

## Government to boost investment in the shipping sector; lays thrust on inland waterways.



Union Minister for Shipping Nitin Gadkari has said that the government is keen on boosting investment in the shipping sector with a special thrust on promoting inland water transport and coastal shipping.

Speaking at the International Day of the Seafarers in Mumbai today, Mr Gadkari said "Infrastructure development is the backbone of the economy, and we need to invest in it adequately. Besides it also creates employment opportunities"

Mr.Gadkari informed that the government is keen on developing inland water transport, as a cost-effective, less-polluting, fuel saving transportation option. "For this purpose we are considering to launch 'Pradhan Mantri Jal Parivahan Yojana' on the lines of the Pradhan Mantri Gram Sadak Yojana" he added.

The Minister said the shipping sector has immense growth potential in India, provided we upgraded our ports and improved port infrastructure and connectivity. He observed that only 8% of India's international trade is being carried by Indian flagships, while more than 80% of Indian seamen are working for foreign carriers.

Mr. Gadkari underlined the government's commitment to the philosophy of development (vikas ki rajneeti) and promised quick decisions to fast-track infrastructure projects. He also promised to untangle overlapping acts and provisions hindering decision making .

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On this occasion, Shipping Minister Nitin Gadkari also promised a slew of welfare measures for seafaring sailors, including early ratification of the ILO's Maritime Labour Convention 2006 that looks after conditions of employment, minimum qualification requirement, accommodation and recreational facilities, health care and social security protection aspects. Mr. Gadkari said his government recognizes the importance of seafarers and is committed to ensuring their welfare.

The Minister further said that his Ministry has taken up with the Finance Ministry, the issue of Income Tax waiver for Indian Seafarers to ensure level playing field for Indian shipping companies.

On the occasion of the Day of the Seafarers, the Shipping Minister Mr. Nitin Gadkari felicitated Indian sailor Aman Sharma, who was held captive by Somali pirates for nearly four years. The 23 year old sailor from Himachal Pradesh was set free earlier this month. Mr. Gadkari said, young Aman Sharma represented the resilience of an Indian sailor.

Earlier, upon arrival at the Swatantraveer Sawarkar Smarak Auditorium, the venue of the Seafarers' Day function, the Minister was given a Guard of Honour by the cadets of the Indian Maritime University, Mumbai. Secretary Shipping - Vishwapati Trivedi, DG Shipping - Gautam Chatterjee, CMD of Shipping Corporation of India - A K Gupta were also present on the occasion.

International Day of the Seafarers' is now part of the United Nations' annual list of observances. It is observed across the world by maritime nations on June 25th every year to pay tribute to over 1.5 million seafarers for their unique, silent and often overlooked contribution.

### **Agencies Address Unsafe Sea Migration:**

United Nations agencies are meeting in London today (Wednesday, March 4th) to discuss concerted ways to address the high numbers of lives being lost at sea in unsafe craft, particularly in the Mediterranean Sea, where hundreds of people are reported to have died in recent weeks alone on dangerous and unregulated sea passages.

The High-Level Meeting to Address Unsafe Mixed Migration by Sea is being hosted at the International Maritime Organization (IMO) Headquarters in London and aims to facilitate dialogue and promote enhanced cooperation and harmonization between United Nations agencies, international organizations, non-governmental organizations, Governments and the shipping industry.

It has been agreed that a mechanism will be established, to enhance inter-agency communication with respect to the maritime aspects of mixed migration. The meeting is also discussing joint projects, for example, the establishment of joint databases to share and collate information and statistics on irregular movements and

suspect vessels; quantifying the effects of irregular and unsafe crossings on the shipping industry; and improving maritime situational awareness.

IMO Secretary-General Koji Sekimizu said that the issue of mixed migration by sea, including irregular migration, had, in recent years, reached epidemic proportions, to the extent where the whole system for coping with such migrants was being stretched up to, and sometimes beyond, its breaking point.

History has shown that migrants contribute to economic growth and human development in both home and host countries and can enrich societies by bringing cultural diversity. However, the sheer size and scale of situation in Europe and elsewhere today is threatening to jeopardize long-established humanitarian principles surrounding search and rescue and the treatment of people rescued from the sea. In 2014, more than 200,000 people were rescued and more than 3,000 people are reported to have died in unsafe, irregular and illegal sea passages on the Mediterranean alone.

Mr. Sekimizu said, "Coast guards, navies and the rescue infrastructure as a whole are all being stretched to breaking point. They have barely been able to deal with the tidal wave of people needing to be picked up from the sea; and it must never be forgotten that the strenuous efforts they make to rescue the thousands of persons in distress come at the price of great risk to themselves and at considerable cost to their countries."

Mr. Sekimizu referred to the severe problems reported by Italy and Malta, in particular, in their ability to cope with the on-shore processing of the large numbers of undocumented migrants who reach their shores. "Nonetheless," he added, "they continue rendering their services (deeply humanitarian in their very essence) and, in the process, have rescued thousands of such persons - an outcome that has earned them the appreciation of the community as a whole." He also drew attention to the more than 650 merchant ships that had been diverted from their routes to rescue persons at sea last year and the consequent detrimental effect on the shipping industry, trade, the economy and the global supply chain.

"I firmly believe that there is scope for greater efforts by coastal States of departure to better manage the process of migration and to reduce the numbers of unsafe craft undertaking sea voyages. This could include taking action against smugglers involved in facilitating the travel of migrants by sea on board unseaworthy craft; and the more effective application of measures to enhance maritime safety and security in general," Mr. Sekimizu said.

