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The Mission to Seafarers

Founded in 1856, and entirely funded by voluntary donations, today's Mission to Seafarers offers emergency assistance, practical support, and a friendly welcome to crews in 250 ports around the world. Whether caring for victims of piracy or providing a lifeline to those stranded in foreign ports, we are there for the globe's 1.2 million merchant seafarers of all ranks, nationalities and beliefs.

The Sea

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News: David Hughes

The Sea is distributed free to seafarers through chaplains and seafarers' centres. You can also arrange to receive it regularly at a cost of £3.50 or \$5 per year (six issues). To find out more, contact:

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## Shipowners show support for SOS campaign

THIS striking gesture was made by participants at the Asian Shipowners' Forum (ASF) meeting in May, where attendees demonstrated their support for the SaveOurSeafarers (SOS) campaign by forming a human SOS on the beach.

Piracy was top of the agenda at the meeting, which was held in Port Douglas, Australia. It was noted that, over the past seven years, more than 62 seafarers had been murdered and more than

3,000 had been held hostage from the almost 200 ships hijacked by pirates off the coast of Somalia, in the Gulf of Aden and in the wider Indian Ocean.

In addition, the meeting heard, piracy cost the global economy an estimated US\$5 billion to \$7 billion in 2011. The costs included protective measures to safeguard ships and crew and increased insurance costs, as well as millions of dollars in ransom money.

Meeting chairman Noel Hart said: "The operations carried out by EU Naval Forces on 15 May 2012 to disrupt pirate supplies and bases on the Somali shoreline is welcome and has sent a clear signal that piracy cannot be tolerated. Blatant attacks on innocent ships and seafarers must be stopped! The ASF urges continuing and stronger political will to address the root causes of piracy – on land in Somalia."

## Basic wage of 75 pence an hour on some ships sparks debate

# Row over UK cruise wages

UK PRESS reports highlighting basic wages for some seafarers on cruise ships as low as 75 pence an hour have sparked a row between the shipping industry and trade union RMT, which has long argued for the country's minimum wage (currently £6.08 for most adults) to apply to all crew members on UK-flagged ships.

Writing in the daily newspaper *The Guardian*, RMT official Steve Todd argued that: "the *Guardian's* exposé of the shocking exploitation of seafarers working on P&O's cruise ships shines a welcome light on a dark and disgraceful practice that shames the shipping industry. Most readers will ask how a basic wage as low as 75p per hour can be justified by one of the UK's best-known shipping companies. The straight answer is that the shipping industry is engaged in a race to the bottom on seafarers' pay and conditions, and continues to plead special circumstances whenever the government or international bodies like the International Transport Workers' Federation seek to prevent these rank injustices."



While welcoming the forthcoming implementation of the Maritime Labour Convention, Mr Todd said the union "would like to see stronger action from government to ensure that the national minimum wage and the Equality Act regulations are enforced on all ships working in UK waters and all UK-flagged ships so that we can eradicate the sort of shameful exploitation we see on cruise ships and other vessels charting domestic and international courses on behalf of a largely unaware public".

Responding to numerous press articles Tim Springett, head of employment and legal at the UK Chamber of Shipping, said "recent media reports indicating that seafarers were working on P&O cruise ships for 75p per hour paint a very dark picture of the UK shipping industry, with accusations of poverty pay and slave conditions following closely behind.

"However," he continued, "the headline figure of 75p per hour is wholly misleading. By combining a guaranteed earnings level with the opportu-

nity to earn more money from tips, it is usual for ships' crew members providing services to passengers to take home upwards of US\$1,000 per month and, frequently, close to \$3,000. The tipping system is potentially open to criticism because it does not provide guarantees of earnings.

"However, experience shows that it works extremely well. It encourages waiters on board to provide the best possible service, thereby increasing customer satisfaction and the likelihood that the company will attract repeat bookings. Meanwhile, the crew members themselves are able to maximise their income from each voyage."

Mr Springett said the fact that these crew members were flown from their homes to the place where they join the ship and back home afterwards at the expense of the company, and were provided with free accommodation and food whilst on board, meant the basic wage of \$250 per month ended up as a very small proportion of the overall reward package. "Moreover, they pay **Continued on page 2.**

## 'Saturation' as use of broadband grows

BROADBAND use at sea is growing rapidly and the two transmission systems currently in use, Inmarsat and Iridium, have reached their saturation point, according to Swedish terminal manufacturer Satcube. It says the next generation of satellite communication for the maritime industry is now starting to take shape and several satellite operators are on the verge of launching global capacity to cover the world's seas.

Satcube is developing terminals to handle the next generation of satellite capacity and a high efficiency antenna system. "These satellite terminals need to be more accurate and demonstrate greater efficiency than the old L-band system terminals they replace", said the company's chief executive officer Jakob Kallmer. Satcube plans to test an initial version of its system this winter in the demanding operational environment of the North Sea, and expects to launch a production version by the middle of next year.

## EMSA to get new powers

AN 'informal deal' is set to give the European Maritime Safety Agency (EMSA) significant additional powers and to pave the way to an EU maritime space without barriers.

EMSA, based in Lisbon, currently costs euros 54.3m and employs 200 staff. The EU says EMSA should have new powers to step up co-operation against piracy, to prevent maritime pollution, to improve training for seafarers and to help establish an EU maritime space that is open and unrestricted.

According to the statement, once formally approved by the council and the parliament, the deal, which was struck in April and slightly changes EMSA's founding regulation, (EC) 1406/2002, would enable EMSA to extend its preventive work and reduce bureaucracy.



IMB: effective naval intervention and armed guards have reduced pirates' success

# Naval action cuts attacks on large merchant vessels



EU naval forces capture suspected pirates off Somalia. (Photo: EU Naval Force Somalia)

SHIPPING industry organisations have welcomed recent actions by several navies against Somali pirates which have contributed to fewer large merchant vessels being hijacked. An International Maritime Bureau (IMB) spokesperson told *The Sea* that of the 12 vessels hijacked by Somali gangs this year, six were small dhows or fishing vessels and while the other six were merchant vessels two were relatively small.

He said the Somali pirates had been less successful for two reasons. The first was more effective naval intervention and the other was the widespread use of armed guards on merchant ships.

Despite the reduced pirate activity as of the end of May, IMB data put the number of vessels being held at 13, with 200 crew on board, while a further 49 seafarers were being held ashore in Somalia. Of 154 pirate attacks worldwide since the beginning of the year 61 were attributed to Somalia-based pirates, as were two of the four piracy-linked deaths of seafarers. The two other deaths occurred

during attacks off West Africa, which also accounted for two vessel hijackings. The other hijacking in the first five months of the year was of a tug in Philippine waters. In that case the crew were left on the barge that was being towed and were rescued safely.

Possibly the most significant naval action so far this year was on May 15 when the European Union (EU) Naval Force mounted an operation to destroy pirate equipment on the Somali coastline. The operation was described as "focused, precise and proportionate". It was conducted from the air and did not involve troops on the ground. All forces returned safely to EU warships. It appears that no Somalis were injured ashore and that the object was to destroy skiffs identified as being used in attacks on merchant ships.

The operation commander of the EU Naval Force, Rear Admiral Duncan Potts, said: "We believe this action by the EU Naval Force will further increase the pressure on, and disrupt, pirates' efforts to get out to sea to attack merchant shipping and dhows. The local

Somali people and fishermen – many of whom have suffered so much because of piracy in the region, can be reassured that our focus was on known pirate supplies and will remain so in the future."

However, Middle East Online reported a claim that innocent fishing boats had also been hit in the raid, and quoted Hoby-based pirate gang leader Abdi Yare as saying that "if they continue attacking Somali coastal villages, then there will be terrible consequences. The so-called anti-piracy forces are now engaging in a very dangerous part of their mission."

The shipping industry though, had few reservations. Singapore Shipping Association executive director Daniel Tan's response was typical. "These criminals have held the world economy and international shipping hostage for more than half a decade," he said. "It is to be hoped that this action by the EU will encourage more proactive and effective measures on land and at sea."

He went on to say that whilst the EU strike against pirate logistics was long overdue, it certainly was a welcome step in the right direction. "This effort must be sustained to remove any future pirate attacks. Furthermore, any effective strategy must also address the root causes of the piracy problem on land in Somalia."

Meanwhile the International Maritime Organization (IMO) has signed five strategic partnerships with other UN agencies and the EU, following the Conference on Capacity Building to Counter Piracy off the Coast of Somalia, held at IMO's London headquarters in May.

The organisations represented at the conference committed themselves to helping strengthen the anti-piracy and maritime capacity of states in the Western Indian Ocean and the Gulf of Aden area and to developing viable and sustainable alternatives to piracy in Somalia. They have pledged to work together to deliver effective assistance to those states under the framework of existing institutional arrangements as well as through new joint enterprises.

## Skiff attack suggests new swarming tactics in use

WHEN armed guards were first deployed on merchant vessels to deter Somali pirates concerns were raised that "swarms" of skiffs might be used to overcome the security teams.

The following is a report submitted to the International Maritime Bureau's Piracy Reporting Centre in Kuala Lumpur of an attack on May 25. It would appear that 21 small craft plus a dhow mothership were involved in this attack.

"0900 UTC: Posn: 25:29.6N – 057:16.8E Around 28nm WSW of Bandar-e-Jask, Iran.

