COVID-19 and Approach to Curtail Damages to Maritime Environment Under the Auspices of the Regime of International Safety Management Code (ISM).

# Abstract

*Although the oceans have traditionally offered a comparatively quick, safe, and cheap route for the transportation of goods, the recent outbreak of COVID-19 pandemic over the last few months has changed this narrative entirely. In this context, this work focuses on outlining safety procedures and measures developed under the International Maritime Organisation through the leading international frameworks, including the International Convention for the Prevention of Pollution from Ships, the SOLAS Convention, and the International Code of Safety Management. In this regard, under the International Maritime Organisation’s auspices, the International Code of Safety Management’s primary objective is to ensure that damage, particularly to marine property and environment, is avoided; no loss of life or injury to humans is presented, and that travel and transport through sea routes are safe. That said; the state port control regimes also have to focus on ensuring shipping continues in a safe manner despite the uncertain course of the pandemic. All of these issues have to be addressed carefully in light of the uncertainties that the COVID-19 pandemic has introduced into the maritime industry.*

# Introduction

I have come to understand the harsh realities of the marine environment where there is ever-present risk and potential for loss of life. Thus, maritime industry safety record will continue to be impressed by the professionalism and dedication of those who have worked so hard to ensure that best international standard is set as priority. Nevertheless, the transport by ocean is growing activity, which must accompany by provide improvement proposals that enhance the culture of safety and protection of the environment, which is a common good to all and irreplaceable, of high value for us and for generations to come[[1]](#footnote-1).

Safety within the maritime industry has always been held in high esteem. However, today, the comparatively new phenomenon of Severe Acute Respiratory Syndrome or COVID-19 has a significant impact on the global concern for the protection of the maritime environment. In an age of unprecedented industrial progress and technology, this concern has only recently become a major one, and some of the concerns might yet to receive proper attention that they deserve. Hence, the need for in-depth study to recommend approach to Stem the Impact of damages to the maritime environment and Property in wake of COVID-19.

The World Health Organisation (WHO), near the beginning of the pandemic, utilized a placeholder name to describe the disease: 2019-nCoV (here, nCoV stands for novel coronavirus whereas 2019 refers to the year in which this variation of the disease was first discovered)[[2]](#footnote-2). It was the International Viruses Taxonomy Committee who had announced the virus’s official name, SARS-CoV-2, or Severe Acute Respiratory Syndrome CoronaVirus 2, as the virus holds a genetically close relationship to the 2003 SARS-CoV outbreak. The World Health Organisation, on this same day, had announced the name of the disease that the virus, SARS-CoV-2, caused; COVID-19, or CoronaVirus Disease 2018[[3]](#footnote-3). Essentially, the first place to have detected the virus was the Chinese city of Wuhan, which found that the disease caused pneumonia and included various other infection symptoms such as difficulties breathing, shortness of breath, a cough, fever, and respiratory issues[[4]](#footnote-4). Following this discovery as well as detections of the virus in various other locations, an immediate state of emergency was declared worldwide within a few months of the first COVID-19 case being found[[5]](#footnote-5). Subsequently, the WHO alerted the global community of the principles needed to be enforced in order to decrease acute respiratory infection transmission risks. These included the following:

* Avoid close contact with individuals who are, were, or are likely to be, suffering from an acute respiratory infection.
* Regularly wash your hands, particularly following direct contact with a sick person and/or an environment where said individual might have been.
* Avoid coming in direct, unprotected contact with wild or farm animals.
* Have individuals who show acute respiratory infection symptoms cover their sneezes and coughs with a disposable cloth or tissue and wash their hands afterward.

The Intelligent Medical Objects, in the January of 2020, identified the inevitable harm that the virus would cause and had released an immediate starting batch of fifteen terms in order to assist practitioners in documenting the first weeks of patients during the outbreak[[6]](#footnote-6). Following this, on 9th of March, the WHO declared the spread of the virus to be a pandemic, wherein a number of code sets were updated and released in order to help the global community control and mitigate the outcomes of the said pandemic[[7]](#footnote-7).

