

7 FAM 700 SHIPPING AND SEAMEN

7 FAM 710 INTRODUCTION

*(CT:CON-111; 09-15-2005)
(Office of Origin: CA/OCS/PRI)*

7 FAM 711 SUMMARY

(CT:CON-111; 09-15-2005)

The United States assumed its responsibilities with regard to seamen abroad before the creation of the United States Consular Service. Consular involvement with maritime affairs was intricately tied to the development of our national defense policy and to the early history of the Department of State. Although changes in the maritime laws and customs, treaties, consular conventions, union contracts and other collective bargaining agreements may have lessened the role of the consular officer, your role remains vital in assisting seamen of the United States and in documenting American vessels when necessary. The master and crew of a vessel of the United States are subject to the jurisdiction of the United States for certain purposes during the period of their employment aboard ship and are entitled to certain protections under United States law.

Mr. Jefferson's Instructions To Consuls and Vice Consuls of the United States, August 26, 1790

“That you give to me, from time to time, information of all military preparations, and other indications of war which may take place in your ports; and when a war shall appear imminent, **that you notify thereof the merchants and vessels of the United States within your district, that they may be duly on their guard.**”

7 FAM 712 FEDERAL AGENCY RESPONSIBILITIES

(CT:CON-111; 09-15-2005)

The following are various Federal agencies concerned with shipping and seamen issues:

- (1) United States Coast Guard (USCG) - a military, multi-mission, maritime service and the Department's primary contact for issues related to shipping and seamen services. In addition to its compelling national defense role as one of the five United States Armed Services, the Coast Guard is charged with a broad scope of regulatory, law-enforcement, humanitarian, and emergency-response duties. The USCG investigates certain marine casualties, investigates misconduct and takes disciplinary action concerning United States merchant seamen and inspects and certifies vessels subject to United States inspection laws. USCG offices responsible for shipping and seamen services include:
 - (a) The Office of Vessel Traffic Management provides direction, program oversight, and policy guidance for the United States System of Vessel Traffic Services;
 - (b) The National Vessel Documentation Center provides the most common forms used in the Vessel Documentation Process; and
 - (c) The National Maritime Center (Telephone: 202-493-1022/202-493-1000, FAX: 202-493-1060) issues merchant mariners' documents and licenses, maintains the records of United States mariners and provides guidance concerning their qualifications as well as other issues such as wage disputes, and documents vessels. Union contracts, treaties, laws and consular conventions govern many actions pertaining to seamen, such as repatriation, death notification and disposition of remains and effects. Contact the USCG National Maritime Center for specific information.
- (2) Department of Homeland Security (DHS). DHS offices with responsibility for maritime related issues include:
 - (a) Bureau of Customs and Border Protection (BCBP) - Coordinates activities with DHS's Bureau of Citizenship and Immigration Services (BCIS) and the Bureau of Immigration and Customs Enforcement (BICE), the United States Coast Guard (USCG) and other agencies as required. BCBP also handles admissibility determinations concerning alien seamen, shore leave in the United States, and service time

aboard United States ships;

- (b) United States Maritime Administration – Handles the Maritime Security Program and other forms of promotional assistance to the merchant marine; manages and operates the Ready Reserve Force which is a reserve fleet of cargo ships that are activated in time of national emergency; and controls the charter and sale of United States flag vessels to foreign interests; and
- (c) Federal Communications Commission - Licenses ship radio equipment and radio operations.

7 FAM 713 WHAT IS THE CONSULAR OFFICER’S AUTHORITY AND RESPONSIBILITY REGARDING SHIPPING AND SEAMEN SERVICES?

7 FAM 713.1 Authorities

(CT:CON-111; 09-15-2005)

Consular authority for shipping and seamen services is derived from a variety of treaties, laws and regulations, including:

- (1) **Treaties and Conventions:** Consult Treaties in Force on the Department of State Internet page to determine which treaties and conventions are in force between the United States and the host country. Search under both bilateral and multilateral agreements:
 - (a) Vienna Convention on Consular Relations (VCCR);

VCCR Article 5 provides consular functions include:

“(k) Exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews.”

“(l) Extending assistance to vessels and aircraft mentioned in sub-paragraph (k) of this Article and to their crews, taking statements regarding the voyage of a vessel, examining and

stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorized by the laws and regulations of the sending State.”

VCCR Article 37 provides ...

“If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:

(c) If a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence.”

- (b) International Convention for the Safety of Life at Sea (Treaties and Other International Acts, Series 9700);
 - (c) Ship-owners Liability Convention of 1936;
 - (d) International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended;
 - (e) International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended (Treaties and Other International Acts, Series 9700);
 - (f) Many agreements grant enforcement authority to port states in addition to flag state authority to ensure foreign vessel compliance with the substantive requirements in the agreements.
- (2) United States Laws:
- (a) 46 U.S.C. (generally);
 - (b) 22 U.S.C. 256 Jurisdiction of consular officers in disputes between seamen;
 - (c) 22 U.S.C. 4193 Protests;

