



Frequently Asked Questions in Ship to Ship Transfer Operations

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CLYDE & Co



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FAQs on Ship-to-Ship

Introduction - Scope

It is almost five years since the ratification of MARPOL Annex I Chapter 8. It was introduced by the IMO to assist in the prevention oil pollution during ship-to-ship (STS) operations. The legislation has inevitably resulted in greater requirements being imposed and made Ship-to-Ship (STS) Operations more complicated for tanker operators. For example, the need for STS Plan is an additional requirement to an area that is already well governed by OCIMF rules and regulations.

MARPOL Annex I Chapter 8 requires the integration of the the STS plan with the Shipowner's Safety Management System (SMS) and thus will be opened to scrutiny in the event of an incident and subsequent legal actions.

A tanker operator STS responsibility is not only defined by the existence of an STS plan, they have to take a justified approach that takes into account commercial and safety considerations.

This guide is produced to provide answers to questions associated with the required knowledge of tanker operators and their Masters/Officers for STS Operations. This is the first edition and it is aimed to include as many answers to questions as possible with future editions to include further answers as questions from the industry are raised.

About the Authors

DYNAMARINe

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Alexandros is Naval Architect and Marine Engineer with a PhD on ship structures. He has expertise on incident investigation claims (MV DERBYSHIRE Formal Investigation), ship repair management, ship operations and consultancy as a technical assessor.

Since 2007 he has been involved with Ship-to-Ship due diligence issues from the perspective of cargo owners and since 2009 from the perspective of tanker operators.

Within DYNAMARINe, Alexandros has participated in the development of dedicated marine software, Ship-to-Ship policies, analysis and indexing of ship emission and inspection of vessels for valuation purposes.

Stelios Perissakis, Naval Architect and Marine Engineer

Stelios is Naval Architect and Marine Engineer with a PhD on Experimental Hydrodynamics. After graduation he is involved in several projects as independent consultant and surveyor and he also offers services in the field of small craft design. Additionally he is participated in several academic projects, is teaching small craft technology and sailing yacht design in Technological Institute of

Athens and assists in several courses in National Technical University of Athens related with measuring techniques and ships hydrodynamic.

Since 2007 he has been involved with Ship-to-Ship due diligence issues. He putted a lot of effort in building policies and procedures, in risk assessment issues and in designing information systems.

Within DYNAMARINE and jointly with Alexandros Glykas, they undertake challenging projects related with the development of marine information systems, building policies and procedures, risk analysis, inspections, audits, and special consulting.

CLYDE & Co.

Ed Mills-Webb, Partner

Ed specializes in international trade, shipping and insurance disputes.

Ed advises clients on all issues relating to international sales and movements of goods, finance, insurance and regulatory issues, with a great deal of experience with commodity, charterparty and bill of lading disputes.

He acts for a number of clients in the offshore sector and has advised on several significant energy projects in West Africa, including production sharing and farm out agreements. Ed also has wide experience of vessel construction issues, including specialist offshore vessels and super-yachts.

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Martyn joined Clyde & Co in June 2011 from a leading P&I Club where he was a Senior Claims Director handling all types of major casualty incidents and high value claims. He has 40 years of shipping experience and sailed on a variety of vessels from VLCCs to heavy lift. Martyn undertakes casualty investigations and provides in-house consultancy for the marine lawyers in the global practice. He is a Fellow of the Institute of Chartered Shipbrokers.

Glossary of terms

DOC	Document Of Compliance
EEZ	Exclusive Economic Zone
LOI	Letter of Indemnity
OCIMF	Oil Companies International Marine Forum
POAC	Person in Overall Advisory Control
Q88	INTERTANKO's Standard questionnaire Q88
RO	Recognised Organisation, such as a classification society
SMS	Safety Management System
TMSA	Tanker Management Self-Assessment
VIQ	Vessel Inspection Questionnaire
VPQ	Vessel Particular Questionnaire

FAQs on Ship-to Ship

Q1. Is it necessary to create a new STS Plan when a second hand vessel is purchased OR is the existing plan kept from the previous tanker operator?

Since the STS Plan is part of the SMS (Safety Management System), it is required to create a new STS Plan which reflects the current tanker operator's policies and procedures. The new plan has to be re-approved by the flag administration of the ship or by an RO (Recognised Organisation) on behalf of the flag administration.