D/O onboard a general cargo ship underway noticed a group of 10 skiffs at a distance of 2nm from the ship on the stbd side. The forward skiff broke off from the group and approached the ship at a speed of 20-25 knots. Master and security team informed. Alarm raised, fire hoses and SSAS [Ship Security Alert System] activated. UKMTO [United Kingdom Marine Trade Operations] and navies informed. The ship increased speed and commenced manoeuvring away from the skiffs. As the skiffs closed to 500metres the armed security team fired warning shots. The skiffs ignored the warning shots and continued to approach aggressively and weapons were sighted on the skiffs. As the skiffs closed to 300metres the security team once again fired at the skiffs and it was noticed that the skiffs returned fire towards the ship. Eleven additional skiffs were sighted on the port side advancing towards the ship. As the security team fired warning shots these skiffs stopped and moved away. The skiffs on the stbd side continued to chase the ship and then after around 12 minutes from the initial approach the skiffs moved away towards a large dhow in the vicinity. No damage and no injuries to crew."

## IMO to give guidance on private maritime security companies



The IMO in session in London. (Photo: Ben Bailey)

THE International Maritime Organization (IMO) has decided to set up a working group to develop interim guidance for private maritime security companies (PMSCs). The agency's secretary general, Koji Sekimizu, said "the carriage of firearms on board merchant ships is a complex legal issue with [IMO] member states taking diverse positions". He went on to say that while recognising the reality of the situation, there was a need to consider how the international community should deal with the issue and arrive at practical solutions.

IMO has agreed that the use of PMSCs on board ships is a measure that should be employed only in "exceptional circumstances in the High Risk Area". Nevertheless, IMO has decided that guidance is needed to "assist policy development at the national level and facilitate greater harmonisation of policies in international shipping related to the issue of arms on board".

Mission to Seafarers director of justice and welfare, the Revd Canon Ken Peters, who sits on the IMO Maritime Safety Committee, said: "The hiring of PMSC's is the last resort for the protection of seafarers, and there must be regulations to ensure the quality of the companies contracted. The industry should aim for the highest standards possible so as not to compound the difficulties already encountered by seafarers."

## Cruise wage row

Continued from page 1

very little in taxes, meaning the wage is essentially a net one, with few outgoings".

He went on to say that for seafarers living in India or the Philippines, which supplies 25 per cent of the world's seafaring labour, the potential earnings level provided a standard of living in their home countries that was well in excess of what they could expect to achieve by taking employment ashore in those countries. "The salary of a Filipino able seafarer in the international fleet is considerably above what a teacher or doctor would earn there. Hence accusations of poverty wages are entirely unfounded".

## Japan's ClassNK passes 200m gross tonnage

IN A sign of the continuing growth of the world's merchant fleet, Japanese-based ClassNK said that on May 28 its register became the first classification society to pass the 200 million gross tonnage mark.

Its chairman and president, Noboru Ueda, said the achievement highlighted "the incredible growth of the world maritime industry over the past decade". He said ClassNK accounted for about 20 per cent of the world's commercial tonnage.

## 2 Italian marines bailed

TWO Italian marines charged with the murder of two Indian fishermen have been bailed after three months in jail in Kerala, India. According to a BBC report at the end of May, the Kerala High Court granted bail but ordered Massimiliano Latorre and Salvatore Girone to deposit their passports and 10 million rupees (US\$178,110) each as surety, and barred them from leaving Kochi city.

The marines are accused of shooting the two fishermen dead in February after allegedly mistaking them for pirates. The marines were guarding the Italian-flag tanker *Enrica Lexie* when the incident occurred, off India's south-western coast.

A diplomatic row between India and Italy broke out immediately, when the Indian authorities seized the marines, with India initially insisting that the shootings had occurred within its territorial waters and therefore within its jurisdiction. The BBC reports, however, that India has recently changed its position, accepting that the incident took place in international waters. But, as of early June, the judicial process was continuing in India. In April Italy agreed to pay 10 million rupees in compensation to each of the fishermen's families.

Meanwhile the Indian Government has announced that it is drafting a policy aimed at providing better protection for Indian and other seafarers from pirates off the Somali Coast.

## Pirates lose US appeal

FIVE Somali pirates have lost their appeal against life-plus-eighty-year sentences imposed by a US court for attempting to hijack a US Navy frigate in 2010. The US Court of Appeals for the Fourth Circuit upheld the convictions, which had been challenged on several grounds, one of which was that US law defines piracy as involving robbery.

The pirates had thought that the *USS Nicholas* was a merchant vessel

and had approached close to her stern before firing warning shots with AK47s. The warship replied with machine-gun fire and the three pirates who had approached the ship fled towards a mothership manned by two more gang members but all five were captured.

The appeal court ruled that US law applies "the law of nations", which regards failed attacks as piracy. It also dismissed challenges based on admissibility of evidence.



Passenger ships must carry ECDIS from July 2012, other vessels by 2017

# IMO tackles ECDIS issues



Although some vessels must be fitted with ECDIS now, rules on operating officers' ECDIS training will not come into force until 2017. (Photo: Transas)

TWO recent International Maritime Organization (IMO) meetings have been tackling problems concerning the compulsory fitting of Electronic Chart Display and Information Systems (ECDIS) on merchant ships, which is now being phased in. Passenger ships will have to carry ECDIS from this July and other vessels will have to follow suit, in stages, by 2017.

There are two main problems. One is that while some vessels must now have ECDIS fitted, there will be no requirement for navigating officers to be qualified to operate the equipment until 2017 when new standards set by the 2010 Manila amendments to the Standards of Training, Certification & Watchkeeping (STCW) Convention

come into force. The other, less easily solved, problem is that faults – referred to by the IMO as “anomalies” – have been identified in some ECDIS sets, which could mean significant hazards not being identified.

IMO's Standards of Training and Watchkeeping sub-committee has put together a draft circular for approval by IMO's Maritime Safety Committee (MSC). The circular advises vessel operators that generic training followed by familiarisation training on board ship should be undertaken by officers before operating ECDIS. However, it will be up to flag states to implement this guidance. At least one, the UK, is taking a tougher line, requiring officers to be ECDIS qualified unless the ship also has paper charts on board.

On the other hand, the MSC May meeting was unable to resolve the issues regarding ECDIS anomalies and, after making some progress, referred the matter to another sub-committee.

*The Sea* understands that many flag states expressed concern and surprise at the MSC meeting that technical difficulties with ECDIS remained. Several governments wanted to slow down the ECDIS implementation schedule but this was not accepted.

The MSC did accept that there was a need to raise awareness among mariners of the operating anomalies affecting ECDIS and to advise that ships carrying older ECDIS equipment that could not be updated or upgraded should also carry paper charts. It has asked ECDIS manufacturers to make information regarding anomalies widely available to reduce the risk of faults leading to accidents.

An International Chamber of Shipping (ICS) spokesperson told *The Sea*, however, there was a problem in that a number of ECDIS manufacturers had gone out of business and therefore ships with their equipment on board might not be made aware of the anomalies.

The MSC agreed with an ICS proposal that a mechanism to address future anomalies, both in ECDIS and other software-based navigational systems was required. The sub-committee also agreed to consolidate existing ECDIS-related circulars into a new unified circular in order to reduce the complexity and possible confusion caused by having multiple circulars that sometimes duplicated advice.

The International Hydrographic Office (IHO) has distributed a test data set to vessels known to carry ECDIS to identify equipment with anomalies. However, relatively few responses have been received and the MSC has asked the IHO to repeat the process.

## Sadness at death of MtS leader



The Secretary General of The Mission to Seafarers, the Revd Tom Heffer, has died at the age of 43. Appointed as the charity's 15th international leader in 2009 following eight years as director of chaplaincy, Mr Heffer was a vociferous champion of seafarers' rights. He established the Mission as a key voice on maritime welfare issues, urging the international community to do more to protect seafarers from the threat of piracy, and to ensure that appropriate post-trauma care and counselling were available for newly released hostages.

Thomas Patrick Heffer was born in 1969 and educated at Aylesbury Grammar School and King's College, London. After graduating with an Honours degree in Divinity, Mr Heffer volunteered as a chaplain's assistant for The Mission to Seafarers (MtS) and served in the ports of New Orleans and Singapore. Following his ordination in 1996, he held several appointments within

the Church of England, including chaplain and press officer to the Bishop of Norwich. In 2001 he joined the executive staff of the MtS, and also achieved a Masters in Canon Law from the University of Wales, Cardiff the following year.

As Secretary General, Mr Heffer had a bold and ambitious vision for the Mission. His five-year *Beyond the Next Horizon* strategy envisaged a dynamic and resourceful ministry which combined practical and spiritual support for seafarers at the point of greatest need with international advocacy to push for change at the highest levels.

Acting Secretary General Martin Sandford praised Mr Heffer's selfless commitment to seafarers, as well as his appetite for life, saying: “Tom made sure that the Mission remained true to its calling of providing the best possible services and care to seafarers of the merchant fleet. He was a compassionate man, motivated by his faith to make a difference in this world.”

“Always ready with a witty quip or a welcoming smile, Tom had an immediate rapport with people, instantly making them feel that they were in the company of a friend. His passing leaves a tragic hole in the life and ministry of The Mission to Seafarers, but he has left an impressive legacy on which to build, and we are committed to taking forward his vision of an effective and sustainable organisation which is there for seafarers whenever and wherever they need its help.”