The Human Transport and Environment Inspectorate, following the 2019 coronavirus disease outbreak, received several inquiries from recognised organisations and ship-owners concerning the coronavirus outbreak caused inspection postponement and possible mandatory certification validity extensions. Due to drydock facilities and timely MLC/ISPS/ISM verifications and ISM Internal Audits being unavailable, the Inspectorate postponed bottom inspections and extended statutory certifications[[8]](#footnote-8). Documents manning minimum safety, proficiency certifications, and competency certifications were also taken into consideration during this time[[9]](#footnote-9). Conversely, due to numerous bans on travel being imposed, it became increasingly challenging for transport and travel to take place both internationally and nationally[[10]](#footnote-10). A mix of the limitations on travel provided by companies and governments led to a number of challenges in offering ship surveyors. Moreover, an unaccounted number of shipyards were unable to accommodate ships, even for planned and booked surveys and inspections, all of which necessitate dry-docking[[11]](#footnote-11).

The outbreak of COVID-19 cases and the disease’s spread led to shipping and transport industries into a frenzy as most major stakeholders in both industries began publishing recommendations and guidance on the issue, whilst ports halted their operations due to feelings of unease and uncertainty on the possible spread of the virus. Moreover, as mentioned previously, international and national traveling became considerably challenging as several bans were in place on travel. In addition to company- and government-mandated travel restrictions, a number of auditors and individual employees in the shipping industry have faced issues in verifying ISM compliance and conducting their regular operations. The NMA has stated that it will, based on the practices introduced by governments for reducing the spread of COVID-19, permit remote audits in order to verify that companies and their shipboard management are operating according to ISM Code requirements[[12]](#footnote-12). Nonetheless, some ships, because of the widespread pandemic, have experienced operational difficulties such as a dry dock or shipyard closure. Moreover, audits and surveys can, in certain situations, not be performed due to surveyors not being able to attend the vessel because of quarantines or travel restrictions[[13]](#footnote-13).

Addressed to all of its members, the International Maritime Organisation had issued “*Circular Letter No. 4204/Add.1*”[[14]](#footnote-14). The Secretary-General of the IMO, in this circular, addressed the impact that the pandemic had had and is likely to continue having on the industry at large, which included IMO mandatory requirement enforcement and implementation. Moreover, it encourages those members it is addressed to be flexible in their approach and cooperate with one another. Additionally, it encourages a pragmatic approach between port and flag states and is unable to issue general exemptions from mandatory relevant statutory convention provisions or postpone mandatory rules from being implemented even in situations that are this uncertain[[15]](#footnote-15). Therefore, it is highly critical that the flow of commerce by sea should not be disrupted unnecessarily. Simultaneously, marine environment protection, as well as the safety of sea life, need to remain as priorities for not only the organisations and businesses that operate on the sea but also the regulatory bodies that govern these agencies’ operations.

As declared in its convention, one of the most significant objectives of the International Maritime Organisation is that of ensuring shipping service availability to worldwide commerce for humanity’s benefit[[16]](#footnote-16). In this regard, this paper encourages all of the member states of the IMO to keep the above-mentioned convention in mind that when developing and selecting their decisions of policy in regards to the pandemic. Although international trade needs to continue to take place in an environment friendly, secure, and safe manner, eliminating and mitigating the risks associated with the pandemic as well as the pandemic itself should be a top priority. Should the virus continue to limit regular dry dock or shipyard operations and limit the traveling of surveyors, it will become increasingly important to seek out commonly supported ways forward, particularly as the managing of the pandemic itself is expected to become a bottleneck for the industry[[17]](#footnote-17).

