

AN INTERNATIONAL AGREEMENT

Like all treaties, the STCW Convention is an agreement between countries. As of November 1998, there were 133 countries which had formally expressed their commitment to the obligations expressed by the STCW Convention. Virtually every maritime country is a "party" to this agreement. Following is a summary of the articles of the STCW Convention. The summary highlights a number of basic principles.

Article I - General Obligations

The first article contains three important principles. The Parties are to give effect to the convention and the Annex; any reference to the convention is understood to be a reference to the Annex as well; and Parties are to take all steps necessary to give the convention "full and complete effect."

Article II - Definitions

Certain terms as used in the convention are defined to ensure everyone has a common understanding of what is meant. For example:

A "party" is "a State for which the convention has entered into force" but an "Administration" is "the Government of the Party whose flag the ship is entitled to fly" (i.e., flag State). "Certificate" means "a valid document, by whatever name it may be known, issued by or under the authority of the Administration or recognized by the Administration authorizing the holder to serve as stated in this document or as authorized by national regulations."

One of the most important definitions pertains to "seagoing ship" because that affects where the requirements of the convention will apply. "Seagoing ship" means "a ship other than those which navigate exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply." This becomes very significant for an understanding of Article III.

Article III - Application

This article contains two fundamental principles. First, the convention applies to seafarers serving on board seagoing ships entitled to fly the flag of a Party. Second, it limits this broad application by excepting specific classes: warships and those otherwise entitled to sovereign immunity; fishing vessels (i.e., those which catch fish or other living resources); pleasure yachts; and wooden ships of primitive build.

Most importantly, as a consequence of this Article and the broad definition of "seagoing ship" in Article II, the convention must be understood to apply to vessels which operate on the ocean whether they are engaged in domestic or international voyages.

Article IV - Communication of Information

Under this Article, Parties are required to submit certain information to the Secretary-General of the IMO "as soon as practicable" after becoming Parties. The information should include texts of laws and regulations on matters that lie within the scope of the convention; contents of study courses; details on examination requirements for certificates issued in compliance with the convention; and samples of certificates which are issued.

Additional discussion of this subject can be found in section 4 of this handbook, under the heading "Regulation I/7 -Communication of Information."

Article V - Other treaties and interpretation

Three important principles are reflected in this article. First, Parties are to ensure that there is no conflict in their commitments if there happen to be other treaties between them which relate to standards of training, certification or watchkeeping for seafarers. Second, matters which are not expressly addressed in the STCW convention are left to the discretion of the Parties. Third, the convention was intended to be understood in the context of the UN Convention on Law of the Sea.

Article VI - Certificates

Article VI contains the two most important obligations in the convention. First, certificates are to be issued to masters, officers and ratings when they meet the requirements for service, age, medical fitness, training, qualification and examinations in accordance with the Annex.

Second, certificates issued to masters and officers are to be endorsed using the form prescribed in regulation I/2 of the Annex. The endorsement must be available in or translated into English. This form is discussed in more detail in section 4 of this handbook, under the heading "Regulation I/2 - Certificates and Endorsements."

Article VII - Transitional Provisions

When a country first becomes a party to the STCW convention, this article permits it to continue to issue certificates of competency in accordance with its previous practices for five years.

The 1995 Amendments to STCW provide a special set of transitional arrangements to allow some new requirements to be phased in between February 1, 1997 and February 1, 2002. This arrangements are discussed in section 4 of this Handbook, under the heading "Regulation 1/15 - Transitional provisions."

Article VIII - Dispensations

This article permits flag States to issue a "dispensation which permits a specific seafarer (except master and chief engineer), in exceptional circumstances, to serve up to six months in a capacity immediately above the one for which the seafarer is qualified. Parties are required to provide IMO with an annual report of the number of dispensations issued during the year.

Article IX - Equivalents

Parties are permitted by this article to adopt educational and training arrangements which are different from those required by the Convention, including those involving seagoing service and shipboard organization. However, these arrangements must ensure a degree of safety at sea and pollution prevention "at least equivalent to the requirements of the Convention."

This article takes into account that experts may differ on how best to train a seafarer, but the ultimate objectives are the same: to provide for safety of life and property, and to protect the marine environment.

Article X - Control

While Article VI requires flag States to ensure that seafarers hold certificates, Article X provides an enforcement mechanism by allowing Port States to verify that seafarers serving on board hold any required certificates, and to detain a ship when certain officers are not properly certificated. The port control aspects of STCW are discussed in more detail in section 4 of this handbook, under the heading "Regulation I/4 - Control Procedures."

Article XI - Promotion of Technical Cooperation

This Article takes into account the fact that some countries may have difficulty in meeting their obligations under the convention, due to a lack of financial resources, technical expertise, or administrative personnel. The article expresses a commitment by all Parties to work together, through IMG, to support Parties which request technical assistance. IMG coordinates technical assistance projects which are funded through contributions from member countries, other UN organizations, such as the UN Development Program, and other interested organizations.

Article XII - Amendments

An international agreement is subject to change under any procedures that might be contained in the agreement. Article XII of the STCW Convention sets out alternative procedures for revising the articles and the Annex. IMO is identified as the organization to consider and adopt proposed amendments or to convene a conference of all parties to consider and adopt such amendments.

Article XIII - Signature. ratification. acceptance. approval and accession

This article sets out all the possible ways for a country to formally commit itself to complying with the requirements of the convention. The specific process will depend on the legal and political system in the particular country which is planning to become a Party to the convention.

Article XIV - Entry into force

When the STCW Convention was adopted by a conference at IMO in 1978, the conference had to agree on the conditions which had to be met before the new agreement could come into force. Article XIV provided that the convention would enter into force 12 months after 25 countries had given their formal commitment to IMO. However, the 25 countries had to represent at total of at least 50% of the tonnage of the world's merchant ships of 100 gross register tons or more. The STCW Convention came into force on April 28, 1984, when these condition were met. As noted earlier, there are 133 countries which are party to the convention (as of November 1998).

Article XV - Denunciation

In the event a country wanted to withdraw from the convention, this article requires that a denunciation be sent to the Secretary-General of IMO. The denunciation could take effect not earlier than 12 months after the Secretary-General has received this notification.

Article XVI - Deposit and Registration

This article identifies the IMO as being responsible for keeping custody of the convention and for sending certified copies to countries which sign the convention or formally indicate their intent to become a Party.

Article XVII - Languages

The text of the convention is officially maintained at IMO in seven languages: Arabic, Chinese, English, French, German, Russian and Spanish. The Chinese, English, French, Russian and Spanish versions are considered to be "equally authentic" for purposes of legal interpretation.

As noted earlier, none of the articles was changed by the amendments to the STCW convention adopted in 1995. Those amendments resulted in changes to the regulations in the Annex and adoption of a new STCW Code, as discussed in the remaining sections of this handbook.