If the ship changes flag, the STS Plan should be re-approved by the new flag or an RO on behalf of the new flag.

Q2. What are the industry standards for STS Operations and where is this presented?

The industry standards are reflected by the latest edition of CDI/ICS/OCIMF/SIGTTO guidelines and associated appendices. Vessels that comply with the industry standards should have items 8.26 and 6.25 of INTERTANKO'S standard tanker chartering Questionnaire 88 (Q88) Version 3 answered as "YES". If questions 8.26 and 6.25 are marked with "NO", then the vessel cannot participate or be nominated for an STS Operation since possible vessel incompatibilities might occur. Similarly question 13.1 of OCIMF VPQ should also be answered with "YES".

Q3. Can the STS Plan divert from the CDI/ICS/OCIMF/SIGTTO guidelines and include company specific policies?

YES, the plan may include additional policies and procedures. In CDI/ICS/OCIMF/SIGTTO guidelines, it is mentioned that "the advice contained in the guidelines may be supplemented by instructions from individual tanker operators in order that a particular aspect of their own procedures can be covered".

Q4. Is there a need for an abstract of the STS Plans Policies and Procedures?

It is advisable that an abstract of the procedures should be made available, preferably in a tabular format. It will include a list of the procedures/policies along with supplemented instructions. Such an abstract should be also available in electronic format and could also be utilised for the purpose of submitting the STS plan to the Service Provider or the Charterer.

Q5. When is it necessary to revise the STS Plan and request re-approval from Flag or RO?

The STS Plan should be revised if any of the following cases apply:

1. When a new tank vessel enters a fleet. Refer to Q1 (Is it necessary to create a new STS Plan when a second hand vessel is purchased OR is the existing plan kept from the previous tanker operator?);
2. When the industry guidelines (OCIMF) produce an amended version. This is a commercial requirement and not statutory. MARPOL makes a reference in the 4th edition of ICS/OCIMF STS guidelines and not in the latest edition/publication. However STS Operations take place as per

STS Clause as included in the charter party, which normally refers to the latest guidelines. Thus, this requirement has to also be reflected in the STS PLAN.

3. When STS policies and procedures are altered and subject to the requirements of the approval letter from the Flag or RO. Some approval confirmations mention that any change or revision in the STS Plan should be submitted to the Flag or RO for re-approval. If such a comment does not exist in the confirmation letter then no re-approval is required. In addition amendments in appendixes and check lists, if this is not explicitly mentioned in the approval letter, need also not re-approval;
4. In case the vessel is registered under a new Flag/ Maritime administration.

Q6. Do the STS plans created according to the 4th edition of the OCIMF guidelines need to be revised according to the new published guidelines?

YES they need to be revised according to the new published guidelines. This is a commercial requirement justified by the following arguments:

- In all charter party agreements, STS Operations take place according to “Latest STS guidelines”, therefore such commercial requirement has to be also reflected in your SMS and STS Plans.
- The new VIQ 6 (March 2014) already issued by OCIMF will include the new STS guidelines publication and associated requirements. The following is noted at the new VIQ 6. “Operations plan shall be developed taking into account the information contained in IMO’s “Manual on Oil Pollution, Section 1, Prevention and the ICS/OCIMF/SIGTTO/CDI “Ship to Ship Transfer Guide, for Petroleum, Chemicals and Liquefied Gases” First Edition November 2013.”
- Vetting inspections by oil majors will require to have the new STS guidelines implemented on board your vessels and this is reflected in the SMS through the STS Plan. The content of the STS Guide and FORMS has changed a great deal, and revision of the STS PLAN is strongly recommended.

Q7. Is it possible for a vessel to have a “non approved” STS PLAN?

YES this is possible. The existence of an STS Plan reflects policies and procedures of tanker operators. Approved STS plans are mandatory to vessels that bear a class notation, partially or solely, as an “oil tanker”. Other type of vessels, such as Gas Carriers, is advisable to have STS plans. However, it is not required to be approved by the flag or RO.

Q8. What is the purpose of the LOI’s presented by Service Providers to tanker operators prior the commencement of the STS Operations?