Mr Heffer is survived by his wife, Roz and daughter, Abi.

## Passenger ships: action on safety

LESSONS learnt from the *Costa Concordia* incident in January are being put into practice as quickly as possible. The International Maritime Organization (IMO) has recommended interim measures aimed at enhancing the safety of passenger ships. And the IMO's Maritime Safety Committee (MSC) has agreed to an action plan on long-term work to improve passenger ship safety, pending the review of the report from the investigation into the loss of the ship.

IMO has advised that member states ensure that passenger ship operators flying their flag take into consideration a set of recommended interim operational measures “with all possible urgency and efficiency”, which include:

- carrying additional lifejackets, to be readily accessible in public spaces, at the muster/assembly stations, on deck or in lifeboats, so that in an emergency passengers need not return to their cabins to retrieve lifejackets stored there;
- reviewing the communication of emergency instructions on board ships;
- carrying out the muster for embarking passengers prior to departure from every port of embarkation, if the duration of the voyage is 24 hours or more;
- limiting access to the bridge to those with operational or operationally related functions when increased vigilance is needed, for example during arrival or departure from port, heavy traffic or poor visibility, and
- ensuring the ship's voyage plan has taken into account the relevant IMO guidelines.

The measures are based on the Italian Government's *Costa Concordia* investigation and its preliminary proposals, as well as on recommendations from other states and a Cruise Industry Operational Safety Review.

## Chinese cruise market set for boom

THE China Cruise and Yacht Industry Association (CCYIA) says there are some 300 million potential Chinese cruise passengers – the equivalent of the entire population of either North America or Western Europe. The Chinese have increased their per-person spending on foreign travel by two-thirds in the past six years, offering a “huge opportunity” for cruise companies in that country, according to the latest Seatrade research report, *Cruising Through the Perfect Storm*. The total number of Chinese cruise passengers is now approaching 300,000 a year and cruise lines believe there is long term potential to turn China into a year-round market.

## ICS slams Panama toll rise

THE International Chamber of Shipping (ICS) has described plans to increase toll charges for the Panama Canal by up to 15 per cent as “rushed, excessive and likely to cause further problems for shipping companies” given the fragile state of economic recovery. ICS secretary general Peter Hinchliffe said there was “no pressing need” for the increases given that “canal revenues are currently very healthy”. The shipowners' body has sent a “strongly worded” letter to the Panama Canal Authority.

## Nautilus calls for action on asbestos

ANGLO-DUTCH seafarers' union Nautilus International has called on its UK members to press their politicians to take up the issue of the “continued blight of asbestos in world shipping” in the country's parliament. Nautilus says that more than 4,000 people a year in the UK die as a result of past exposure to asbestos. The union is also campaigning against the continuing, illegal, use of asbestos in the construction of vessels, which it believes is still widespread.

## Hydrogen power 'in 30 years'

A HYDROGEN-POWERED ferry is set to begin six months of operations in Bristol, UK, as part of a project aimed at demonstrating the viability of hydrogen fuel cells, which are said to be cleaner, quieter, cooler and more reliable than combustion engines. A director of Auriga Energy, which is building the engine, Jas Singh, said large merchant ships could be hydrogen powered “in 20 or 30 years”.

## Manhole gasket warning

MARINE insurer London P&I Club is warning of the growing incidence of manhole cover gasket defects. It says inspections have revealed that the condition of the gaskets at the manhole entrance to tanks is sometimes overlooked and points out that water getting into cargo can threaten the safety of the vessel and also cause costly cargo damage claims.

It says owners must ensure that gaskets and associated securing arrangements are considered part of routine tank inspections. The club adds that whenever manhole covers are removed, crew should check the covers are replaced correctly, with the gaskets in good condition, and tested for integrity where possible.

## UK work permit row

SEAFARERS' union Nautilus International has complained about the employment of a foreign crew on the Cyprus-registered general cargo ship *Daraja*, which is operated by Streamline Shipping on a service between Aberdeen and Kirkwall. The union argues that the crew – a mix of Filipino and eastern European nationals – should be covered by work permit requirements. It says the company should have advertised the jobs locally at domestic rates of pay. The union has requested an urgent investigation by the UK Border Agency and has asked for policy on the work permit requirements for foreign seafarers working on ships operating in UK waters to be clarified.



## NEWS

## Survey reveals complaints of intimidation and unfairness



Criminal charges are daunting for anyone... (Photo: SRI)

INTIMIDATION, unfair treatment and a lack of legal representation and interpretation services are some of the complaints highlighted in a survey of seafarers' feelings about and experiences of facing criminal charges.

Deirdre Fitzpatrick, executive director of the London-based international legal research centre, Seafarers' Rights International (SRI), which published the survey, said seafarers were expressing real fears and concerns over criminal charges and that it had

to be in the interests of the whole maritime industry that these were addressed and that seafarers were adequately protected.

"The prospect of criminal charges," she went on, "is daunting for any human being, whether in your own country, or even more so in a foreign country, and so for seafarers entering foreign ports on a daily basis, the risks are high and the consequences can be dire if fair and due process is not followed.

"We hope that the results of this survey will provide momentum for increased efforts to ensure fair treatment of seafarers, whether innocent or guilty of a criminal charge, and that from this survey, the faces and the voices of the seafarers will be seen clearly and heard loudly."

The SRI's survey of 3,480 seafarers in the 12 months to the end of February 2012 was conducted in eight languages, with responses returned from 18 countries and from seafarers of 68 different nationalities.

Of the seafarers surveyed, 8 per cent said they had faced criminal charges, 4 per cent had been witnesses in criminal prosecutions, and 33 per cent knew of colleagues who had faced criminal charges. Almost 24 per cent of masters in the survey said they had faced criminal charges.

Questions in the survey specifically asked about the experiences of seafarers who had faced criminal charges. Forty-four per cent of these seafarers reported they had been body-searched. Eighty-seven per cent of those who had faced charges relating to the discharge of their professional duties said they had not had legal representation. Ninety-one per cent of seafarers who had faced criminal charges and who had needed interpretation services said they had not been provided with such services, and 89 per cent of seafarers who had faced criminal charges said they had not had their rights explained to them.

## Rena officers get 7 months in jail

THE Filipino master and second officer of the 3,351 teu Liberian-flag containership *Rena* have been jailed for seven months each for their part in the vessel's grounding off New Zealand last October. The resulting oil spill was the worst to have occurred in the country's waters. Widespread pollution killed wildlife, including thousands of sea birds, when bunkers leaked from the ship as it broke up on the Astrolabe Reef.

The clean-up has been estimated to have cost US\$108 million. The master, Mauro Balomaga, and second officer Leonil Relon pleaded guilty to negligence and to trying to erase evidence. An interim report by the New Zealand



Rena lists after the grounding. (Photo: Maritime New Zealand)

Transport Accident Investigation Commission found that the ship took an unplanned shortcut to meet a deadline to

reach port. The ship's owner, Costamare subsidiary Daina Shipping, still faces charges over the incident.



Tourism is down 22%. (Photo: IAATO)

## Cruises avoid Antarctic

LARGE cruise ships kept away from the Antarctic last year, following the International Maritime Organization's ban on the use of heavy oil as fuel within Antarctic waters. International Association of Antarctica Tour Operators' (IAATO) statistics for the 2011-12 season, which ended in early April, put the total number of tourists travelling to the region with IAATO operators at 26,519, a decrease of 22 per cent on the previous season and the fourth year to show a consecutive decline. However, smaller vessels, carrying fewer than 500 passengers, saw their numbers increase by 9.4 per cent to 20,271.

## Mission is first to complete MLC 2006 trainers' course

The Mission to Seafarers (MtS) has become the first Christian maritime organisation to have one of its chaplains successfully complete the training course for trainers and maritime inspectors on the application of the ILO Maritime Labour Convention, 2006. As such, the Mission is now able to offer training to flag state and port state control officials in monitoring and inspecting vessels so that they meet the tough requirements of the MLC.

Canon Ken Peters, director of justice and welfare at MtS, passed the exam after an intensive course held at the ILO's Maritime Labour Academy in Turin. Hearing of his achievement, Canon Peters spoke of the importance of the

MLC, 2006 to the world's 1.2 million seafarers.

"The entry into force of the MLC will be essential to improving the living and working conditions for seafarers the world over," he said. "Its enforcement is key to upholding industry standards, and the new regulations will require diligence on the part of flag state inspectors and port state control officials. The Mission has often been asked to provide advice and information to flag states and shipping companies on how they can improve conditions for seafarers. This new qualification means that we can now train flag state and port state officials on this vitally important piece of legislation which protects the welfare and general wellbeing of seafarers."

## MICHAEL GREY

# When the

Research into the experiences of seafarers a maze of civil and maritime laws or risk p

**W**e live in a markedly intolerant age. We may no longer execute people for petty crimes or transport children abroad for stealing a pocket handkerchief, but the word 'mistake' seems to have been excised from the dictionary and we now have no hesitation in jailing people for making errors. So it seems a bit of an irony that at the same time we have whole armies of lawyers busily engaged in protecting our 'human rights'.