This may, for example, take the form of issuing short-term certifications that are based on remote surveys, photos, and statements. Based on using an alternative-solution planned approach, this can be accomplished on a case-by-case basis. This can also include alternative survey locations or dry docks subjected to surveyor availability. The new certification, at the end, when a renewal survey has been completed according to the regulatory instruments of the International Maritime Organisation, should be valid for:

* A cargo vessel, on a date that does not exceed five years from the existing, prior to an extension granted, certificate expiry date.
* A passenger vessel, on a date that does not exceed an annual from the existing, prior to an extension granted, certificate expiry date.

Crews and companies are currently, due to the COVID-19 pandemic, struggling with increasingly time demanding and operational challenges. These companies are also attempting to protect their crew members and staff from being infected by the virus by reducing shore interaction whilst simultaneously keeping vessels operating and maintaining the sea commerce flow. Therefore, it is critical that, in order to mitigate the coronavirus pandemic, registered organisations, port states, and flag states not make certification extension an added administrative challenge in such difficult times.

The current pandemic brings focus to the considerable disconnect that is prevalent among humans and their environment in contemporary society. COVID-19, as a zoonotic disease, is the newest in what has come to be regarded as deadly gifts from nature[[18]](#footnote-18). Although it has been clear, for a considerable period of time, that the health of humans is intimately connected with that of the environment and animals, this phenomenon has been increased greatly by high urbanization levels, which have caused continued environmental degradation. The pandemic has its inception hidden in the international community’s inability to govern land use and protect wildlife and forests, with the former’s gradual decline causing the disappearance of the buffer zone, which used to differentiate animal pathogens from humans ones[[19]](#footnote-19). The international law of environmental protection, limited by conventional legislative structures, has been incapable of entirely adopting an ecosystemic technique, which appreciates the interconnectivity between humans, biodiversity, and the planet. More specifically, should the virus have, as has been alleged, originated in an animal market, then it would only prove the incapability of contemporary legal wildlife protecting regimes.

Nonetheless, the present possibility of the virus having its origins, similar to prior epidemics, in animals and using them as intermediary hosts pushes the focus on the issues that the International Convention on Endangered Wild Flora and Fauna Species faces. Whilst the convention moved all species of the pangolin and prohibited the animal from being commercially traded on the global platform; it remains one of the planet’s most trafficked mammals[[20]](#footnote-20). According to the International Convention of Load Line, article nineteen, SOLAS Chapter I’s regulation 14(e), The Ballast Convention of Water Management regulation E-5.5, MARPOL Annex VI regulation 9.5, MARPOL Annex IV regulation 8.5, and the MARPOL Annex II and I regulation 10.5, flag states have to extend the validity period for up to ninety days for relevant certifications. In regards to the SOLAS Chapter IX ISM Code, an SMC, or Safety Management Certification, has to be regarded as a certification issued under I/13 or I/12, according to SOLAS Chapter IX regulation 6.2[[21]](#footnote-21).

Moreover, according to the International Port Facilities and Ships Security Code, an International Certification of Ship Security, under Chapter XI-2 of SOLAS, has to be issued according to the International Port Facilities and Ships Security Code’s section 19.3.5 wherein the flag state has to extend the International Certification of Ship Security’s validity for up to ninety days. Conversely, in the Survey Guidelines of the International Maritime Organisation, neither the International Certification of Ship Security nor the Safety Management Certificate is mentioned under the HSSC Survey Guidelines (Harmonized Certification and Survey System Guidelines) as said guidelines do not focus on audits rather instead do focus on surveys. According to the Harmonized Certification and Survey System Guidelines, the general approach that permits flag states to extend relevant certifications’ validity period is up to ninety days is broad enough to include IMO mandatory codes and applies to thirteen certificate types. These types include the following:

1. Load Line International Certification.
2. Certification of Vessel Safety Construction.
3. Vessel Equipment Safety Certification.
4. Vessel Radio Safety Certification.
5. The Certification for Preventing International Oil Pollution.
6. The Certification on Preventing International Pollution for Noxious Liquid Bulk Carriage.
7. The International Certification for Preventing Sewage Pollution.
8. The International Certification for Preventing Air Pollution.
9. The International Certification of Dangerous Chemical Bulk Carriage Fitness.
10. The International Certification of Liquefied Gases Bulk Carriage Fitness.
11. The International Ballast Certification of Water Management.
12. Certification of Polar Vessel.
13. Certification of Passenger Safety.