He added that there was a need, in collaboration with Member States concerned, to strive to develop a mechanism whereby migration was managed and

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## From the Editor's Desk



My dear Readers:

*Should we Mariners /Seafarers, continue to be submissive to all such acts of terrorism's, out on the deep seas/oceans, in this most innovated age of 21st century, experiencing the surge of scientific and technological-advancements of innovated developments, rapid generation of computers and modern communication gadgets. Seafarers are those who make 'world trade' to be alive and active and make them possible. It is 'high- time', a centralized formation of a public forum by IMO & ILO to invite views from all Seafarers, all associated / stake-holders, and thus come to a consensus to solve all seafarers major-grievances vented out, which will help the maritime fraternity, than the aged old monopoly of some, few attend and some as observers, decide the fate of the seafarers, which lacks addressing mariners real-problems of out at deep seas, and all that they encounter during their foreign-going merchant navy service, while living and working away from their near and dear ones. Leading a life of risks and sacrifices, bringing foreign-exchange to the country, but without the least after service benefits, sacrificing their citizen's voting rights, since not to their reach. They are handicapped to get together, and raise their genuine voice, but in this modern world instead avail the advent of the electronic and wireless age to express their voice. This subject is worth debating in the general interest and welfare of the seafarers who are already working and living out on the deep seas with risks and sacrifices(living away from their near and dear ones of their lives), prone to occupational hazards. Added to why should they seafarers lead a life out at sea in a scary condition, considering pirate's heavy demands. High time, a favorable decision taken, towards the welfare of the seafarers.*

*Many Indian seafarers are languishing in foreign ports where Indian Embassy/Consular Offices have neglected their basic welfare while, "Our Indian government" has allowed the Italian marines, to go to their own country 'Italy' \* to rejoice with their family and friends, near and dear ones, for their Merry Christmas festival, which was soon after, they were charged for grue-some murder, of the two innocent Indian fishermen and subsequently on their falling ill, liberally allowed them, to go to their home-town/country for medical attention/treatment, while we have better medical infrastructure/facilities, that many from overseas are attracted and come to INDIA for medical attendance . What a disparity/discrimination. As a host country, we treated our foreigners so well and continue to be, while our Indian embassy overseas not viewing the welfare, of their own fellow men (Indians), but for neglecting (Indians)without an iota of concern why ? More particularly, even when they are seriously sick, when certified by the medical authorities in India and as well as in the place where held, they have no mercy, by heart or in the fear of god, the almighty. A common sense approach by peoples government, would be to probe into the case, by sincere, honest unbiased investigative reporting, in a comprehensive manner, reveals despite availing Indian funds/aid, from our country thus betraying us, besides threatening received by the families, while the indian embassy over there neglects instead of viewing the welfare of the Indians, and protect their constitutional fundamental rights.*

### Case study 1:

*"A strong Public-serving Government" should not be out-weighed by voices of few, number of public representatives (quantitatively), but for govt.'s deep-concern to address the common aggrieved- litigants, by quality of "Public Services" rendered and ensure serving with accountability, rather than neglecting and victimization, which itself is a crime by itself by the government in power, which could be looked at, ultimately by the judiciary, for fairness and transparency. While an old aged ex-serviceman pleads and literally begs, after a long wait for his legitimate compensation (Army Medical Disability Pension), for his case (W.P.2989) to be heard. Not listed after February 2014. Re-lawyers shout slogans inside court-room, disturbing court proceedings\* (Times news network. view page 3 of Chennai edition, times of India.) Most undisciplined state of affairs. High time, an awakening needed by the people of India. Substantial evidence: the learned counsel, firm of repute, its Director, says they are helpless and asks their client, to itself follow-up with the concerned Writ section, responsibly saying to their client, system doesn't work, what to do? Which is the state of affairs. Literally, the client begs, for the case to be heard soon, without the ongoing delay, as the said client marching towards his grave, deprived of his legitimate-basic dues.o scam exists in Ministry of Defence (M.O. D.), within a strong network of corruptive activities. Despite addressing to all authorities. Scam prevails in indian defence pensionary awards, with well planned corruptive-network within armed forces tribunals, controllerate of defence accounts, Ministry of Defence - Department of ex-servicemen's welfare and middlemen agencies. Why no action yet ? When the matter is placed in Madras High Court, same neglected with*

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*deliberate delays. Please view genuinely aggrieved matters Exserviceman's writ petition neglected: W.P.2989, despite several pleas from senior citizen and ex-serviceman? Now relevant authorities say "Subjudice to Court", a blame excuse, while honorable Justice Vimala of the same Madras High Court, states in the Times of India, Chennai Edn. newspaper today, that "statutory authorities are not expected to take vacatious, technical, frivolous and unjust contentions to defeat the legitimate claims of citizens, or to suit their inflated egos". Such inflictions that also on an ex-serviceman and case dismissed, with the result the OA7/2013, followed by RA16/2013, stands the WRIT W.P. 2989 admitted and numbered in Madras HC and case not heard after Feb.2014. Counsel for client reminded in writing to the Registrar (Writ) in Oct.2014 after waiting for eight long months, and thereafter asked the client itself was asked to follow-up, but all of vain. Madras HC is unmoved, to the poor ex-serviceman aged 68 years with geriatric diseases. Since not listed for hearing yet. Why this neglect, discrimination depriving basic fundamental rights to poor ex-serviceman? Letters routed from ADG Personnel Services/AG's branch, IHQ of MOD(Army), PIN-900256, c/o.56 APO dated the 2nd Feb. 2015, but expect to be neglected and continues to victimize as usual, owing to the influence, arrogance and Ego of then Lt.Gen. (Admn.Bench Member) Anand Mohan Verma, who dismissed the case arbitrarily. It means no action as long as the courts delay the files. Is it fair to say for reasons, that the matter is sub-judice, but to harass and humiliate, senior citizen who is with geriatric diseases?*

*During considerable delay in courts "term 'Sub judice', be thrown out " not to be applied blindly, until the "Judiciary" assures the people of India, that they would pronounce judgment, within a reasonable time-frame. The courts drag on with the case, better known to them, to even victimize or act as a hurdle/obstacle, whether it is a deliberate delay or for reasons better known to them, who handling the case, why should the justice suffer? Herein, cases of victimization, with substantial proof of evidences:- "Indian Democracy" is in bad shape, while many judges, though learned, never learnt to obey and follow the enacted laws themselves, and thus not respecting them. How could, India be corrupt free? This is to call up on the learned, enlightened people, to throw some light on their area of discipline. JUDICIARY IF TO BE KEPT HIGH, IN THE EYES OF THE GENERAL PUBLIC. Justice is never to be for consideration. justice be in true sense to purity, be blind with no eyes on poor or rich, young or old etc. "People's elected Government" should have all the right to ensure common- people, that "JUDICIARY" be more committed, accountable to the people's government, with high sense of responsibility, to primarily give "justice", to the people of the nation, without any discrimination, than being biased to any individual/section of the nation/ country. Regional parties have sprung-up in our country, owing to neglect-ion and discrimination among some section of the people of India, which the central government should realize soon, and bring an awakening. Continued neglecting a section, makes our country getting fragmented, while our neighbors envy and desire. We, therefore primarily need unity and solidarity, as a nation. It is to bear in mind that " JUDICIARY " also manned by same humans, and not those fallen from the sky to the earth. Hence, the need for mutual respect, cooperation and support for the noble cause, as true professionals. JUDICIARY is but the other arm of public services, to the people of India. "JUSTICE" is not for a consideration, justice in true sense of purity be blind with no eyes on poor or rich, young or old etc. " People's elected Government " should have all the right, to ensure the common people, that " the judiciary " be more committed, accountable to people's Government, with high sense of responsibility, to primarily give " justice ", to all the people of the nation, without any discrimination, than being biased to any individual / section, of the nation/ country. We need to curb corruption throughout the nation.*

Image of the Judiciary

known as the face of "Justice"

deteriorating in the public eyes, on account of not looking back seriously, which is itself

a neglect ion, to the quality of 'Public Services' rendered,

in "un-monitored condition", hence in reality, alarming to people as "public services".