Maybe that is important, in an era when virtually any professional who makes a mistake at work can find themselves facing criminal charges – from medical staff who have been less than punctilious in their prescribing, to lorry drivers who have nodded off at the wheel and caused a road accident. You might argue that some professions are more vulnerable than others in this respect. Lawyers and judges, for instance, who sit in judgement over people charged after an accident, will sail through their careers without ever facing the threat of prosecution for a wrong decision. Ships'

masters will probably consider themselves one of the most vulnerable of all professions, with a whole huge book full of offences they can be charged with, both in the jurisdiction represented by the flag and laws they sail under, and in any other place in which their ship may find itself.

The fears of mariners seem well justified by a recent report from the organisation Seafarers' Rights International. In it, seafarers report a shocking litany of criminal sanctions having been thrown at them, apparently like confetti, all over the world.

The SRI undertook extensive polling of serving seafarers to produce its report, with 3,480 questionnaires despatched to seafarers over a twelve month period, in no fewer than eight languages, just to ensure its global reach. Responses were received back from 68 different nationalities of seafarer, and the results were, to anyone concerned about human rights and fair treatment, pretty shocking.

One simple yet profoundly worrying statistic from this polling stands out like a long-range lighthouse: nearly one



(L-R) Pressure whose captain

quarter of all the who returned reported that dur as the comma they had faced es. Two imme come to min be some conn this disturbing reluctance of y take up a sea c ever would yo ship's master, v

## BEN BAILEY

# Goodbye

**I**n June, London's River Thames blazed with colour as a flotilla of over 1,000 vessels processed to celebrate sixty years of The Queen's reign. Boats of every shape and size took part, including vintage vessels powered by steam and ancient vessels powered by hand. As the royal barge made its way along the river, it passed the beautiful Georgian church of St Mary's, Battersea. Some weeks before that joyful pageant, I had visited the church to meet its outgoing vicar, the Revd Adam Boulter, who has just been posted to Aqaba as the Mission's new port chaplain. We meet outside the church, as preparations for the jubilee celebrations are in full swing.

"I'm only sorry that we won't be in the country to witness the spectacle," says Adam. "But Aqaba is going to be an exciting opportunity and I am looking forward to meeting and helping seafarers visiting this very important port."

Adam recently completed his four year curacy at St Mary's, after graduating with a Masters degree in theology from Fitzwilliam College, Cambridge. But, he says, he wanted a new challenge.

"Being at St Mary's has been a fascinating experience and we

**Ben Bailey** meets the new Mission to Seafarers chaplain in Jordan, the Revd Adam Boulter



(L-R): The Re internet, tra

have enjoyed being part of this community, but my wife and I felt that the time was right to try something new. I wanted to be there for the whole spectrum of society, to help people of different faiths, traditions and nationalities, and being a port chaplain affords me that opportunity. Seafarers are a uniquely vulnerable group of workers and I want to advocate for people who the world largely ignores."

Adam was brought up in a traditional Anglican home, but being a clergyman wasn't his first idea as a career path. He

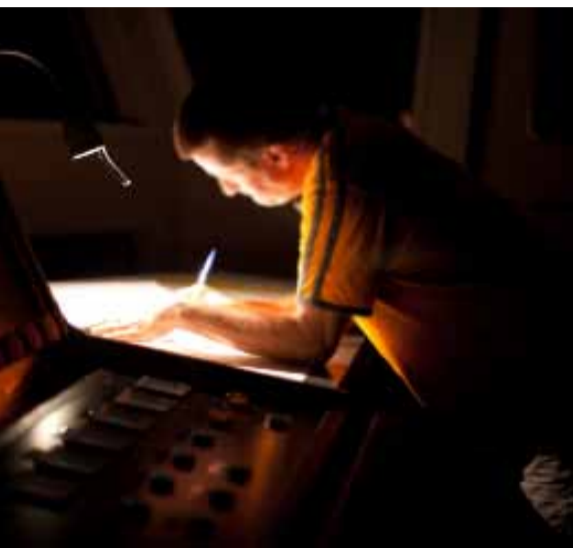
initially studie prestigious Lo Central Saint refined his ar mainly on lan ligious theme exhibit around

"I was a d child," he says me and I have spiration from work. There w when I became think it had alv and as my far Christians, the instilling of G



# The captain is a criminal

...facing criminal charges has revealed increasing pressure on ships' masters to comply with prosecution. **Michael Grey** asks, should a professional mistake really be classed as a crime?



...at the top: a quarter of masters reported having faced criminal charges (Photo: Jamie Smith); The *Hebei Spirit*, and mate faced trial after it was struck by a barge while safely anchored, causing an oil spill (Photo: Reuters).



...the ships' masters their answers regarding their careers and the dangers of ships, criminal charges, immediate questions and. Might there be a connection between the ratio and the young people to career? And why do you aspire to be a with all his or her

cares, tribulations and fearsome responsibilities, supplemented by the ever-present threat of criminal charges, when you could opt for something really safe and be a judge instead?

This is disturbing evidence of the weight of criminal responsibility routinely faced by seafarers, which backs up all the anecdotal complaints about unreasonable officialdom in so many ports. Are ships' masters

uniquely criminal in their behaviour, careless of their duties and frivolous in the discharge of their responsibilities? Why else would they be so persecuted by the authorities all over the world? Of course not! In fact, even a hardened criminal under most jurisdictions would face far fewer potential crimes in the exercise of his profession than the ship's master. And year after year more charges are be-

ing added by maritime and civil authorities, which will trip up the unsuspecting master bringing his ship into a new port.

It is a disgrace and a scandal that such treatment, as revealed by the SRI, is visited on this essential group of workers. Some 87 per cent of seafarers said they were left without legal representation when charged in a foreign port. There was no effort to explain their rights to

seafarers in 89 per cent of cases, while translation facilities were often not available when some heavy-handed lawman was busy scribbling the details of the alleged crimes down in his notebook.

Has seafaring always been so legally perilous? It is always a temptation, it seems, to throw the book at foreigners and foreign seafarers in particular. But in the case of ships' masters, there is no doubt that both civil and criminal penalties have become much more numerous, and as the ship's master is responsible for the ship, it is he or she who must take the blame. If there is a sliver of oil in the harbour, it will be the master of the nearest ship who will be hauled into court. If there is a ton or two short landed in some countries, the ship and the master will be arrested and not released until a huge bond is posted by the P&I Club. And in many parts of the world the visiting ship's master is exposed to all manner of corrupt officials who will manufacture 'crimes' with which they can enrich themselves.

But even in parts of the world where the rule of law is

supposedly established, ships' masters and seafarers can find themselves badly exposed. The outrageous 'Perben' laws of France resulted in ships being arrested and masters fined ludicrous amounts over pollution allegations, often with no reasonable evidence offered. Masters have found themselves charged with 'people smuggling' after they have tried to land refugees they have picked up at sea, or treated disgracefully if narcotics happened to be discovered on their ship or in its cargo. Masters who have been caught up in marine emergencies, survivors from sinking ships, have been thrown into prison in jurisdictions which are supposed to be civilised.

The treatment of the master and mate of the *Hebei Spirit* – arrested, charged and jailed in South Korea after their anchored ship was struck by a crane barge, resulting in a major oil spill – became an international scandal that unified the whole maritime industry in the face of such injustice. Might the tide turn? Slowly, perhaps. The SRI report will surely help.

# London, hello Aqaba



...nd Adam Boulter prepares to leave the church of St Mary's, London; the seafarers' centre in Aqaba, Jordan, which offers telephones and transport, recreational facilities, counselling and spiritual support; the new internet cafe within Aqaba Container Terminal, opened January 2012.



...nd Fine Art at the London college of Martins. Adam Boulter, which focuses on landscapes and reefs, and began to work in London.

grew older, though, I discovered that as well as an artist, I might also want to be a priest as well." The difference between London and Jordan could not be more apparent. The sun may be bouncing off the calm waters of the Thames on the day we meet, but Aqaba can reach well over 100F, in the height of summer. The port, too, is the only port in Jordan and so is vital to importing and exporting the goods the country needs to survive. It also has a busy passenger terminal, and in the first five months of 2012 over 350,000 people ar-

rived in the port to sample the ancient sights of Petra and the Red Sea.

"I see the role of the port chaplain as being there for everyone. Obviously as a parish priest, you have time to create relationships with people over many years. But as seafarers only have a limited time in port, I want them to feel that they can come and talk to me about anything at any time. As well as being their place of work, a ship is also a seafarer's home and I want to be respectful of that. People in ports are always busy,

but I want everyone to feel that I am there for them to help in any way I can."

The Mission to Seafarers has operated in Jordan since the early 1990s. Over the years, the welfare services have grown substantially and the Mission is seen as a vital part of the port. There is a large seafarers' centre which houses all the usual facilities crews have come to expect from the Mission: a chapel for quiet prayer and reflection, access to the internet, telephones, recreational facilities and transport. Foreign exchange is also

available as well as counselling and pastoral services for those crews who have just passed through pirate-infested waters. In addition to the centre, an internet cafe was refurbished and reopened in January 2012 inside the Aqaba Container Terminal.

"I don't claim to be a welfare officer," says Adam, "but having someone to bounce ideas off can be a useful way of finding a solution to a problem."

