of all Filipino seafarers who are having difficulty explaining their situation to PRC Marine Board and personnel faced by undeserved insertions in PRC licensure and certification process that derail the release of their certificates of competency "COC" pending compliance to PRC's informal requirements on Interim Course or Management Level Course "MLC".

The writer is a member of the private consultants who painstakingly studied and researched thoroughly the intention and meaning of STCW 95 provisions in relation to our national laws as the group helped the government prepare relevant documents and recommendations to the Comprehensive Review of the STCW Convention and the STCW Code. The IMO sub-committee on Standards of Training and Watchkeeping held its 39<sup>th</sup> session in London on March 3 to 7, 2008.

The Amigos-Marino, Inc. endeavors to compile as many cases possible that are reported by seafarers directly affected in their interaction with government offices so as to shed light to the underlying defects in the licensure and certification system detrimental to the interest of our seafarers. This will provide the government the necessary data that will help fine-tune the services and acts of assigned agencies towards achieving a system favorable to the national interest.

The Amigos-Marino, Inc. welcomes notes, reasons, corrections, and suggestions from both the private and public sector that will improve the understanding and interpretation of both the IMO and ILO Conventions for our seafarer's greater understanding.

## **I**

### **Section A-I/8 of the STCW Code reads:**

Quality Standards

National objectives and quality standards

"1 Each Party shall ensure that the education and training objectives and related standards of competence to be achieved are clearly defined and identify the levels of knowledge, understanding, and skill appropriate to the examinations and assessments required under the Convention. The objectives and related quality standards maybe specified separately for different courses and training programs and shall cover the administration of the certification system."

- **1.0 Amigos Comment:** *The IMO requires a National Maritime Education and Training “N-MET” standard. For the Philippines this N-MET should be developed by CHED and approved. We have two courses duly approved by CHED as per R.A. 7722: the Bachelor of Science in Marine Transportation “BSMT” and the Bachelor of Science in Marine Engineering “BSME”.*
- **1.1 Amigos Comment:** *The Management Level Course “MLC” made mandatory by PRC in the administration of the certification system was developed by MTC. Note that LOI 1404 (May 1, 1984) and EO 242 (May 12, 2000) mandated that MTC should assist only CHED and coordinate policies at the council level but NEVER to create courses and enforce them mandatory through PRC. Therefore the MLC, without approval by Congress, is legally infirm.. AMIGOS-MARINO, INC.*

## II

### Section A-I/11 of the STCW Code reads:

Revalidation of certificates

#### Professional competence

1 Continued professional competence as required under regulation I/11 shall be established by:

.1 approved seagoing service, performing functions appropriate to the certificate held, for a period of at least one year in total during the preceding five years; or

- **2.0 Amigos Comment:** *By convention the word “certificate” pertains to the document or “license” or whatever name it is called authorizing the holder to serve in the capacity stated therein (Article IIc, STCW Convention). As per 1.1 a ship officer desiring a COC is presumed to have continued professional competence if he served his certificate held for at least one year within the last five years. If he can’t meet this first option then his next option (take note of the word OR) is..*

.2 having performed functions considered to be equivalent to the seagoing service required in paragraph 1.1; or

- **2.1 Amigos Comment:** *As per 1.2 issuing COC is possible if our National Maritime Education and Training standard (by CHED) provides an equivalent function that is commensurate to the seagoing service requirement of a particular certificate. Regulation 1/7 of the Convention requires this kind of equivalent arrangement to be reported/ submitted first to the Secretary-general for review, acceptance, and communication to other parties before being implemented. The Philippines does not have this table of equivalency to date. If this 2<sup>nd</sup> option is not possible then there are three last*

*possible options that one of which will suffice to merit a COC such as..*

*.3 one of the following:*

- .3.1 passing an approved test, or*
- .3.2 successfully completing an approved course or courses, or*
- .3.3 having completed approved seagoing service...three months in a supernumerary capacity...*