– **Peechulli Krishnan Chandran**, General Secretary,  
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sustainable and to find alternative safe ways so that people were not driven to making dangerous voyages on unsafe craft.

He acknowledged that if some mixed migrants did take to sea, which may be inevitable, then a robust mechanism for rescue should be in place to protect and save lives, and deal with them in a legal, humanitarian and sustainable manner. "In this context, I must say that more efforts by all nations bordering the Mediterranean and the European States would be highly appreciated," Mr. Sekimizu said.

Participating in the meeting are senior representatives of the International Labour Organization (ILO), International Maritime Organization (IMO), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office on Drugs and Crime (UNODC) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Development Programme

(UNDP), the United Nations Division of Ocean Affairs and the Law of the Sea, the International Organization for Migration (IOM), and Interpol.

Also attending are Government representatives from a number of countries, including those directly impacted by the crisis, as well as delegations from international non-Governmental organizations including the International Chamber of Shipping (ICS).

The high-level inter-agency meeting will continue on Wednesday afternoon and through Thursday with technical meetings to develop a way forward, building on the momentum gained at the UN High Commissioner for Refugees' Dialogue on Protection Challenges held in Geneva on 10-11 December 2014.

IMO is the UN agency with responsibility for safety at sea, and for the legal framework surrounding search and rescue and the long-standing obligation of merchant vessels to go to the rescue of people in distress at sea.

## World InfoDesk

### IHS recognition at Maritime Media Awards:

"Every one of us defends the rights and safety of seafarers. That is our priority, bolstered by the international solidarity of trade unions and their members worldwide, by co-operation with all who recognise that aim, and now by the opportunities offered by MLC 2006," he said.

The USS, which provides community services for the US Merchant Marine, the American Armed Forces, and seafarers worldwide, recognised Cotton's contribution since becoming leader of the ITF in 2012.

Some recent ITF achievements highlighted by the USS, were more than 9,000 vessel inspections, an expansion of the ITF inspectorate from 35 to 124 inspectors, and the recovery for seafarers \$38,429,647 of owed wages.

The USS also highlighted Cotton's International Bargaining Forum. In a statement, the organisation said that Cotton had spearheaded "a new direction for the [ITF's] Seafarers Section" through the initiative, which had provided "space for discussion" between the ITF, its member unions, and the maritime employers in the Joint Negotiating Group.

The USS said the bargaining forum was trying to improve seafarers' pay and conditions under dedicated agreements achieved by "continuing dialogue with key industry players" and that "challenging negotiations have resulted in favourable outcomes".

Cotton's support for the growth of the shipping industry, while pushing for fair and sustainable employment, was also acknowledged.

### 10 Important Points For Ship's Mooring Equipment Maintenance:

Correct operation of the mooring equipment onboard is indeed important for the overall safe operation of a vessel in port. Mooring, being such a critical operation, reminds us of the fact that any

unforeseen event could prove dangerous and sometimes fatal.

In order to implement safety and avoiding lives to be at risk, it's imperative for ship's personnel to maintain high standards of integrity of the mooring equipment. A better way will be to incorporate all the parts of the mooring equipment into the ship's planned maintenance system.

Let's see how to adhere to the maintenance of the mooring mechanisms onboard -

**1. Make Checks Prior Mooring** - After an extended sea passage or a passage undertaken in heavy seas and prior to mooring operation, ensure to check the following -

- i. Any physical damages to the mooring mechanism.
- ii. All controls, linkages and the operating levers are well oiled, greased and free / easy to use.
- iii. Ensure that all the brake drums and linings are suitably dried and clean of salt deposits.

**2. Do Frequent Greasing of Moving Parts** - All rotating parts of the mooring equipment, which would include rollers, fairleads, winch drums, deck stands etc. must be moved and lubricated on a frequent basis. Multipurpose grease is the best lubricant for such applications (check the vessel's lubricating chart for the right application). Normally, high pressure grease guns are used for this kind of work. Particular attention must be given to the roller fairleads and deck stands as these often suffer from little use and thereby are neglected. Rollers should turn smoothly and must be checked for integrity as corrosion may have weakened them.

Tip - Always check the grease nipples before application and make sure the nipples are free of rust, salt and grit. Change the nipples if necessary.

**3. Check Brake Liners** - Regular inspections must be

made of the winch / windlass brake linings for wear and tear. Oil, heavy rust and moisture on the brake linings or the drums could seriously reduce the brake holding capacity of the winch and in some cases as much by 75%. To remove the moisture in the linings, apply the brakes lightly while running the winch (remember to avoid excessive wear and tear during this operation). Oil has the tendency to get impregnated into the lining itself which is difficult to remove. Thus the only option would be to change the lining as early as possible. Remember that the brake holding capacity of the winch is dependent upon the type of mooring pattern used.

**4. Check Break Drums:** Whenever brakes are opened up for any reason, ensure that the brake drum is thoroughly checked / examined for build up of rust or other worn out brake material. The part to be de-scaled and fitted with the replacement as required.



**5. Check Brake Linkages:** The brake linkages should be checked for free movement. If the linkages are not free then there would be a loss of brake holding capacity. This would create a wrong impression to the operator that the brake has been applied fully, but in fact has not or the brake mechanism is hardened up from lever bars, which have a tendency to build up high stresses on some mechanical parts of the brakes.

**6. Inspect Gear / Hydraulic Oil** - Inspect the gear oil regularly through the inspection cover in the winch / windlass. Whitish color of the liquid means the liquid is contaminated and requires to be changed immediately. Use the replacement oil that is recommended by the manufacturers.

