

The doctrine of seaworthiness in the context of the ISPS Code and the relevant amendments to SOLAS 1974

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Abstract

This paper considers the potential impact of the ISPS Code and the relevant amendments to SOLAS 1974 on the doctrine of seaworthiness. The substance of the discussion is based on case law from both common and civil law jurisdictions.

At the outset, the absolute obligation of seaworthiness under English common law is discussed. The duty of a company, as defined in the ISPS Code with regard to maritime security matters is illustrated using a hypothetical scenario.

Since most of the charter parties and the bills of lading incorporate the provisions of the international conventions such as the Hague Rule or the Hague-Visby Rules, the company is required to exercise due diligence in providing a seaworthy ship. In this context, the ship should also comply with all ISPS Code provisions. This duty will be analysed in terms of the development of the Ship Security Plan and also with respect to a necessary co-ordination with the port facility.

In addition, a part of the paper will be devoted to the concept of Limitation of Liability in the light of the new maritime security regulations.

Keywords: seaworthiness, due diligence, security, SSO, CSO, PFSO, privity, SSA, SSP, limitation of liability