The purpose is for the tanker operator to accept and potentially take on some non-contractual risk which otherwise they would not be exposed. The letter is an attempt by STS service providers to transfer the responsibility for the operation on to the master and with it all claims, costs and expenses. Accepting or signing an LOI may prejudice the shipowners P&I insurance cover for the additional risk. In summary:

- To create a contractual relationship between the ship owner and the service provider
- To eliminate POAC liabilities unless gross negligence is proved

- To have the tanker operator withheld responsible for the entire STS Operation, crew and equipment to an unlimited value.

Q9. In which documents are the owner's STS liabilities stated?

The owners STS liabilities are stated in the governing charter party STS clause or in the contract between the ship owner and the Charterer.

Q10. Why does the charterer request clearance for the nominated vessel by the tanker owners? Isn't this request covered by the STS clause?

The Charterer is not responsible for the safety of the Ship-to-Ship operation. The ISM Manager (DOC holder) is responsible to ensure the safety of all operations. Thus, he has to review the suitability of the nominated vessel and provide his clearance for the operation.

Q11. How long should it take for a tanker operator to come back with his approval regarding a clearance request?

Tanker operators should promptly make a decision regarding a clearance request. Usually one hour, on average, is a sufficient response time. The response time depends on the availability and accuracy of the provided clearance documents as well as the screening procedure of the tanker operator.

Q12. When can a master be "held responsible" that he unreasonably withheld his approval for the commencement of the STS Operation?

The Master can be "held responsible" when he does not justify his decision based on the following:

1. The charter party STS clause and;
2. Any arguments associated with the safety of the operation as per related references and/or associated publications.

Q13. In some STS clauses, reference is made that the STS operation is "...at charterer's risk". Does this mean that the charterer will be held responsible for any incident or accident?

The full STS clause must be considered but there will be a strong argument the charterers are taking on risk for the STS operation but it may be only for the appointment of a STS service provider. However, the master of each vessel shall always remain in command of his vessel, crew and shall under no circumstances permit safety to be jeopardized by the actions of others including STS service providers and POAC.

In the event of any incident or accident the actions of the tanker operator, STS service provider, POAC and the master will always be investigated when deciding liability irrespective of the STS clause.

Q14. *Is safety in STS operations ensured through due diligence?*

There are no safeguards, thus making the probability of accident void. However, all stakeholders (tanker operators, STS organizers, etc.) should estimate the risk of the operation and take all necessary and feasible risk mitigation measures to minimize the adopted risk to an acceptable level.

If there is a practical tool or available information, which can be utilized to estimate the risk or/and mitigate the risk this should be utilized. The excuse of not knowing or unfamiliarity is nowadays not any more an acceptable mentality.

In case the risk is not negligible, all possible risk mitigation measures should be taken. The objective in this case is not limited only to bring the risk in an acceptable level. The objective is to minimize the risk.

Q15. *What are the required resources for a tanker operator when exercising due diligence?*

The resources a tanker operator should rely on should be the following:

1. His STS Policies and procedures
2. Available Information from third party sources
3. Time to assess his risk and the nominated vessel suitability

Q16. *Is it possible to standardize the due diligence process in STS Operations?*

It has been proven by OnlineSTS.net concept for more than 3 years (from April 2011) that due diligence can be reflected by specific policies and procedures. The application of the concept by DYNAMARINE has also proven that this approach does at all hinder the commerciality and that the process can be performed promptly.

Q17. *When should a nominated vessel be rejected?*

A vessel may be rejected for ship-to-ship transfer when it is not considered to be suitable. The reason(s) for the rejection must be made very clear to the responsible party receiving the decision and the opportunity provided to investigate and reply.

Q18. *Does the tanker operator or the master have the right to refuse the participation of a specific service provider?*

Service providers are nominated by cargo owners or charterers. If a tanker operator has sufficient knowledge, from past performance data, and was not satisfied for the performance of the specific service provider he has the right to inform the charterer.

The charterer does not request a clearance for the service provider from the tanker operator. However, the tanker operator has the right to request the title of the nominated service provider as this is a right provided by OCIMF guidelines.

A refusal for a nominated service provider should be justified on the basis of quality, reliability and efficiency. Thus past STS records are useful in such assessment.