**7. Carry Out Regular Visual Inspection:** Ensure that regular inspection of the synthetic mooring hawsers, heaving lines, messenger ropes, etc. is carried out for damages, chafed areas, kinks and loose ends. Also make sure that each mooring rope carries a certificate from the manufacturer. Additionally, check that the ID number of each certificate is conspicuously marked / embossed on an identification plate and subsequently attached to the end of the corresponding mooring hawser. If the hawser is not supplied with the certificate, then the vessel has all the right to reject such a supply and inform the office / purchasing department.

**8. Clear Walkway:** An important part of the mooring operation is to have the deck completely free of obstructions and oily residues. Therefore, it is essential to keep the decks clean, dry and if possible have anti-slip paint coatings over the deck surface, as and how required. Often there have been cases where the support brackets for the gratings (for winch operation) have been found neglected and therefore are heavily corroded making the area most unsafe to step on. Officers should include such neglected yet critical areas for planned maintenance in order to prevent an unforeseen event when least expected.

**9. Do Proper Marking and Labeling:** Marking the mooring equipment is another important aspect for a safe and effective operation. The ship's officers should ensure that the bollards, fairleads, rollers, etc. are marked with their safe working limits. Additionally, the winches and windlass shall be marked for rotating direction of the drums (render / heave), braking capacity, test dates and ID numbers of the equipment subsequent to the certificates carried onboard.

**10. Maintenance of Steel Wire Mooring Ropes** - It is essential to grease and lubricate the steel wire mooring ropes at regular intervals as rust will reduce the strength of the wire in a very short period of time. Lubricating such ropes require special grease, normally oil based compounds. An effective greasing is carried out by removing the entire wire out of its stowed position and applying the lubricant generously throughout the length of the rope. It is also important to note that the wire should be turned end to end regularly to reduce wear and prevent corrosion. Visual inspections are equally important and should be carried out regularly with special attention to areas with dark patches. Any wire shall be replaced if it is damaged to the extent that more than 10% of the visible strands in a length of a wire equal to 8 diameters are broken.

**The dangers of working at heights below deck:** The Gard P&I Club has issued loss prevention circular identifying the dangers of working at heights below deck.

A recent fatality as a result of a fall inside a ship's cargo tank illustrates the need for better risk assessment before work begins and more safeguards to prevent a fall occurring.

A young seafarer died recently from injuries sustained in a fall during work inside a ship's cargo tank. He was entering the tank and had just descended the first ladder when he stepped into an open maintenance access in the stringer plate and fell almost 20 meters onto the tank top.

A thorough investigation was carried out and concluded that the accident could have been prevented if the open maintenance access had been identified as a hazard and properly secured before the work began.

The investigation also highlighted other contributory factors common for this type of accidents, such as poor planning and supervision. A permit to work (PWT) had been issued for the specific tank and the open maintenance access was mentioned during the crew's morning safety meeting, but no order was given to secure the opening.



No proper 'Tool-box Talk' was carried out by the assigned work team and the unsecured opening was therefore not discussed as a hazard before the work began. In addition, the tank area was poorly lit and the work team had to use their flashlights to move around.

The most obvious risk is not always the cause of the accident

Falling from a height onboard ships continue to be a cause of death and injury to seafarers despite the maritime industry's efforts to ensure safe working conditions for the crew. Gard's case database contains many examples of similar accidents, often with the primary cause of the accident identified as "not following safety management procedures" or "failure of the PTW system".

Cases illustrate that the procedure for hazard identification and the implementation of safeguards to control risks are not always taken seriously and are looked upon merely as a paper exercise.

Onboard a ship, the term working at height is normally associated with working aloft, e.g. in a ship's mast or crane, or outboard where the most obvious risk to somebody is that of falling. But when planning work inside ships' tanks or other enclosed spaces, most of the focus is on the risks associated with the tank's atmosphere upon entry.<sup>1</sup> Less attention is therefore paid to safeguards that can prevent or reduce the possibility of a fall, when in reality the risk of falling in such spaces can be much higher than when working on or above deck.

Enclosed spaces may have hatchways that are difficult to squeeze through, vertical ladders for ascending and descending, slippery decks/surfaces and rungs of the ladders, structural arrangements and pipework acting as trip hazards as well as a work environment that may be humid and uncomfortable.

Rules and regulations

It is a general health and safety requirement that risks associated with all work tasks onboard a ship must be assessed beforehand. This requirement is regulated internationally by the International Safety Management (ISM) Code and the Maritime Labour Convention (MLC) and enforced through the legislation of each flag State. But international maritime regulations contain few 'hands-on'

design requirements aimed at preventing falls from a height during activities on board.

SOLAS Reg.II-1/3.6 sets out some requirements related to the arrangement of accesses and protection of walkways during close-up inspections of tanks and holds - but only for oil tankers and bulk carriers. The IMO's "Revised recommendations for entering enclosed spaces aboard ships" does not mention the risk of falling at all.

To ensure a practical approach and uniform enforcement of regulations governing health and safety risks, flag States publish useful codes of working practice (or similar documents). One such example is the UK "Code of Safe Working Practices for Merchant Seamen" (COSWP). Its aim is to provide guidance to shipowners and seafarers on how to fulfil their statutory obligations. The ILO's "Code of practice for accident prevention on board ship at sea and in port" provides similar practical recommendations and guidance - much of which have been taken from national codes of practice and other safety-related publications.<sup>2</sup>

### How to prevent falls from a height

Operators should ensure work tasks are properly planned, supervised and carried out by competent personnel. Occupational health and safety requirements enforced through flag States' laws and guidance documents should be carefully adhered to when deciding upon the type of equipment and safeguards to be used for each work task. The following is particularly important to prevent falls from a height

- Assess the risks when planning a work task. Obtain an overview of all dangers and hazards associated with the task. For simple routine jobs, a risk assessment could be carried out in a more informal manner, e.g. through a verbal discussion like a 'Take 5' or 'Tool-box Talk.' For more complex, non-routine, or new tasks, the assessment should follow a prescribed set of steps and a well-defined risk assessment form. PWT checklists for entry into enclosed spaces should clearly emphasise the need for safeguards to reduce any risk of falling.
- Prioritise collective protection measures over personal protection measures. Collective protection measures to prevent falls when working in tanks and other enclosed spaces will typically include permanent or temporary guard rails, proper lighting, marking of trip hazards etc. Personal protection measures will depend on the task at hand but could include use of a safety harness as well as appropriate clothing.
- Familiarise yourself with the layout of a tank or enclosed space before entry. Persons assigned to the task must be aware of the layout before entering. No risk assessment can be completed unless the layout of the space is known. When an exposed height is identified as a potential hazard for the task being planned, and if practicable possible and compatible with the work in progress, fitting of guard rails or other physical barriers to prevent a fall should always be the prioritised safeguard.
- Consider each individual person's experience. Only persons with sufficient skill, knowledge and experience

should be allowed to work at heights, also when the work is performed below deck.