- (d) 22 U.S.C. 4194 Lists and Returns of Seamen and Vessels;
 - (e) 22 U.S.C. 4205 Retention of papers of American vessels until payment of demands and wages;
 - (f) 22 U.S.C. 4206 Fees for services to American vessels or seamen prohibited;
 - (g) 22 U.S.C. 4207 Profits from dealings with discharged seamen; prohibition;
 - (h) 46 U.S.C. 10301 Application;
 - (i) 46 U.S.C. 10308 Foreign Engagements;
 - (j) 46 U.S.C. 10309 Engaging seamen to replace those lost by desertion or casualty;
 - (k) 46 U.S.C. 10318 Wages on Discharge in Foreign Ports;
 - (l) 46 U.S.C. 10703 Procedures of Masters;
 - (m) 46 U.S.C. 10704 Duties of consular officers: Effects of Deceased Seamen;
 - (n) 46 U.S.C. 10705 Disposition of money, property, and wages by consular officers;
 - (o) 46 U.S.C. 10905 Complaints in Foreign Ports;
 - (p) 46 U.S.C. 11104 Destitute seamen;
 - (q) 46 U.S.C. 11105 Wages on Discharge When Vessel Sold;
 - (r) 46 U.S.C. 11106 Wages on Justifiable Complaint of Seamen;
 - (s) 46 U.S.C. 11101 Definitions; and
 - (t) 46 U.S.C. 11503 Duties of consular officers related to insubordination.
- (3) United States Regulations: 46 CFR (generally); 46 CFR, Chapter 1, Part 14 – Shipment and Discharge of Merchant Mariners.

7 FAM 713.2 What is the Role of the Consular Officer Regarding Shipping and Seamen Services

for United States Flag Vessels?

(CT:CON-111; 09-15-2005)

- a. Consular involvement with maritime affairs was intricately tied to the development of our national defense policy and to the early history of the Department of State. For United States flag vessels, consular officers have authority to:
- (1) Respond to casualties (disasters and seizures) affecting seamen of the United States;
 - (2) Extend certain expired international certificates issued under the International Convention for the Safety of Life at Sea or request the host country, if it is party to the Convention, to reissue a new certificate so the vessel may proceed to a United States port;
 - (3) Receive protests and declarations regarding the material condition of vessels as well as other situations seamen and/or others bring to your attention (see 46 U.S.C. 10905);
 - (4) Provide copies of documents, e.g., protests under the consular seal;
 - (5) Settle the affairs of citizens who die aboard United States flag vessels within the limits of the consular district;
 - (6) Secure property saved from wrecks;
 - (7) Protect the interests and property of United States citizens involved in maritime disasters;
 - (8) Provide for the deposit of ships' papers;
 - (9) Give relief to and repatriate destitute seamen; 46 U.S.C. 10318(e) and 11104(a) make provision for assistance to destitute seamen by the Department of State. By maritime practice, Comptroller General decisions or maritime bargaining agreements, United States owners or operators are held responsible for relief and repatriation of all seamen separated from their vessels at foreign ports for any reason except desertion or shipwreck. Accordingly, United States consular officers are instructed to contact the ship-owners or their agents for assistance to destitute seamen. When the ship-owners or their agents will not render assistance, the consular officer should assist a destitute American seaman in the same manner as any other destitute American citizen eligible for repatriation;

(10) Receive shipment of seamen; and

(11) Oversee engagement and discharge of seamen when necessary.

When assistance/intervention is requested after hours, you should provide the same consideration as you do other consular matters bearing in mind that delay may cause disruption and considerable expense to the operation of the vessel.

b. Consult CA/OCS/PRI if you have shipping and seamen services questions and we will coordinate with the appropriate Federal agency to obtain specific guidance.

7 FAM 713.3 Personal Mail

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You may accept personal mail addressed to seamen on vessels of the United States and either hold it or forward it as appropriate. A ship's officer or a crew member may pick up mail for the vessel.

7 FAM 714 WHAT IS THE ROLE OF CA/OCS/PRI?

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The Office of Policy Review and Interagency Liaison (PRI) is the Department's liaison with other government agencies concerned with United States flag vessel shipping and seamen services and consular posts overseas as well as with members of the public and Congress. PRI provides guidance, disseminates information and implements new procedures regarding United States flag vessel documentation and shipping and seamen services.

7 FAM 715 ARE THERE LIMITATIONS ON CONSULAR OFFICERS REGARDING SEAMAN SERVICES AND DISCLOSURE OF INFORMATION (PRIVACY ACT)?

(CT:CON-111; 09-15-2005)

a. Information contained in a name-retrievable system of records concerning seamen services for citizens of the United States and legal

permanent residents may not be disclosed except:

- (1) By written authorization of the individual who is the subject of the record, or
 - (2) In accordance with the 12 exceptions to the conditions of disclosure in the Privacy Act, as amended, 5 U.S.C. 552a(b)(1) - (12). See 7 FAM 060 and State-05 on the Department of State Internet page and the CA/OCS Intranet Privacy Act Feature.
- b. Any unauthorized disclosure is subject to criminal penalties pursuant to 5 U.S.C. 552a (Privacy Act, as amended).
 - c. Consult CA/OCS/PRI about questions concerning shipping and seamen services and the Privacy Act by contacting us at ASKPRI@state.gov.

7 FAM 716 THROUGH 719 UNASSIGNED