- **2.2 Amigos Comment:** *option .3.1 allows issuing a COC by passing an approved test. The word “approved” by convention (Reg. I/1, 1.2) requires a process duly supported by national law. RA 8544 is our national law for the marine profession that confers title to our seafarers. This law mandates PRC Marine Boards to conduct the licensure examination; technical written or walk-in. Passing this kind of test is acceptable to IMO to allow new entrants to a particular certificate. After acquiring the COC through this mode or option, the seagoing service requirement takes over to determine the continued competency of the seafarer (see Amigos comment 2.0). Note that it is ONLY when the seafarer stops using his certificate straight for five years or more will he be forced to take the equivalent function or training duly approved whichever applies best.*
- **2.3 Amigos Comment:** *Section 21 of R.A. 8544 and Section 7(e) of R.A. 8981 provide that Marine deck and Marine Engineer officers who pass the examination for Marine Deck/Engineer officer shall be issued, subject to payment of registration fees, a certificate of registration, likewise a certificate of competency “COC”, and endorsement certificates. Note that the three certificates are issued altogether without any form of training inserted. The law is clear that the SSBT, BRM, the Interim Course, and the Management Level Course are all non-existent in PRC licensure and certification.*
- **2.4 Amigos Comment:** *option .3.2 allows issuing a COC if there is an approved course equivalent to the certificate aimed. Again, the word “approved” guards against unscrupulous training programs. Also, as per Reg I/7 of the STCW Convention, the secretary-general must be fully informed of the Party’s certification system in relation to the approved course or courses for communication to other Parties.*
- **2.5 Amigos Comment:** *option .3.3 allows issuing a COC by means of a seafarer performing functions in a ship as supernumerary; simply put “observer” on board for three months. In layman’s term, a seafarer holding a chief mate license can board a ship for three months as a trainee of an actively serving chief mate. After three months the trainee can be issued a COC and assume position. Note that the COC acquired in this mode can be used in another ship; not necessarily on the same ship where the supernumerary capacity was served.*

- **2.6 Amigos Comment:** *option .3.3, last part allows issuing a COC by means of a seafarer boarding in a lower rank. For instance, a seafarer holding a chief mate license can board a ship as second mate (lower rank immediately before chief mate) provided the second mate COC is still valid. After a considerable time, based on the owner's discretion as there is no minimum prescribed period in this provision, the seafarer can be issued a COC and assume the position immediately on the very same ship; not on another ship at the time of issue.*

2 The refresher and updating courses required by regulation I/11 shall be approved and include changes in relevant national and international regulations concerning the safety of life at sea and the protection of the marine environment and take account of any updating of the standard of competence concerned.

- **2.7 Amigos Comment:** *It is clear that all refresher and updating courses related to the issuance of certificate of competency must be approved. Again, the word "approved" guards against unscrupulous training programs. The PRC's "MLC" is not an approved course and was not communicated to other Parties by the secretary-general of IMO, therefore it serves as an illegal insertion to the PRC's marine certification system. (see Amigos comment 1.1)*

## III

### STCW Convention Chapter V

#### Special training requirements for personnel on certain types of ships

##### Regulation V/1 reads:

Mandatory minimum requirements for the training and qualification of masters, officers, and ratings on tankers

**3.0 Amigos Comment:** *Note that the emphasis is given on the training specially required as basis for qualification of personnel on tankers. The word tanker here denotes oil, chemical, and gas.*

- 1 Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on tankers shall have completed an approved shore-based fire-fighting course in addition to the training required by regulation VI/1 and shall have completed:

**3.1 Amigos Comment:** *Note that the emphasis on training pertains to cargo or cargo equipment on tankers where officers and ratings are assigned specific duties and responsibilities. The basic training requirement for all tanker personnel is the approved shore-based fire-fighting course. Other than that the cargo-related training programs apply.*

- .1 at least three months of approved seagoing service on tankers in order to acquire adequate knowledge of safe operational practices; or

**3.2 Amigos Comment:** Note that the seagoing service is fundamental to tankers which indicates the seagoing service to any or all of the three types (oil, chemical, gas) in as far as the safe operational practices are concerned.