- Maintain high standards of safety also when the ship is at a yard. A close co-operation with the shipyard is beneficial as a yard is likely to equip the ship with higher standards of shore lighting into enclosed spaces, better ventilating ducts, scaffoldings, etc. The ship's crew should follow the shipyard's safety procedures as far as practicably possible but continue to apply normal seafaring practises and comply with their company's safety standards.
- Take into account the possibility of emergencies occurring when planning a task. Any person may need to be rescued from where they are working at height.

Although shipowners and operators have a duty to put regulations for the reduction of occupational health and safety risks into practice - each crew member has an obligation to comply with the specific standards and policies applicable on board their ship. Crew members must take reasonable care of their own safety and that of others on board that may be affected by their activities.

**Ensuring a "pedestrian free terminal" to protect lives:** The advent of containers in the shipping industry has led not only to changes in the way cargo is handled but also the risk it presents to the human factor.

A container terminal's effectiveness is dependent on its ability to swiftly evacuate containers whether landward or seaward and this function it (terminal) hopes to execute properly to ensure reduced turnaround time for vessels which has become one very important indicator of a



terminal's competitiveness and also an important criterion for port selection by ship owners.

In this regard, container terminals have become busy places of work with many movements of persons and machinery or workplace vehicles making it necessary to effectively manage the "human - machinery interface" by effectively synchronizing the movements of machinery with that of man to prevent accidents and casualties while at the same time increasing productivity.

This is one major challenge in a terminal as machines cannot entirely work efficiently on their own without human intervention which is much needed to achieve the required goals of the terminal.

Many terminals have continually instituted and implemented policies to help prevent accidents and help ensure smooth operational activities. One such policy is the "Pedestrian free

policy" currently in operation at the Meridian Port Service (MPS) Tema, MPS which is a joint venture between Ghana Ports and Harbours Authority (GPHA) And Meridian Port Holdings Limited, which is in turn a joint venture with Bollore Group and APM Terminals has invested a great deal into acquiring extra pick-up trucks for ship side and yard workers this included supervisors, foremen, clerks etc which has ensured that all or most people involved with operations are most of the times in a vehicle and this has to a great extent reduced the extent of direct pedestrian interference in the terminal's operational activities.

In an interview with the safety manager of the terminal he did mention that, the policy since its implementation has helped reduced machinery downtime which could have been caused as results human casualties as well as reduced equipment damages. He was however quick to add that, the success of the policy hasn't come without some challenges as with every human institution and as such workers are frequently reminded of their role in the sustenance of this policy through a five to ten minutes "tools box" meeting conducted before the commencement of every working shift to discuss safety tips and issues.

In this day and age of modern port competition every minute in a container terminal is very important. However, spending close to 10 minutes each shift at "tool box" meetings has really had positive impacts in the terminal as no major casualty has been recorded since the inception of this laudable policy. Human lives are very important and safety of workers cannot be compromised with any other thing.

**Beware of Larger Vessels:** If you have noticed the expanding size of cargo ships, then you are correct because the ships are getting bigger to hold more containers and to become more fuel-efficient. The result is lower costs, which is better for ocean freight shipping rates. The largest vessels of our time can range in size from 18,000 twenty-foot equivalent units (TEUs) to the possibility of a vessel that is 24,000 TEU.



While larger ships may seem like a great thing for international shipping on the surface, there are many inherent risks that could plague these bigger ships. And numerous freight forwarders are concerned about these risks. Many carriers are trying to lower their costs for the crew on the ships, which means a higher risk of accidents. There is a lack of trained captains for these ships, and human errors

can lead to major problems. It is estimated that it would take nearly two years to recover containers from a large vessel stranded at sea.

Numerous problems can be intensified on a large vessel, like groundings or fires. A larger ship in an accident can block a port or lane, which prevents other ships from passing. Many ports lack the proper resources to handle larger ships. The Wall Street Journal reported that springing, which involves the vibration of the hull from the waves, could increase on larger ships and result in more accidents at sea.

In the past, even smaller container vessels involved in accidents would cost billions of dollars in losses. This accident price tag could increase for a larger ship. If there is one historical lesson that we can learn from the Titanic, it is that ships that are bigger are not necessarily better.

### **ASRY chosen by KOTC for 19-ship repair deal:**

ASRY, the ship and rig repair yard in the Arabian Gulf, has signed a ship repair block agreement with Kuwait Oil Tanker Company (KOTC) that includes the exclusive maintenance rights to 19 vessels over the next two-and-half years. The agreement, is worth more than US\$33m, and will see KOTC dock these vessels exclusively at the shipyard.

His Excellency Shaikh Duaij bin Salman Al-Khalifa, chairman of the board of directors of ASRY, said, "The deal will allow ASRY to work with KOTC, as partners, to prepare, plan and collaborate in advance of each docking to maximize its efficiency and success. Not only is KOTC getting excellent value through advance commitment, but by removing the time-consuming individual tendering process for each ship, we can provide priority dock space, superior scope planning and leading turnaround times."



ASRY's chief executive officer, Nils Kristian Berge, disclosed that until mid-2017, KOTC will see 14 oil product tankers, four LPG tankers, and one OSV dock at ASRY for regular dry-dock maintenance works. Notably, KOTC is also contracting ASRY to include ballast water management systems installations in the repair scopes, once mandatory.

The inclusion of ballast water treatment system works follows on from fleet-wide feasibility studies carried out

throughout 2014 by ASRY's New Construction & Engineering division on KOTC's vessels. The schedule for all the dockings over the next two-and-half years has been set out in the agreement.

The agreement was signed in February 2015 and is effective immediately, with the first vessel due at ASRY in February. Eight vessels are due in 2015, nine in 2016 and two in 2017.

**Laden LNG ship under repair:** A laden LNG vessel is being repaired afloat after suffering turbine-bearing problems shortly after loading a cargo. The BW GDF Suez Boston has been drifting off the island of Martinique since 20 January.