Just before *The Sea* went to press, we caught up with Adam to find out how his first couple of months have been. The jour-

ney from London to Jordan is a long one and we wanted to see how he, his wife Beth and their two young children were getting on.

"Jordan is an amazing and welcoming place but is very hot at this time of year," emailed Adam. "I am greatly enjoying visiting the ships, but many are on very fast turnarounds and so while I have found seafarers pleased to see us and wanting to talk, often they are very busy. So the practicalities take precedence. We visit the ships and take mobile telephones and phone cards so they can contact home, and we provide information about the portside centre. Then if there is time, tea and talking about home, the journey, and the risks of sailing past the Horn of Africa.

"I'm learning that seafaring is a world of its own and so I have been slowly learning its culture, ways of doing things and its language, often helped by amused looks as I call someone the wrong title, or reveal my ignorance of things nautical. In short I seem to have spent the last month or so adapting to two new cultures and languages: the Arabic culture of Jordan, and the international seafarers' culture and language. It's fantastic!"



# Understanding contract clauses

Shipping is regulated by a complex maze of national and international laws and standards. While there are many similarities between different countries' maritime laws, significant differences can also exist. When employment conflicts occur between seafarers and shipowners, there are often several choices of law and several locations available to resolve the dispute.

Seafarers will want to have as many options as possible to enable them to take advantage of the laws and jurisdictions that will be most beneficial to them. Shipowners will want to limit the options to those they believe will be most advantageous to their interests. Labour-supplying countries and flag states may also wish to limit options to make their seafarers and ships more attractive to shipowners.

The United States is an attractive place for seafarers to file claims for personal injury and unpaid wages because they can hire lawyers on a contingency fee basis (where legal fees are paid only if they win the case), juries can award high sums in personal injury cases, and the US Penalty Wage Act can require shipowners to pay substantial penalties to seafarers in some circumstances.

Shipowners can avoid the expenses of being sued in the United States, and labour-supplying and flag states can

become more competitive through clauses in employment contracts. Clauses limiting dispute resolution options are commonly included in many seafarers' employment contracts. Typical provisions include forum selection clauses, choice of law clauses, and arbitration clauses.

■ A **forum selection clause** is a contractual agreement that specifies the country or court where a dispute involving that contract must be filed. An example of a forum selection clause is: "In the event of any dispute concerning this agreement, a suit may be brought only in a court of jurisdiction in the country of Mongolia."

■ A **choice of law clause** is a contractual agreement that specifies which country's laws will be used to settle a dispute, irrespective of where the case is filed. An example of a choice of law clause is: "This agreement shall be governed by and interpreted and construed in accordance with the laws of Bolivia."

■ An **arbitration clause** is a contractual agreement that requires dispute resolution by arbitration instead of going to court. In arbitration, disputing parties agree to send their case to a third party arbitrator, and to be legally bound by the arbitrator's decision. Arbitration clauses sometimes contain agreements on how arbitrators are selected. An example of an arbitra-

tion clause is: "All disputes, controversies, or claims arising out of or relating to this contract shall be submitted to binding arbitration in accordance with the applicable rules of the Botswana Arbitration Association."

Because of such clauses, seafarers can be severely disadvantaged and effectively denied access to justice to protect their rights. It would not be unusual for seafarers to be employed under a contract written in an unfamiliar language, that would require dispute resolution by an arbitrator in a remote country, and that would require the arbitrator to interpret foreign law.

Unfortunately, the current trend in United States and other countries' courts is to enforce seafarers' forum selection, choice of law, and arbitration clauses, even though seafarers have little or no opportunity to negotiate the contracts with shipowners or their governments.

Some courts may refuse to enforce the clauses if they find the contract unreasonable because of fraud, if it contains conditions so onerous as to deprive the seafarer of their day in court, or if it would go against a strong public policy. Successful cases of this kind, however, are very rare.

Seafarers should read and understand the consequences of clauses that limit their flexibility to resolve disputes before agreeing to their terms in employment contracts.

## Comprender mejor ciertas cláusulas contractuales

La navegación está regulada por un complejo entramado de leyes y normativas nacionales e internacionales. Si bien las semejanzas entre el derecho marítimo de los distintos países es considerable, también es cierto que existen diferencias no desdeñables. Cuando surge un conflicto laboral entre tripulantes y armadores, es bastante habitual que existan varias legislaciones y jurisdicciones entre las que elegir para resolver la disputa.

Los Estados Unidos son atractivos para presentar denuncias por lesiones personales e impago de salarios, porque es posible contratar abogados que solo cobran sus honorarios si ganan el caso. Además, los jurados otorgan cuantiosas compensaciones en casos de lesiones personales y, en determinadas circunstancias, las sanciones impuestas a los armadores por la ley de penalización por impago de salarios de los EE.UU. (US Penalty Act) pueden ser sustanciales.

A los navegantes les interesa tener a su disposición el mayor número posible de opciones, para poder recurrir a las legislaciones y las jurisdicciones que sean más beneficiosas para ellos. Los armadores intentarán limitar esas opciones a las que resulten, previsiblemente, más ventajosas para sus propios intereses. Asimismo, los países que suministran la mano de obra y los estados bandera también intentarán limitar el abanico de opciones a disposición de las tripulaciones, para que su mano de obra resulte más atractiva para los armadores.

La introducción de ciertas cláusulas en los contratos laborales permite a los armadores ahorrarse los gastos asociados con la interposición de demandas en los Estados Unidos y a los estados bandera mejorar su competitividad. Es habitual que los contratos laborales de la gente de mar incluyan cláusulas que limitan las opciones disponibles para la resolución de conflictos, en particular cláusulas relativas a la elección de fuero, a la elección de jurisdicción y al arbitrio de las disputas.

■ Una **cláusula de elección de fuero** es un acuerdo contractual por el cual se especifica el país o tribunal al que se someterán las disputas relativas a dicho contrato. Por ejemplo, una cláusula de elección de fuero sería la siguiente: "En caso de diferencias entre las partes relativas al presente contrato, solo podrá interponerse una demanda en un tribunal con jurisdicción en el país de Mongolia".

■ La **cláusula del derecho aplicable** es un acuerdo contractual por el que se especifica el país cuya legislación se utilizará para resolver un conflicto, independientemente de dónde se interponga la causa. Una cláusula de derecho aplicable podría ser la siguiente: "El presente contrato se regirá y se interpretará de acuerdo con el derecho boliviano".

■ Una **cláusula arbitral** es un acuerdo contractual que exige resolver las disputas por procedimientos arbitrales, en lugar de litigios. En los procedimientos arbitrales, en lugar de ir a juicio, las partes enfrentadas aceptan someter el caso a un árbitro independiente cuya decisión será vinculante. En algunas ocasiones, estas cláusulas detallan también cómo se procederá a seleccionar el árbitro. Un ejemplo podría ser éste: "Toda disputa, conflicto o reclamación relativos al presente contrato o resultantes de él se someterán a un procedimiento arbitral vinculante regido por la normativa de la Asociación Arbitral de Botswana".

Las cláusulas de este tipo ponen a los navegantes en situación de grave desventaja y los despojan del recurso a la justicia para

defender sus derechos. No es inusual que los contratos laborales de los navegantes estén escritos en idiomas que los navegantes apenas conocen, que exijan la resolución de los conflictos frente a un árbitro de un país remoto y que obliguen al árbitro a interpretar el derecho de un país extranjero.

Por desgracia, la tendencia actual en los tribunales de los Estados Unidos y de otros países es respetar las cláusulas de elección de fuero, de elección de derecho y arbitrales de los contratos de la gente de mar, a pesar de que los navegantes tienen poca o ninguna capacidad para negociarlas con los armadores o el gobierno de su país. Algunos tribunales rehusarán la aplicación de estas cláusulas si consideran que el contrato es fraudulento o abusivo, contiene condiciones tan gravosas para el navegante que le priven de su derecho a recurrir a los tribunales, o contraviene una política pública firmemente establecida. Casos de este tipo son, sin embargo, extremadamente raros.

Antes de aceptar los términos de sus contratos laborales, los navegantes deben leer atentamente y comprender plenamente las implicaciones de las cláusulas contractuales orientadas a limitar sus opciones en caso de disputa.