**3.3 Amigos Comment:** If this is not possible, such as those seafarers who are “first-timer” to tankers the **OR** provides the next option which is to take

- .2 an approved tanker familiarization course covering at least the syllabus given for that course in section A-V/1 of the STCW Code,

**3.4 Amigos Comment:** Again, the familiarization course must be an approved course. In lieu of developing our own model, the Philippines adopted the IMO tanker familiarization courses Model 1.01 (Oil), 1.03 (Chemical), and 1.05 (Gas). These courses represent the country’s equivalent approved tanker course in compliance to Regulation V/1. These courses are generally cargo-related that teach: characteristics of cargoes, toxicity, hazards, pollution prevention, safety equipment, etc.

**3.5 Amigos Comment:** lines .3 to .6 allows the Administration, “Marina” in the case of the Philippines, to accept a supervised seagoing service shorter than that prescribed in paragraph 1.1 provided that the end result does not diminish the safety of the vessel, crew, and environment .

2 Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging and care in transit or handling of cargo shall, in addition to meeting the requirements of subparagraphs 1.1 or 1.2 have:

**3.6 Amigos Comment:** Note that this paragraph specially applies **ONLY** to those officers and engineers with immediate responsibility for loading, discharging, care in transit and handling of cargo. For instance in small ships where dual-licensed officers serve.

- .1 experience appropriate to their duties on the type of tanker on which they serve; and

**3.7 Amigos Comment:** Note that the emphasis here is the word “duties”. This indicates the real task specific to the certificate held. For instance a 2<sup>nd</sup> Engineer’s duty is actually to maintain the ship engines and NOT the care of cargoes. The chief mate’s duty is to take care of cargoes. Therefore, the COC issued for a 2<sup>nd</sup> Engineer under this provision is not supposed to be affected by the immediate responsibility to care-of- cargo aspect. See Amigos comment 3.5.

.2 completed an approved specialized training program which at least covers the subjects set out in section A-V/1 of the STCW Code that are appropriate to their duties on the oil tanker, chemical tanker, or liquefied gas tanker on which they serve.

**3.8 Amigos Comment:** *Note that the cargo-care training aspect of this provision gives focus only to what is appropriate to their duties on the oil tanker, chemical tanker, or liquefied gas tanker as set out in section A-V/1. see Amigos comment 3.4.*

**3.9 Amigos Comment:** *PRC's "MLC" and/ or the "Interim course" is both an illegal insertion to COC issuance if made mandatory using this provision.*

.3 Within two years after entry into force of the Convention for a Party, seafarers may be considered to have met the requirements of sub-paragraph 2.2 if they have served in a relevant capacity on board the type of tanker concerned for a period of not less than one year within the preceding five years.

**3.10 Amigos Comment:** *Note that the entry into force of the Convention for the Philippines occurred on year 2000. This means beginning 2002 those who are able to serve on tankers in a capacity stated in their certificate for a period of at least one year within the last five years should be considered to have continued professional competence on tankers and are qualified to be issued COC (see Amigos comment 2.0).*

**3.11 Amigos Comment:** *However, if the tanker concerned has not been served, for instance the seafarer served only oil tanker for the last five years and now he wants to board chemical tanker, then the care of cargo concern takes precedent that requires him to take the specific familiarization course (see Amigos Comment 3.4). This course should include relevant changes to International and National regulations. If there are NO changes in regulations, then the old certificate is still applicable, if any, for as long as the seagoing service requirement (at least one year within the last five years) is met.*

**3.12 Amigos Comment:** *PRC's "Interim Course" and/or "MLC" is not compliant to paragraph 2, Section A- I/11, STCW Code therefore it must not be made mandatory (see Amigos Comment 2.6).*

