



CLYDE&CO

# IFSTS 2019 SMS and STS Service Providers

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# Summary

- 1. Roles and Responsibilities**
- 2. What is an SMS?**
- 3. The Master's role as regards the STS service provider**
  - STS Transfer Guide**
  - Charterparty obligations**

# Legal responsibility for the STS

- Charterers/cargo owners organise the STS operation and appoint the parties involved including the STS service provider
- Commonly under the charterparty they must exercise “due diligence”

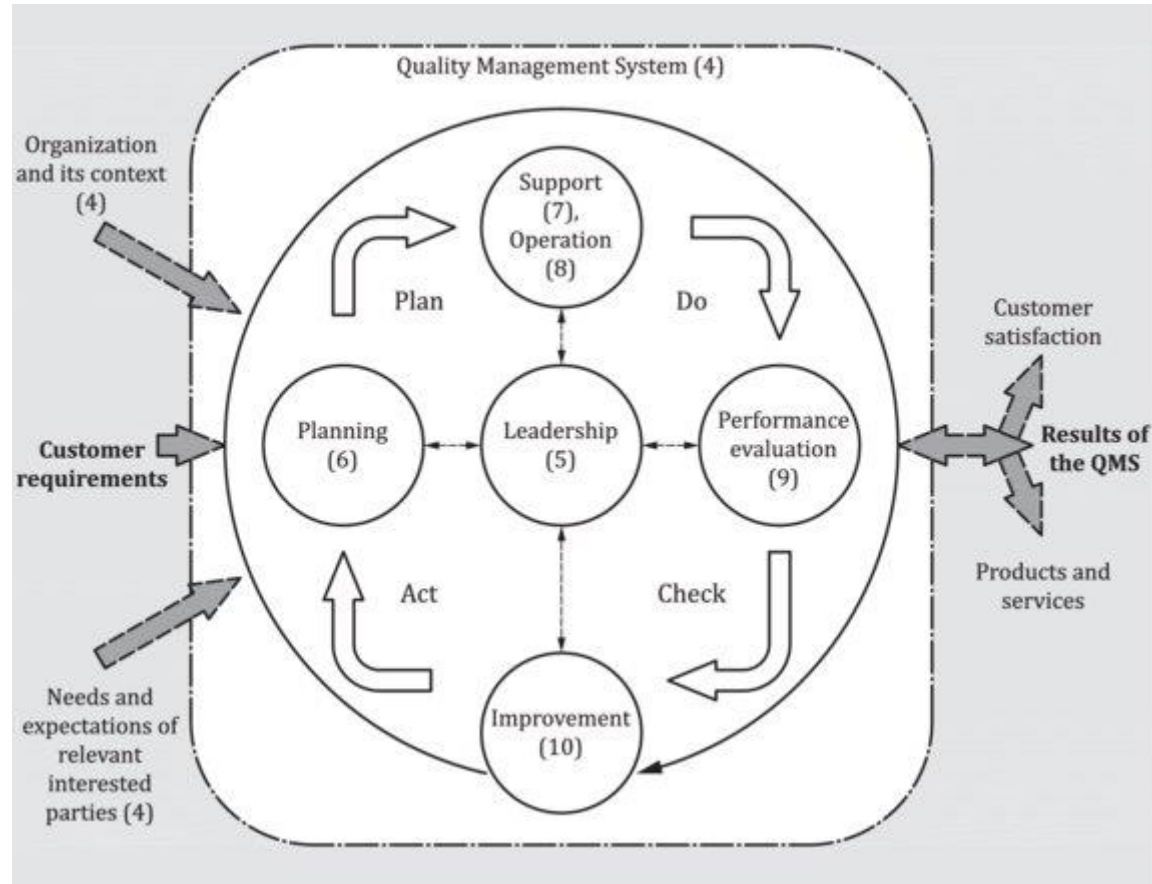
## BUT

- **Liability for ensuring the safety of the operation is with both Masters of the vessels**

# SMS/STS Service Provider

- **STS Service Provider has no legal requirement to have an SMS**
- **What does an SMS cover?**
  - A way to control and distribute up to date documents
  - Safety inspection checklists
  - Risk assessments
  - Emergency response plan
  - Training program and documentation system
  - **Internal audit policy and schedule**
  - List of laws and safety regulations for compliance
  - Measurable performance metrics
  - Regular meetings and communication strategy
  - Regular management review

# ISO 9000 – Plan-Do-Check-Act Cycle



# Ship to Ship Transfer Guide – CDI, ICS, OCIMF and SIGTTO

## **Guidelines**

### **Applicable regulations eg MARPOL**

1.5.1 “The Master of each vessel shall always remain in command of his vessel, crew and cargo, and shall in no circumstances permit safety to be jeopardised by the actions of others”

# Master's rights: Charterparty Terms

## Shellvoy 6

- Clause 4 – Safe Berth (includes STS location)
  - Charterers shall exercise **due diligence** to order the vessel to ports and berths which are safe for the vessel and to ensure that transshipment operations conform to standards not less than those set out in the latest edition of ICS/OCIMF Ship-to-Ship Transfer Guide (Petroleum).
  - Charterers shall not be liable for loss or damage arising from unsafety if they can prove **due diligence** was exercised
- Due Diligence – Charterer has to act reasonably – what enquiries would a reasonable charterer undertake to ensure the safety of the operation
- Safe Port – Eastern City – one that a vessel can reach, use and depart with ordinary standards of good navigation

# INTERTANKO STS Clause

## **Additional C/P Clause**

- STS permitted at any safe port or place in accordance with OCIMF guidelines
- Acceptability of vessel to owner
- Permission to perform STS
- Master has right to terminate operation
- Indemnity for liabilities, losses or costs arising out of STS
  
- No specific provision regarding STS Provider



# Ship to Ship Transfer Guide – CDI, ICS, OCIMF and SIGTTO

**2.5 “If an STS service provider is employed, the quality of the services and equipment provided are paramount if operations are to be carried out safely, reliably and efficiently. There are currently no international standards for STS service providers. While some form of international Organization for Standardisation (ISO) accreditation if available will provide an assurance that an STS service provider has the necessary resources, afloat and ashore, to provide a quality service, this should not be the only determinant of quality. Performance records and previous industry experience may be important when assessing an STS service provider’s ability to meet customer and regulatory requirements.**

**Self-assessment can be used by service providers to verify that their safety management systems (SMS) are comprehensive and sufficiently robust to minimise all potential safety and environmental risks in the execution of their operations and to measure and continuously improve their management systems.**

# Ship to Ship Transfer Guide – CDI, ICS, OCIMF and SIGTTO

**1.4 A .... risk assessment should be made for the STS Operation including training experience and qualifications of personnel, and equipment and emergency planning procedures**

**3.1 Each Master should ensure that the procedures recommended by the guide are followed and, in addition, that internationally accepted safety standards are maintained in this regard.**

**Risk assessment Appendix K**

**Examples of causal factors (K.2): Inadequate equipment inspection, testing and maintenance, equipment not fit for purpose, inadequate contingency planning, inadequate incident management**

# Final thoughts

- **Guidance from OCIMF to STS providers and those engaging them and working on operations with them**
- **Master ultimately remains responsible for safety**
- **Charterers' c/p obligations**
- **Consequences of Master not agreeing to an STS provider**

**390**

Partners

**2000**

Legal  
professionals

**3600**

Total staff

**47**

Offices and associated  
offices in 20 countries