## 了解合同条款

航运业受到一系列国家和国际法律及标准的规范，情况错综复杂。尽管不同国家的海事法律存在许多相似之处，但重大差异仍有可能存在。当海员与船东之间出现雇佣纠纷时，往往有数个法律选择和数个地点可用于解决纠纷。

海员们将希望得到尽可能多的选择，使他们能够利用对自己最有利的法律及法律管辖区。可以预料的是，船东们希望局限于最有利于自身利益的一些选择。提供劳动力的国家和船旗国也可能希望限制选择范围，使它们提供的海员和船籍对船东更具吸引力。

对海员来说，美国是提起人身伤害和追讨欠薪诉讼的理想地方，因为他们能够在胜诉分成基础上聘请律师（即他们只需要在胜诉的情况下才需要付费），陪审团可能在人身伤害案中要求过错方支付高额赔偿，而美国《工资法》在某些情况下可能要求船东向海员作出高额赔偿，作为对船东的处罚。

船东可以避免在美国应诉的开销，而提供劳动力和船籍的国家可以通过雇佣合同的条款，变得更具竞争力。通常情况下，许多海员的雇佣合同都会包括限制纠纷解决选择的条款。典型的条款包括法院管辖条款、法律选择条款以及仲裁条款。

■ **法院管辖条款 (forum selection clause)** 是指定某个国家或法院的合同约定，涉及该合同的纠纷只能在那个国家或法院提起诉讼。法院管辖条款的一个实例是：“若发生任何涉及本协议的纠纷，仅可在蒙古国管辖范围内的某个法院提起诉讼。”

■ **法律选择条款 (choice of law clause)** 是指定哪个国家的

法律将用于解决纠纷（无论在哪儿提起诉讼）的合同约定。法律选择条款的一个实例是：“本协议适用玻利维亚法律，将依照玻利维亚法律得到解释。”

■ **仲裁条款 (arbitration clause)** 是要求通过仲裁（而非在法院起诉）解决纠纷的合同约定。在仲裁中，纠纷当事人同意把案卷提交第三方仲裁人，并在法律上接受仲裁人裁决的约束。仲裁条款有时包括如何选择仲裁人的约定。仲裁条款的一个实例是：“源自本合同或与之相关的所有纠纷、争议或索赔，将根据博茨瓦纳仲裁协会的适用规则，提交有约束力的仲裁。”

面对此类条款，海员们可能陷入严重不利的处境，实际上无法依法保护自己的权利。海员的雇佣合同经常是用他们不熟悉的语言写成的，这些合同要求通过某个遥远国家的仲裁人解决纠纷，还要求仲裁人解释外国法律。

不幸的是，美国和其它国家的法院目前倾向于执行海员雇佣合同中的法院管辖、法律选择以及仲裁条款，即便海员几乎没有根本没有机会与船东或本国政府谈判合同事宜。

一些法院可能拒绝支持此类条款——如果它们裁定相关合同具有欺诈性，不合理；如果合同规定的条件如此苛刻，以至于剥夺了海员诉诸法院的权利；如果合同有悖于一项强大的公共政策。不过，此类案件极少成功。

海员在同意雇佣合同中的条款之前，应当阅读那些在解决纠纷方面限制他们的灵活性的条款，并理解其后果。

## Надо понимать условия контрактов

Морские грузовые перевозки регулируются сложной и путаной системой национальных и международных законов и стандартов. И хотя морские законы разных стран имеют множество сходств, между ними также могут существовать значительные различия. При возникновении трудовых конфликтов между моряками и судовладельцами зачастую имеется возможность выбора из нескольких законодательств и мест судебного разбирательства, доступных для разрешения спора.

В интересах моряков получить как можно больше опций, позволяющих воспользоваться наиболее выгодными для них законами и юрисдикциями. В интересах судовладельцев ограничить имеющиеся опции и оставить лишь те, что предкажутся наиболее выгодными им. Страны-поставщики рабочей силы и государства флага могут тоже пожелать ограничить имеющиеся опции с тем, чтобы сделать своих моряков и суда наиболее привлекательными для судовладельцев.

Соединенные Штаты Америки — весьма заманчивое для моряков место подачи исков по причинению вреда жизни и здоровью и по невыплаченной заработной плате. Здесь они могут нанять юристов на условиях оплаты по результату (т.е. гонорар юриста выплачивается лишь в случае выигрыша дела). Здесь присяжные могут присудить выплату огромных сумм по делам в отношении причинения вреда жизни и здоровью личности. Также действующий в США закон о штрафных санкциях в случае несвоевременной выплаты заработной платы (US Penalty Wage Act) может в определенных обстоятельствах потребовать от владельцев судов выплаты морякам значительных сумм.

Судовладельцы могут избежать издержек, возникающих при привлечении к суду в Соединенных Штатах Америки, и страны-поставщики рабочей силы и государства флага могут стать более конкурентоспособными в случае использования определенных оговорок в трудовых соглашениях. Оговорки, ограничивающие опции урегулирования споров, обычно включены во многие виды трудовых соглашений моряков. Типичные положения включают пророгационные

оговорки, оговорки о применимом праве и арбитражные оговорки.

■ **Пророгационная оговорка** — это договорное соглашение, определяющее страну или суд, куда разрешено будет обращаться в случае возникновения споров по заключенному контракту. Примером пророгационного соглашения является следующее: «В случае возникновения каких-либо разногласий в отношении настоящего соглашения, иск может быть подан исключительно в суд государства Монголия».

■ **Оговорка о применимом праве** — это договорное соглашение, определяющее законы какой страны будут применяться для урегулирования спорного вопроса, независимо от того, где был подан иск. Примером оговорки о применимом праве может служить следующее: «Настоящее соглашение регулируется, интерпретируется и толкуется в соответствии с законодательством Боливии».

■ **Арбитражная оговорка** — это договорное соглашение, требующее арбитражного урегулирования споров взамен судебного рассмотрения. При арбитражном порядке урегулирования стороны спора соглашаются представить свои иски на рассмотрение третейскому суду и принять на себя юридические обязательства по выполнению вынесенного арбитрам решения. Арбитражные оговорки иногда содержат соглашения о том, каким образом выбираются арбитры. Примером арбитражной оговорки служит следующее: «Любые споры, разногласия или претензии, возникающие в ходе исполнения настоящего договора или в связи с ним, подлежат передаче к рассмотрению и окончательному разрешению в третейском суде в соответствии с применимым регламентом арбитражной ассоциации Ботсваны».

Подобные оговорки существенно ущемляют интересы моряков и лишают их доступа к правосудию с целью защиты своих прав. Нередко моряки работают по контракту, написанному на незнакомом для них языке, предписывающему урегулирование споров арбитрам, находящимся в удаленной от них стране, и требующему от арбитра толкования законов иной страны.

К сожалению, текущей тенденцией в Соединенных Штатах, а также в судах других стран, является принудительное применение пророгационной, арбитражной и оговорки о применимом праве, даже если у моряков практически отсутствует возможность договориться о более благоприятных условиях контрактов с судовладельцами или своими правительствами.

Некоторые суды могут отказаться принудительно применять оговорки, если находят контракты необоснованными по причине мошенничества, если они содержат условия настолько обременительные, что лишают моряка возможности быть выслушанным в суде, или если они идут вразрез с твердыми общественными устоями. Однако следует заметить, что успешные дела такого рода довольно редки.

Морякам следует внимательно читать и стараться понять последствия применения оговорок, ограничивающих их возможности урегулирования споров, прежде чем соглашаться на условия, содержащиеся в трудовых договорах.

**If you have any questions about your rights as a seafarer, or if you want more information or help, you can contact:**

**Douglas B Stevenson, Center for Seafarers' Rights, 241 Water Street, New York, NY 10032, USA. Tel: +1212 349 9090 | Fax: +1212 349 8342 | Email: csr@seamenschurch.org**

**Canon Ken Peters, The Mission to Seafarers, St Michael Paternoster Royal, College Hill, London EC4R 2RL, UK. Tel: +44 20 7248 5202 | Fax: +44 20 7248 4761 | Email: justice@missiontoseafarers.org**



## “Give and you shall receive”

The Chinese watchman on a freighter at Hartlepool docks welcomed me with English that was better than my Chinese. I told him about the Seafarers' Centre, telling him what facilities we had to serve him while he was in port, including free transport into town. The next day I was back, expecting to take a carload of seafarers to the Mission, but no. The crew had already wandered around part of the town, taking many photographs, and now some of them wanted to go to the other town – the old town they could see from their ship, to see the lighthouse and the old church.

Three of them came with me and on the way I picked up my keys to the old church, of which I am the vicar. We visited the promenade and they took photos by the old lighthouse. Then we went to the church they could see from the ship, and they came in and took more photos. They had very little English between them, but they looked at a display of photos taken by one of our Mission volunteers and saw I was in them. “You,” they pointed out, and one or two started to quietly call me “Father.” In beautiful writing, they wrote their own names and their ship's name into our visitors' book, each name a little picture. They kept saying “beautiful,” and thanking me very much.

Afterwards, I took them to the supermarket, and when we returned to the ship I was invited to come back later and eat a meal on board. As I left the ship this time, the friendly watchman asked me for a Bible. I knew I had no Bibles in Chinese languages, but said I would bring him one in English. So at 6pm I returned with a Bible for the watchman, who was very pleased to receive

it. In the mess room I was given a lovely meal, and they waited on me, and they waited for me. No hurry.

Then I took another seven seafarers to visit the old town. We squeezed into the Mission car and found our way back to the lighthouse and the church. There were more photos (I took some as well), and more beautiful signatures, and once more we went to the supermarket. The seafarers thanked me for the help I had given them, but I wanted to thank them too for their hospitality, their food, their friendship, their handwriting, their delight and their smiles.

When we learn how to give, we receive far more in return. Jesus said, “Give, and it will be given to you” (Luke 6:38). It was me, a Mission chaplain, who went to the ship. I was coming on board to serve them, but what had happened? I had been served by them – across the oceans, across the barriers of language, faith and culture. They served me, and left me with an unforgettable memory and a way of understanding Jesus' words: “whatever you did for one of the least of these brothers and sisters of mine, you did for me” (Matthew 25:40).

Each person is one who can serve. Each person is one who can receive, and often we receive when we are the ones who thought we were serving. Perhaps the secret is to recognise in the other person – and in ourselves – the likeness of Christ; each person made in God's image. And when we do serve, we often get back more than we gave.