A spokesman for the ship's part owner, GDF Suez, confirmed there is a problem with the turbine, but said it should be



fixed "very soon" without the need for any cargo transhipment.

Representatives from the ship's turbine manufacturer are on board the ship to assist with the repair, and tugs are on standby.

Electronic data shows BW GDF Suez Boston loaded a cargo in Trinidad at the start of last month. The vessel is believed to have been en route to Boston on the US east coast.

### **Lindenau tackles canal accident ship:**

Lindenau Schiffswerft in Kiel has completed unexpected bow repairs to the British offshore dive support ship, Red7 Alliance, after it collided with a lock gate on the Kiel Canal.



The ADM Group shipyard in Kiel, at the north-eastern end of the 98km-long waterway, carried out two weeks of repairs and repainting on the 78.3m-long ship in its Dock 11.

The ultra-specialist Red7 Alliance boasts a 250MSW, 16-man sat system allowing continuous diving operations, a 6.0m<sup>3</sup> diving bell with heave dampening system, a main crane of 140 tonnes at 7.75m to 70 tonnes at 15m, accommodation for 80, a clear deck of 550m<sup>2</sup> with capacity for 1,500 tonnes and a fully equipped hydraulic folding helideck.

The ship left immediately after the repairs for work in the Baltic. John Long, fleet manager of Vessel Management Services, praised Lindenau's "fast and dedicated response - despite our unexpected arrival and the initially unknown extent of the job."

**ILO Paves Way for Greater Seafarer Protection:** At the 103rd International Labour Conference, the International Labour Organization (ILO) has, with a staggering majority, adopted new provisions on the protection of abandoned seafarers and seafarers who have been injured in occupational accidents, the Danish Maritime Authority (DMA) said in a release.



The new regulations are, inter alia, intended to ensure financial security when a seafarer is abandoned in a foreign port without any economic possibilities of paying the voyage home or is taken ill, for example as a consequence of an occupational accident.

By now, 61 countries have ratified the Maritime Labour Convention (MLC) and, thus, the protection of seafarers is extended.

Hereby, the ILO's success creating an up-to-date instrument on seafarers' rights is confirmed.

The Special MLC Tripartite Committee drew up the new provisions in April this year. Thus, the special revision process introduced by the MLC was tested.

Now, a period of two years and six months remains before the regulations will take effect. Then, countries that have ratified the MLC will be bound by the regulations unless 40 per cent of the ratifying countries reject the new provisions in writing.

However, such a result is hardly likely given the support for the regulations by both the employer and employee side as well as by the relevant governments.

Only one of the 470 delegates voting on this issue voted against it.

Consequently, seafarers and their families can look forward to being better protected worldwide as regards, inter alia, outstanding wages in case of the ship owner's liquidation, a paid voyage home and security for compensation in case of occupational accidents.

This is to be ensured by means of insurance or similar schemes. Seafarers on board Danish ships have already to a great extent enjoyed this protection, but it is far from obvious in other countries.

**Half of Seafarers Unable to Keep in Touch with Their Loved Ones:** A recent survey shows that up to half of seafarers don't have reasonable access to communication in order to keep in touch with their family and friends.

The 2014 Crew communications survey issued by Futureautics Research in association with InterManager, ISWAN, PTC, BIMCO and CrewToo shows that while access to communications has been improving, it is far poorer in some sectors - where up to 30 percent of crew have no access to a telephone.

The survey, which involved almost 3,000 respondents from more than 30 countries, found that only 56 percent of seafarers had access to communications always or most of the time.

The authors point out that the Maritime Labour Convention 2006 (MLC), now ratified by 61 countries, stipulates that seafarers should have "reasonable" access to communications at "reasonable" cost.

They found huge variation in the provision of communications, with the poorest levels in the container, bulk and general cargo sectors. According to the survey, many of the 6 percent of crew who never have access to communications work in these branches.

While an average of 76 percent of seafarers had access to a telephone, in general cargo over 30 percent of respondents still had no access to one.

Similarly, while almost 70 percent of crew in the passenger and offshore sectors had access to the internet, this was available to only 20 percent of crew in the container, bulk carrier and general cargo sectors.

The survey also found that seafarers spent an average of USD134 a month on communications while at sea and USD139 a month while ashore.

Roger Harris of ISWAN (International Seafarers Welfare and Assistance Network) said: "Communications are the number one welfare priority for seafarers.

There is a lot in this report for seafarer welfare organisations to consider. One key finding is that seafarers are still paying too large a proportion of their monthly wages on communications, both at sea and ashore."

**Ireland, Belize Ratify ILO Maritime Labour Convention:** Ireland and Belize have ratified International Labour Organization's (ILO) Maritime Labour Convention, 2006. This means that from July 8, 2015 and

July 21, 2015, Belize and Ireland respectively will be parties to the Convention and will implement the requirements contained therein, both for ships sailing under their flags, and for international ships calling at their ports.

In the meantime, work is progressing on the inspection and certification of Irish ships in preparation for entry into force of the Convention for Ireland.

A Declaration of Maritime Labour Compliance - Part I has been issued to all Irish-flagged vessels of 500 Gross Tonnage or more which operate internationally, and ship owners have completed a Declaration of Maritime Labour Compliance - Part II.

Work is also underway on preparing for port state control inspections for foreign-flagged ships in Ireland when the Convention enters into force in the country.

Belize is the eighth Member State of the Ocean Memorandum of Understanding on Port State Control in the Caribbean Region to have ratified this Maritime Labour Convention, 2006.

On July 8, 2014, the Government of Belize deposited with the International Labour Office the instrument of ratification of the Maritime Labour Convention, 2006 (MLC, 2006).

Belize's merchant fleet consists of vessels of over 1.8 million gross tons in total. This ratification brings the total number of ILO Conventions ratified by Belize to 50.

On receiving the instrument of ratification, Ms Cleopatra Doumbia-Henry, Director of the International Labour Standards Department said: "The ratification by Belize of the MLC, 2006 represents an important commitment by the country to ensure that seafarers working and living on board ships flying its flag enjoy the rights set out in the Convention.

The Government of Belize will also now be able to continue to move forward and transpose the provisions of the Convention in its national law in order to ensure that ships flying its flag are duly inspected and certified to the international standards set in the Convention.

As a member of CARICOM, Belize joins the other countries in the region in supporting and promoting decent work for seafarers and the level playing field for shipowners."

The MLC, 2006 entered into force on August 20, 2013 for the first 30 member states whose ratifications were registered by August 20, 2012.