## IV

### **MTC Resolution 6 series of 2002**

Providing Interim arrangement in the implementation of approved education and training as approved under paragraph 2.2 of regulation II/2 of the 1978 STCW Convention, as amended

**PRC Resolution 2-12 series of 2002**

Revised Guidelines in the issuance and endorsement of STCW '95 certificates to Marine Deck Officers

**PRC Resolution 2-13 series of 2002**

Revised Guidelines in the issuance and endorsement of STCW '95 certificates to Marine Engineer Officers

**4.0 Amigos Comment:** *Category C of PRC Marine board resolutions 2-12 series of 2002 for DECK and resolution 2-13 series of 2002 for ENGINE, pertaining to Interim Courses, abruptly increased the seagoing service requirement to 6 months without legal basis and without a national training standard that will serve as reference. Unfortunately, ship officers who are already compliant to the 3 months minimum seagoing service prescribed by IMO, worthy to be issued COC, were and are forced to take non-mandatory courses listed under the Interim course, now the MLC, instead of just plain familiarization course.*

**4.1 Amigos Comment:** *The Interim course was forcibly inserted by PRC in marine certification in compliance to MTC resolution 6 series of 2002, which MTC actually intended to implement the IMO Model courses 7.01 (Deck) and 7.02 (Engine). The Philippines, through CHED, already has an approved course of our own, the BSMT and BSMARE, that the Philippines is not under obligation to follow IMO Model courses 7.01 and 7.02. These courses are recommended courses for Parties to the Convention who do not have yet an approved course of their own. Even so, these courses were not made mandatory.*

**4.2 Amigos Comment:** *paragraph 4 of MTC resolution 6 series of 2002 tried to borrow its power from Article IX of the Convention, which ironically is the power vested to the Administration "Marina" to formulate special courses on specialized vessels, on specialized trade, for Philippine flag vessels.*

**4.3 Amigos Comment:** *Therefore, the Marine Boards, by requiring all the ship officers to take mandatory Interim Course, supposed to stop its requirement on February 2004, but continued today in tandem with Management Level Course "MLC", commits act without legal basis causing massive displacement to our ship officers since 2002. The Amigos-Marino research showed that 30,000 ship officers were unjustly displaced in 2001 and 2002. The pillage continues up to this day (see Amigos comment 4.0) as they renew their COC every four years.*

**V**

**Seafarers that reported their problems:**

## **5.0 2/E Christian Cueto.**

*Experienced in oil tanker, and chemical tanker. Completed the familiarization for Gas tanker including advance LPG course. Interviewed and recruited by the Principal as 2/E on November 4, 2008. Proceeded to PRC aspiring COC for tanker "unlimited". In PRC letter to 2/E Cueto dated November 11, 2008, his COC application was denied by Ch. Engineer Alojado of the PRC Board for Marine Engineer. A condition was set for 2/E Cueto to board as "supernumerary" for one month before his COC can be issued. The Amigos-Marino, Inc believes that 2/E Christian Cueto complied to the legal requirements sufficient to be issued a COC (see Amigos comment 2.4 and 2.5).*

## **5.1 OIC-NW Luzmindo M. Perez III**

*Passed the Deck OIC board on July 2007, registered on August 22, 2007, D4-0051098. Financial constraints prevented OIC Perez to wait longer for the release of his COC forcing him to join a 2000 GRT vessel as AB for 3 months on October 2007 and consequently another vessel, 800 GRT as AB for 5 months on February 2008. On November 10, 2008 OIC Perez applied for his COC but the Deck board denied him unless he takes the Management Level Course, Function 1. The Amigos-Marino, Inc. believes that OIC Perez complied to the legal requirements sufficient to be issued a COC (see Amigos Comment 2.2 and 2.3)*

## **5.2 Capt. Carlito Gesalan**

## **5.3 C/M Stephen Dominic Tating**

## **5.4 Cdt. Paul Libertad**

## **5.5 2/M Francis Biantan**