The following provision is applicable to 74/88 of SOLAS and various other instruments deemed mandatory by the IMO: Should, at the time of certification expiry, a vessel not be docked at the port where it is intended to be surveyed, then the administration can extend the certificate validity period; however, this certificate extension can only be granted when the aim for granting it is to allow the vessel time to complete its journey to the port where it has to be surveyed, this extension is only granted in situations where it seems reasonable and proper to do so. Moreover, certification extensions are not allowed for periods that extend the aforementioned ninety-day period. Additionally, vessels that have been granted with such an extension, when having arrived at the port where they are meant to be surveyed, cannot leave said port without being issued a new certificate as the extension itself is not permanent and should not be treated as such.

Aligning with the above Harmonized Certification and Survey System Guidelines segment and SOLAS, the IMO issued circular MSC-MEPC.5 in 2005, which contained recommended conditions for certification validity period extensions. Additionally, this circular included eight flag state considerations. This circular can be found on the Baltic and International Maritime Council’s website[[22]](#footnote-22). It states that should a vessel be ported in a location wherein the survey cannot be conducted and where the Convention permits certification extension administration, the following should act as guidance for the administration in permitting said extension:

1. Additional surveys are carried out equal to the minimum scope of yearly surveys needed for relevant certification.
2. The survey for renewal has to be conducted to the maximum possible extent.
3. An underwater vessel bottom inspection is conducted in situations where a dry dock is needed but cannot be offered.
4. An internal vessel bottom structure inspection is conducted to be most practical extent if it is not possible to conduct underwater inspection due to port authority refusal, excessive current, draft restrictions, poor water visibility, etc.
5. The vessel is permitted to directly sail to an agreed port for cargo discharge and then to the port agreed for dry docking and/or survey completion.
6. The period of extension provided is the least amount of time required to complete, under relevant certification, dry docking and/or the survey.
7. The vessel’s condition, found through inspections, acts as an indicator of operational, distance, and duration restrictions of the journey required to complete dry docking or the survey.
8. And the relevant statutory certification period of extension does not exceed the period of validity of certification(s) issued according to the electrical, mechanical, and structural requirements of the vessel.

In this regard, the recommendation of the International of the Classification Societies Association on the tasks of surveyors, under statutory codes and conventions, defines interim certifications, which can be held as being valid for nearly half a year and conditional certifications, which are valid only until the vessel has reached a dry dock or port[[23]](#footnote-23).

# Recommendation and Conclusion

With a considerable amount of literature, conventions, and international as well as agency regulations reviewed, this paper concludes that the COVID-19 pandemic has devasted much of the international trade, travel, and commerce industries and necessitates appropriate measures. Under the ISM Code, a number of permissible and appropriate actions can be conducted in order to not only aid the organisations, businesses, and individuals who conduct international trade and transport but also assist in relieving the burden placed on them. Whilst a number of regulations and conventions, applicable to set conditions, do allow for the extension of certifications for a ninety-day period, the issue remains of the fact that the pandemic, thus far, has no set expiry date and that only mitigation and prevention measures for a social distancing, PPE, etc. can be used. Although a great deal of progress can be seen thus far in terms of how the ISM regime has mitigated the catastrophic impact of COVID-19, it is important that these efforts go further to entirely eliminate the threat itself. In this regard, the current author recommends that these agencies and international bodies increase their collaborative efforts, rely more so on remote audits and surveys, and be flexible in their approach in order to levitate the burden of the pandemic.

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