“May you see Christ in others, be Christ to others, that we may dwell in him, and he in us” – Celtic prayer.

## “Dad, y se os dará”

El inglés del centinela chino que me recibió a bordo del carguero en el muelle de Hartlepool era considerablemente mejor que mi mandarín. Le hablé del Seafarers' Centre, nuestra Misión para la gente de mar, de las instalaciones y los servicios que ponemos a disposición de los marinos durante su estancia en el puerto, entre los que se cuenta el transporte gratuito a la ciudad. Cuando volví al día siguiente pensaba encontrarme con un grupo esperándome para que les llevase a la Misión, pero ya habían visitado parte de la ciudad por su cuenta, habían sacado muchas fotos, y ahora querían ir a la “otra ciudad”, el casco histórico que divisaban desde el buque, para visitar el faro y la vieja iglesia.

Tres de ellos vinieron conmigo en el coche y de camino pasé por casa para coger las llaves de la iglesia vieja, de la que me honra ser el vicario. Visitamos el paseo marítimo, el faro, del que tomaron numerosas fotos, y después fuimos a la iglesia que se divisaba desde su barco y que también acibillaron con sus cámaras. Ninguno de ellos hablaba mucho inglés, pero estudiaron con interés las fotografías de uno de los voluntarios de la Misión que estaban expuestas en el templo, en las que yo aparecía. “Usted”, dijeron, señalándome sorprendidos, y a partir de

ahí empezaron a llamarme “padre” con cierta reverencia. Finalmente, escribieron sus nombres y el nombre de su barco en el libro de visitas, utilizando la hermosa caligrafía de su idioma, y me dieron las gracias por la visita, asegurándose repetidamente que todo era “precioso”.

Después fuimos al súper y cuando volvimos al barco me invitaron a que volviera más tarde a cenar a bordo. El hombre que había estado de guardia durante mi primera visita me pidió una Biblia, y le dije que aunque no tenía ninguna en su idioma, le traería una en inglés. Así que a eso de las seis de la tarde volví con la Biblia para el centinela, que la recibió encantado. En el comedor me agasajaron con una excelente cena y me dedicaron todo su tiempo y amabilidad, sin prisa ninguna.

Al día siguiente, siete marineros del barco volvieron conmigo a la ciudad. Un poco apretujados en el coche de la Misión, volvimos al faro y a la iglesia. Ellos sacaron más fotos y esta vez yo también hice algunas. Volvieron a firmar el libro de visitas del templo y cada una de sus firmas era como una obra de arte. Después hicimos otra visita al supermercado. Los navegantes me agradecieron la ayuda que les había prestado, pero yo tenía mucho más que agradecerles a ellos: su

hospitalidad, su comida, su amistad, su bella caligrafía, sus manifestaciones de gozo y sus sonrisas.

Cuando aprendemos a dar, recibimos mucho más a cambio. Jesús dijo: “dad, y se os dará” (Lucas, 6,38). Yo, capellán de la Misión, fui al barco, a ayudar a los marinos. ¿Y qué ocurrió? Que fueron ellos quienes me ayudaron a mí, atravesando barreras geográficas, religiosas y culturales y dejándome un recuerdo inolvidable y una comprensión renovada de la palabra de Jesucristo: “Cuanto hicisteis a uno de estos mis hermanos más pequeños, a mí me lo hicisteis” (Mateo 25,40).

Podemos hacer el bien a todos y cada uno de nuestros congéneres. Podemos ayudar en distinta medida a todas las personas que nos rodean, y a menudo sucede que cuando pensábamos que éramos nosotros quienes íbamos a ayudar, somos nosotros quienes salimos beneficiados. Quizá el secreto reside en reconocer a Jesucristo en nuestro prójimo —y también en nosotros mismos—. Todos estamos hechos a imagen de Dios. Y cuando damos, recibimos a cambio mucho más de lo que damos.

“Que reconozcas a Cristo en el prójimo; que seas Cristo para tu prójimo; para que podamos morar en su seno, y Él en el nuestro” – Oración celta.

## “你们要给人，就必有给你们”

在哈特浦港码头靠泊的一艘货轮上，值班的中国船员对我表示欢迎，他的英文比我的中文好一些。我向他说起海员中心 (Seafarers' Centre)，告诉他，他在港口期间，我们有哪些设施可为他服务，包括免费的进城交通。第二天我又回到那里，准备带上满满一车的海员去海员使团，但情况并不是这样。船员们已经到镇上逛了一逛，拍了许多照片，现在他们想要去另一个镇，他们在船上曾看到那个古镇，他们想去看看那里的灯塔和老教堂。

他们当中的三个人坐上我的车一起去，路上，我摸索着那座老教堂的钥匙 (我是那里的牧师)。我们游览了海滨大道，海员们站在古老的灯塔旁边拍照留念。然后我们去了他们在教堂里又拍了一些照片。他们几个人的英语非常有限，但他们看到了由海员使团的一名志愿者拍摄的一组照片，还看出照片中有我。“是你，”他们指出，其中一、二个人开始小声地称我为“神父”。他们用优美的字体，把自己的姓名和他们的船名写在访问者留言簿中，每个字都像一幅小小的图画。他们连声说“太美了”，对我很感激。

后来，我又带他们去了超市。回到船上的时候，他们邀请我稍后再来，在船上和他们一起吃顿饭。在我下船时，那名友善的值班船员问我有没有《圣经》。我知道我没有中文版的《圣经》，但我说我会带给他一本英文版《圣经》。于是，我在下午6时回到船上，带了一本《圣经》给那名值班船员，他很高兴得到

《圣经》。我在船员食堂得到一顿美餐。他们热情招待我，并等待我慢慢享用。一切都那么从容。

后来，七名海员跟着我再度访问古镇。大家挤进了海员使团的那辆车，又去了一次灯塔和教堂。各人又拍了一些照片 (我也拍了一些)，留下更多优美的签名，又再次去了超市。海员们感谢我向他们给予帮助，但我也想要感谢他们：他们的热情、他们的食物、他们的友情、他们的书写字体、他们的喜悦和他们的笑容。

当我们学会如何给予时，我们会得到多得多的回报。耶稣曾说：“你们要给人，就必有给你们” (路加福音 6:38)。最初是我作为海员使团的一名牧师到了船上。我到船上是为了向海员们提供服务，但结果发生了什么？我得到了他们的款待——跨越大洋；跨越语言、信仰和文化的隔阂。他们款待了我，给我留下难忘的记忆，也让我更深刻地理解耶稣的话：“让我告诉你们，当你们把这些善事行在我一个最微小的弟兄身上，就等于直接做在我身上了” (马太福音 25:40)。

每个人都是能够提供服务的。每个人也是能够得到的，我们往往在自认为应该提供服务的时候得到。也许这其中的奥秘就是在他人 (以及我们自己) 身上看到耶稣的身影；每个人都是按照神的形象被造的。当我们为他人服务时，我们的得到往往超出我们的给予。

“愿你在他人身上看到耶稣，像耶稣那样对待他人，那么我们就活在他心中，他也能活在我们心中。”——凯尔特祷告词。

## «Давайте, и дастся вам»

Вахтенный матрос-китаец с грузового судна, стоящего в порту Хартлпула, приветствовал меня на английском, звучавшем значительно лучше моего китайского. Я рассказал ему о Центре моряков, о том, что предлагается в нем для зашедших в порт, включая и бесплатный транспорт для поездки в город. Когда на следующий день я вернулся на судно, ожидая набрать целую машину желающих побывать в Миссии, оказалось, что таковых нет. Команда уже побродила по городу, сделав множество снимков, и теперь им хотелось отправиться в другое место — старый город, который они могли разглядеть со своего судна, и посетить маяк и старинную церковь.

Трое моряков отправились со мной, и по пути я захватил ключи от старинной церкви, поскольку служу в ней викарием. Мы прогулялись по набережной, моряки сфотографировались у старого маяка. А затем мы отправились в церковь, которую они видели со своего судна, и сделали еще несколько снимков. Моряки не очень хорошо владели английским, но, посмотрев на стенды с фотографиями, отснятыми одним из волонтеров нашей Миссии, увидели меня на некоторых фото. «Вы», — сказали они, указывая на фотографию, и кое-кто из них начал смиренно обращаться ко

мне «отец». Изумительно красивыми буквами моряки записали свои имена и название своего судна в книге для посетителей. Каждое имя — миниатюрное произведение искусства. Они непространно произносили «красиво» и благодарили меня.

Потом я завез их в супермаркет, и после возвращения на судно меня пригласили заглянуть к ним попозже и пообедать вместе с экипажем. Когда я покидал судно в этот раз, дружелюбный вахтенный матрос попросил принести ему Библию. Я знал, что у меня нет Библии на китайском, но я пообещал ему принести экземпляр на английском языке. И в 6 часов вечера я вернулся на судно с Библией для вахтенного матроса, который был очень благодарен мне за подарок. В столовой меня угостили прекрасным обедом, старались во всем услужить и терпеливо ждали, пока я закончу трапезу. Без всякой спешки.

Затем семь моряков снова отправились со мной в старый город. Мы втиснулись в машину Миссии и вернулись к маяку и церкви. Снова фотографии (я тоже сделал несколько снимков), новые каллиграфически выведенные подписи и еще одно посещение супермаркета. Моряки поблагодарили меня за оказанную помощь, но мне тоже хотелось поблагодарить их за гостеприимство, за еду,

за дружбу, за прекрасную каллиграфию, за их восторг и улыбки.