**Seafarers UK Backs Missing Seafarers Reporting Programme:** Seafarers UK has granted financial support for the development of an international register of missing seafarers, including fishermen, a project launched by Human Rights at Sea (HRAS), a not-for-profit resource for the international maritime community.

HRAS was founded by barrister David Hammond, author for the on-going international development and codification of Human Rights at Sea.

"The funding lead was taken by Seafarers UK, and consequently, HRAS is now in a firm position to make this project a reality on behalf of the international seafaring community. We hope that this vanguard initiative will



subsequently prove to be an attractive, cost-effective and strategically important human rights based platform worthy of on-going international engagement and support," said Hammond.

Seafarers UK's Director of Grants Dennis Treleaven said that the need for a project of this kind was long overdue, and that the global scale of the issue was still unknown.

"The new database will seek to quantify the issue, by providing evidence of missing seafarers to inform international maritime bodies, governments and the UN. The grant from Seafarers UK will also enable HRAS to support the families of missing seafarers and further raise awareness of the broader subject of seafarers' welfare and the issues some face, such as the withholding of wages, confiscation of identification documents, inhumane working conditions and other human rights and labour abuses," said Treleaven.

**Global Shipping Going Digital:** United Nations' International Maritime Organization (IMO) has launched a number of initiatives for eliminating paperwork and reducing the administrative burdens imposed on global shipping.

The aim is to make it easier for seafarers, shipowners and maritime administrations to meet the regulations and requirements deriving, inter alia, from international conventions.

It is expected that, at the Assembly to be held in 2015, the IMO will set a clear goal for the application of digital media on a par with paper.

This means that a considerable part of the administrative work on board ships will be digitalised.

Reporting and recording can, for example, be made digitally, and it will be possible to store certificates and other documents digitally. In this manner, the work on board will become more efficient and the seafarers will have more time to concentrate on navigating the ship, as explained by Danish Maritime Authority (DMA).

The future development of regulations and amendments will be subjected to firm procedures ensuring that unnecessary administration is not imposed on the industry and the seafarers. Therefore, the IMO Technical Committee will now specifically propose how to adjust the individual regulations so that they meet the goal of eliminating unnecessary administration.

"I am pleased that the IMO has now taken yet another step to reduce the administrative burdens that pull the seafarers away from the actual task of navigating the ship and that are costly to the maritime companies in terms of both time and money. In the future, we will see better regulations and simple, digitalised procedures. Those are important Danish key issues that will now be of benefit to the entire maritime world", says Director General of the Danish Maritime Authority Andreas Nordseth.

In addition to administrative reductions, the Council, held at the beginning of December, launched an evaluation of the strategic steering instruments of the Organization and the Council considered practical issues related to the mandatory auditing of all member states by the IMO from 2016.

**INTERTANKO welcomes EMSA Sulphur Inspection Guidance:** INTERTANKO has issued a press statement stating its approval for the recently completed European Maritime Safety Agency (EMSA) Sulphur Inspection Guidance supporting the implementation of Council Directive 1999/32/EC.



EMSA's guidance aims to support a harmonized approach for the inspection of ships regarding the sulphur content of marine fuels, ascertaining their compliance, identifying non-compliances and applying control procedures for the enforcement of Council Directive 1999/32/EC.

"The guidelines are a result of extensive work under the European Sustainability Shipping Forum (ESSF) aimed to ensure enforcement of the EU Sulphur Directive," said INTERTANKO Managing Director Katharina Stanzel. "We welcome these guidelines and commend the efforts to harmonize EU Member States' approaches to ships."

The EMSA Guidelines suggest that proof of compliance of sulphur content in fuels should be taken both at delivery to the ship and also onboard ships, taking samples of fuels used by the ships. INTERTANKO said it particularly supports the method of sampling at delivery to ship because it is related to the enforcement of the Article 4b.3 of the EU Sulphur Directive which states: "Member States shall ensure that gas oils are not placed on the market in their territory if the sulphur content of these marine gas oils exceeds 0.10% by mass."

With regard to the new fuel sampling in ships' engine rooms, INTERTANKO noted that it welcomes standardization of such

a practice and the request for quality evidence from laboratories running tests on fuel samples.

"INTERTANKO, which participates in the ESSF activities, is pleased to see harmonized enforcement, and advocates a balanced approach, not only implementing control measures on ships, but also ensuring fuels delivered to ships are ECA compliant," said Ian Harrison, Senior Technical Manager of INTERTANKO.

### **International Legal Framework Governing Maritime Security:**

The United Nations Convention on the Law of the Sea (UNCLOS) was ahead of its time. It pre-empted environmental protection and low-intensity conflict paradigm shifts of the late 1990s by already encompassing many new security challenges at the time of its codification in 1982. These included environmental security, illegal immigration, human trafficking and piracy. This allowed UNCLOS to remain relatively flexible and current with international security concepts.

But are additional instruments needed to support UNCLOS in order to provide sufficient legal basis to meet and regulate contemporary security responses at sea?

The global character of shipping requires global regulation, and UNCLOS is not alone in this endeavor. There is not simply one international treaty on maritime security law. While UNCLOS includes several articles regulating state responses against piracy (Articles 100 to 107 and 110), the Convention provides no foundation or guidance for private efforts in combating piracy. Instead, there are many fragmented treaties, conventions, legal principles and soft law instruments that supplement UNCLOS.

Although UNCLOS sets the static legal framework of maritime zones and jurisdiction, the convention is silent in regard to specific non-state actions for countering piracy. Instead, a kaleidoscope of overlapping, confusing, and occasionally conflicting international and domestic policies, practices and laws has emerged in an attempt to tame this often considered unwieldy industry.

UNCLOS is static in order to provide a stable legal platform but must also be dynamic to adapt to changes and developments in the international law arena. It is a framework convention and therefore sets the playing field and rules-of-the-game for interaction between other instruments.

### **Suppression of Unlawful Acts**

The Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA) Convention and Protocol was designed to fill voids in international law necessary to combat other threats to human life and security of navigation and commerce at sea not fully prescribed under UNCLOS. It requires states to pass legislation making unlawful piratical and terrorist acts against navigation serious criminal offenses under their national laws. The SUA framework came in two waves.

#### **(1) SUA Framework 1988**

First was the 1988 Convention and Protocol. Under this legislation, states have an obligation to establish jurisdiction

to extradite or prosecute violators even if the alleged offenses were committed outside their physical territory.