Q19. *What is the suitable number of mooring/unmooring operations for a POAC?*

There is no specific number that ensures an optimal level of experience. This depends on the perception and skills of the POAC. Additionally, training and experience in similar operations and conditions during the specific mooring/unmooring operations has a substantial impact. Practically, in case the number of past STS operations is low, the experience of available alternative POAC should also be taken into consideration. Finally, the suitable number is also relevant with the complexity of the specific operation. For example, in adverse weather conditions the suitable number is clearly higher than in calm weather conditions.

Q20. *Should the master always rely on the advice of the POAC?*

The master should definitely not rely on it. Regardless that this is not the norm, there are cases where the advice of the POAC was assumed not to be safe. It is very important, that the master of each vessel always remain in command of his vessel, crew and cargo. The master, under any circumstance will not jeopardize the safety of the operation. Masters should always be alerted and ready to take control (overriding authority) whenever they feel that the orders of the POAC are not safe.

Regardless of the overriding authority of the master, the POAC has the right to request the termination or suspension of the STS operation for safety reasons.

Q21. *Does the master or tanker operator have the right to approve or refuse the participation of a specific POAC?*

In order to ensure safety, the master and the tanker operator has the right to ask for the proper documentation and qualification of the POAC.

In addition the Tanker operator has the right to refuse a specific POAC based on unsatisfactory records of past performance. To be more specific, in these cases the tanker operator prior to accepting the POAC again, has the right to ask if the specific POAC has attended any refresher courses, gained any extra experience, or had taken other reasonable measures in order to improve his skills.

Q22. *Should the tanker operator audit service providers?*

According to OCIMF guidelines, STS Service providers should be aware that they may be subject to assessment by the users of their services. Although tanker operators do not have any contractual agreements with service providers, they still use their services and have the right to audit them.

It is not practical for tanker operators to physically audit all service providers prior to using their services. On the contrary, it is prudent to ask for assurances that they have the necessary resources and mentality to provide their services with the expected level of quality.

In order to achieve this scope, tanker operators should be aware of the quality regarding the service provider's procedures, their equipment and their records. In addition, they have the right to share safety performance records with other relevant parties.

Q23. What are the consequences when failing to notify the Authorities prior the commencement of the STS operation?

Notification for the commencement of an STS operation is obligatory according to regulation 42 of Marpol chapter 8 of annex 1. When local authorities certify that a ship failed to notify them for an STS operation, they have the right to detain the ship if they are within the territorial waters. In case the operation takes place on outskirts of the territorial waters and within the EEZ, the authorities have the right to notify the ship administration.

Q24. Is it possible to perform an STS operation if there are no closed chocks or fairleaders available?

The freeboard of a ship which is using open chocks or open fairleaders should remain higher than the freeboard of the other vessel during the entire operation. In addition, rolling must also be avoided. Thus, bad weather conditions and STS operations at anchor should also be avoided.

Q25. Who is liable when the provided fenders are not adequate for the specific STS operation OR fail to meet the minimum industry standards?

Such a liability lies with the Master who has the overall responsibility and such should not be compromised by any actions of third parties, as mentioned in the latest OCIMF guidelines. Prior the commencement of the STS Operation, a confirmation of the proper fenders should take place by the Master and should also be confirmed well in advance with the service provider.

In case the calculations made by the Master do not agree with those of the service provider, then the master should request for a further explanation.

The factors that affect the fender selection, such as weather conditions, type of fenders, displacement and parallel body length of participating vessels as well as the type of STS operation (normal or reverse), need to be carefully chosen.

Q26. Is there a crucial difference if the fenders are located on the constant heading vessel (or anchored vessel), instead of the maneuvering vessel?

Yes there is a crucial difference which increases the risk of the STS operation. OCIMF guidelines also make a note on this. If such a case occurs, then this should be accounted in the risk assessment and risk mitigation measures should be introduced. Risk mitigation measures could be the provision of tugs, a second POAC on the constant heading vessel and the decision of underway mooring operation instead of mooring at anchor.

Many operations at which the fenders were positioned on the constant heading vessel resulted in collision. There is always the risk that the maneuvering vessel may land on an unprotected part of the hull.

Q27. *Is the assessment of STS records necessary?*

YES the assessment of STS records is necessary. Since the STS Plan is part of the SMS system, then the assessment of the STS records is mandatory as a prerequisite procedure for the RISK ASSESSMENT that has to be developed according to SOLAS requirements. Furthermore, the assessment of STS records is commercially recommended as per TMSA practices, in order to extract key performance indicators and associated goals.