Когда мы познаем радость дарения, мы получаем много больше в ответ. Иисус говорил: «Давайте, и дастся вам» (Лк 6:38). Я, капеллан Миссии, отправился на судно. Я поднялся на борт, чтобы послужить им, но что произошло? Они сослужили службу мне — через океаны, через языковые, культурные и религиозные барьеры. Они услужили мне, подарили незабываемые впечатления и помогли еще раз понять слова Иисуса: «так как вы сделали это одному из сих братьев Моих меньших, то сделали Мне» (Мф 25:40).

Каждый человек способен дарить что-то другим. Каждый человек способен принимать дары. И очень часто мы получаем, когда, как нам кажется, что отдаем. Возможно, секрет заключается в том, чтобы распознать в другом человеке, как и в самом себе, сходство с Христом. Ведь каждый человек создан по образу Бога. И когда мы служим другим людям, мы часто получаем больше, чем отдаем.

«Разгляди Христа в других, будь Христом для других, чтобы мы могли пребывать в нем, а он в нас» — так звучат слова одной кельтской молитвы.



## Life@Sea 2012

They say that every picture tells a story, and we want to hear yours! We're inviting seafarers around the world to submit their photos to our 2012 Life@Sea competition, and show people what life on board ship is really like.

[www.missiontoseafarers.org/lifeatsea](http://www.missiontoseafarers.org/lifeatsea)



## ITF intervention helps 15 seafarers stuck at anchor in Hull, UK

# Stranded crew paid at last

THE Russian and Ukrainian crew of the Liberian-registered tanker *Leon* spent over two weeks stuck at anchor off the UK port of Hull in late April and early May with almost no food on board.

The crew had refused to sail the vessel until the ship's Greek owners, Roswell Tankers Corp of Athens, had paid all outstanding wages owed from January and had provided food and water to replenish exhausted supplies. The crew finally received their owed wages and fresh provisions on May 2, following the intervention of the International Transport Workers' Federation (ITF).

"The crew had not eaten any fresh food – such as fruit, vegetables, meat, fish, and so on – for a number of weeks and were left with no option but to seek our assistance to have this rectified," said ITF official Tommy Molloy.

Mr Molloy was on board the vessel in early May to oversee the arrival of food provisions by tug and to verify wages had been paid. Eleven of the 15-strong crew had originally asked to be repatriated to their homes. But, following the arrival of provisions and the payment of more than US\$58,000 in owed wages, six of



Supplies arrive after "a number of weeks without any fresh food". (Photo: ITF)

the eleven agreed to stay on board until the next port, believed to be Kaliningrad in Russia.

Five crew members were replaced, including the chief engineer, who should have been repatriated on medical grounds following a visit to the doctor in Poland, said Mr Molloy. "He had complained of constant stomach pains on April 1

and saw the doctor on April 4. Documentation shows that the doctor had recommended he should return home to Kiev for prolonged treatment. But the company neglected to repatriate him from Poland and continued to ignore the situation when the vessel arrived at Hull. Hopefully, he will now get the treatment he ought to have had a month ago."

## Cycling event raises £20,000 for seafarers



The 35-mile riders set off. (Photo: David Freeman)

Cyclists from across the shipping industry have raised more than £20,000 for seafarers' welfare following a charity bike ride through the New Forest, UK. The Flying Angel Ride, in aid of The Mission to Seafarers, took place on Sunday 27 May. Teams from the International Maritime Organization, Lloyd's Register, V.Ships, The Maersk Company, AB Ports, DP World, and UMC had the choice of either a 35- or a 75-mile route around one of the UK's most stunning areas of natural beauty.

MtS director of chaplaincy the Revd Canon Huw Mosford, who completed the 35-mile route, said: "It was a really wonderful day. We're so delighted that so many people were prepared to take on this challenge for The Mission to Seafarers. The funds raised will go to supporting crews in need around the world through the work of our seafarers' centres, chaplains and shipvisitors in 250 ports."

The ride was sponsored by Lloyd's Register and V.Ships, with a post-event celebration sponsored by The Maersk Company.

## Fisherman sues cruise line for failing to rescue

A PANAMANIAN fisherman who survived 28 days adrift in the Pacific while his two fellow crew members died of thirst is suing the owner of a cruise ship that sailed past without going to their assistance.

The engine of the fishermen's small boat broke down, leaving them drifting while on the way back to their home port of Rio Hato, Panama, in February. After 16 days adrift the three men saw the Bermuda-flag *Star Princess* sailing by and attempted to attract attention by waving a red sweater.

Although three passengers with a powerful telescope saw the fishermen and reported this to crew members,

it appears the bridge was not informed and no action was taken. Mr Vasquez was eventually rescued 12 days later 620 miles off the mainland, near the Galapagos Islands, but by then the other two men had died.

In a statement Princess Cruises said they were "very sorry for the tragic loss of life". The statement went on to say they suspected the incident was a case of "unfortunate miscommunication" and that the captain was never notified of the passengers' concern. In mid-May the company said its investigation had not been concluded and that it would not pre-empt the findings of the flag state by discussing any preliminary findings.

## 49 rescued after 3 days



(Photo: Solomon Islands Government Communications Unit)

All 49 passengers and crew were rescued from life-rafts three days after the ferry *Solfish 1* sank on 23 May in the Pacific near the Solomon Islands. The life-rafts were located following an air search involving Australian and French military aircraft. The cargo ship *Micronesia Pride* went to the scene and took on board all of the survivors. Three people were treated for dehydration. The cause of the sinking is under investigation by the country's Maritime Safety Authority and the Royal Solomon Islands Police Force.

## UK Club targets slips, trips

AS A result of information arising from their 'Bow Tie' loss prevention initiative, the UK P&I Club is launching a series of *Risk Focus* booklets which highlight specific areas of risk, with the first focusing on slips, trips and falls.

The 'Bow Tie' initiative involves surveyors visiting ships and, together with the managers and crew, produc-

ing 'bow tie' charts specific to individual vessels that identify areas of risk and suggest how such risks might be mitigated.

"It is easy to dismiss these unpleasant accidents as 'human error' or even 'crew negligence'", the club says, "but to examine the detail of so many of them is to reveal other contributors to the chain of causation."

## AET gets 'green' tankers

AET, the tanker-operating subsidiary of Malaysian shipping group MISC, has taken delivery of the first of four "eco-design" suez-max tankers. AET says their design recognises the "ever increasing demand for more fuel efficient and environmentally friendly vessels".

Built by Samsung Heavy Industries in South Korea, the first 157,000 dwt vessel was delivered, and named *Eagle San Antonio*, on Thursday April 26.

## Masters blamed in two groundings

WHEN the Antigua and Barbuda-flag container ship *Karin Schepers* grounded on the Cornish coast while on passage from Ireland to the Netherlands last year, the master was intoxicated and asleep alone on the bridge, according to a UK Marine Accident Investigation Branch report. The master relieved the second officer as watchman at 0323, apparently punching him before falling asleep a short time later. The vessel continued on for over two hours before grounding.

In a similar case, the master of Dutch cargo ship *Flinterspirit* has been fined £3,500 by a UK court after his vessel grounded on Flodday Mor, off Scotland, on March 19. Konstantin Gobulev was found to be in bed when he should have been acting as bridge watchkeeper, and showed as over the limit for alcohol during a routine breath test three days later. Both vessels were refloated on the rising tide.

## Intertanko pushes for LNG use

TANKER owners' group Intertanko reaffirmed, at its May council meeting in Singapore, that it wishes to continue to promote a global switch to 'cleaner' fuels. Although Intertanko has argued for the use of distillate rather than residual oil bunker fuels for several years, liquefied natural gas (LNG) is now widely regarded as a 'cleaner' fuel and is being used by some ships, though on a limited scale so far.

## Fishing safety book

MUTUAL insurance provider The Shipowners' Club has produced the handbook *Fishing Vessel Safety*, which aims to make crew members and owners better able to recognise potential dangers and operating hazards.

In 1999 the International Labour Organization estimated that 24,000 fatalities occurred worldwide in capture fisheries each year, and studies since have shown that the risk of death on fishing vessels remains high.

Louise Hall, loss prevention manager at The Shipowners' Club, London, said: "One important message is that people should wear lifejackets or lifebelts all the time when on deck. Studies have shown that the highest percentage of instances of death is caused by people not wearing flotation devices."

## Progress on rights for fishing workers

THE European transport workers' organisation ETF, the fisheries employers' body *Europeche* and co-operatives association *Cogeca* have signed a *Social Partners' Agreement*. The agreement should speed up the process of incorporating ILO Convention 188 - which aims to provide worldwide access to decent working and living conditions for fishermen - into EU law.

## Officer forged papers

A CANDIDATE for an oral examination for a UK master's certificate of competency forged the supporting discharge and watchkeeping certificates showing service on two anchor-handling vessels totalling 19 months. In fact he had been serving on an offshore floating storage unit and only nine months of that service was acceptable as seetime for the examination. Boorzeen Murzban Dantra was fined a total of £7,603.21 including costs and a victim surcharge after pleading guilty to charges including forgery.

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