Unlike the UNCLOS definition of piracy, which only applies on the high seas and therefore only allows security responses on the high seas, the SUA framework criminalizes piracy-like offenses against vessels which have journeyed out of the territorial sea or are scheduled to transit beyond the territorial sea. Yet a major gap in the 1988 SUA framework is that it only granted flag states the necessary jurisdiction to respond to threats against vessels that flew their particular flag.

## **(2) SUA Framework 2005**

In 2005 the 1988 SUA Convention and Protocol were amended to become the 2005 SUA Convention and the 2005 SUA Protocol. The 2005 SUA framework contains three new categories of offenses.

Using a ship as a weapon or as a means for committing terrorist acts.

Proliferation of weapons of mass destruction (WMD) on the high seas.

Transporting a person alleged to have committed an offense under other UN anti-terrorism conventions.

In addition, the 2005 SUA framework broadened state jurisdiction to include not only the flag state but also third states. Thus, the SUA frameworks further the extent of criminalizing acts against navigation beyond UNCLOS, increasing states' legal latitude to prevent attacks and pursue violators in maritime zones shoreside of the High Seas. Examining the SUA framework from the broadest perspective, it is evident that it provides an agreement condemning maritime threats, acknowledging that countermeasures must be taken in shoreward maritime zones, including but not exclusively limited to private shipborne responses to threat mitigation. Standards and guidelines for private responses have been created via the necessary channels in IMO such as SOLAS, described below, as well as in soft law implemented by the industry.

## **SOLAS**

The Safety of Life at Sea (SOLAS) Convention, first developed to increase safety aboard ocean-going vessels after the Titanic disaster, has grown since 1914 into the most thorough of all marine safety conventions. Its main purpose is to establish minimum standards for the construction, equipment and operation of ships, compatible with their safety. It is enforced by flag states and port state control measures.

In relation to private maritime security, a main legal conundrum with SOLAS is whether employing armed security on board a vessel can deprive the ship's Master of their overall responsibility to control all actions aboard their vessel, as required by SOLAS. If so, this would be in contradiction of SOLAS Reg 34-1 and Reg 8, Chapter XI-2.

Many coastal states have taken additional steps to clarify the relationship between Master and privately contracted armed security personnel (PCASP), amending national legislation to reaffirm the Master's overall authority to

authorize PCASP targeting, deployment and target engagement (specifically, weapons discharge of any-kind). In an effort to resolve this dispute, the largest international shipping association, the Baltic International Maritime Council (BIMCO), has released a commercial contract template, GUARDCON, which establishes this clear line of superiority with the ship's Master remaining in command at all times.

Despite the superiority of the Master being reaffirmed in SOLAS, by flag states, and even in many industry contracts between PCASP and shipowners/operators, many security providers affirm that in certain grave life-or-death situations, they would disobey a Master's call to stand down under their individual right to self-defense should they believe their life or the life of crew-members to be in danger.

GUARDCON aims to accommodate this extenuating circumstance, acting as a contract between PCASP and the Master to break this link in the chain-of-command, freeing PCASP to act at will, without the Master's orders, and outside the conventional SOLAS protocols, indemnifying the Master of much of the responsibility for PCASP actions.

SOLAS allows port states to prevent ships from sailing when serious deficiencies are found that may pose a danger to persons, property, or the environment. This can be extended to implementation of maritime security procedures within SOLAS and its family of regulations (ISPS, ISM, etc.) if PCASP, their behavior, or their equipment seem to be substandard and as a result pose a danger to those aboard the vessel or the general public.

## **U.N. Firearms Protocol**

In addition to the Law of the Sea framework, maritime security providers must also navigate the complex international legal regime of the U.N. Firearms Protocol, a legally binding agreement which entered into force in 2005, currently signed by 109 states plus the European Union, to ensure armed security provider, or those importing/transporting weapons, carry the required port and transit state permits.

This UN regulation suggests not only seeking pre-embarkation permission from the Flag State but also from all countries through which PCASP will transit. The Protocol sets the regulations for firearms transport. PCASP must be careful and take the necessary precautions to ensure their carriage of weapons systems is rightly permitted and does not qualify as illicit trafficking. According to the Protocol:

"Illicit trafficking" shall mean the import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition from or across the territory of one State Party to that of another State Party if any one of the States Parties concerned does not authorize it in accordance with the terms of this Protocol"

The Protocol, however, prescribes the option for establishing a simplified system for temporary import and exports between states, as follows.

"States Parties may adopt simplified procedures for the temporary import and export and the transit of firearms, their parts and components and ammunition for verifiable lawful purposes such as hunting, sport shooting, evaluation,

exhibitions or repairs."

Some states have taken advantage of this clause to establish systems for transiting PCASP and military Vessel Protection Details (VPDs). Spain, for example, has made an agreement with the Seychelles to allow simplified transit procedures for its VPDs to board Spanish-flagged fishing vessels in Seychelles territorial waters and EEZ.

Making this matter more complicated in recent years, floating armories have emerged as offshore supply stores delivering weapons and crews to client vessels, circumventing port and coastal state regulations and bypassing the need for import/export compliance. Of course, this has opened a Pandora's box in terms of unaccounted-for firearms. In other circumstances, PCASP have jettisoned weapons into the sea after completing missions in order to sidestep import/export regulations reaffirmed in the Protocol.

### **The Principle of Self-Defense**

Of primary importance to the legal reasoning behind the private use of force at sea in counter-piracy is the principle of Self-Defense. According to the International Group of P&I Clubs:

"Customary international law, among other legal authorities, provides that the use of force is restricted to cases of necessity or self-defence, i.e. cases in which there is no other way out and in which the requirements of necessity, reasonableness and proportionality are observed in connection with the use of force. Such customary international law is binding [...] The use of force by private security guards must therefore be based on the general, internationally accepted principles of self-defence."

This was reaffirmed by the International Court of Justice (ICJ) in the Oil Platforms case, which stated that Iran had the right to protect its offshore installations against threats to their infrastructure.

Moreover, individual guards or any persons aboard a vessel, for that matter, have the right to self-defence of their person. This is a fundamental human right. If pirates or other assailants are directing weapons' fire in their direction, for example, and they believe their lives to be in grave danger, the same right of self-defence for vessels applies at the personal level.

### **Doctrine of Necessity**

After being discussed for decades in international law circles, the Doctrine of Necessity was finally incorporated into the International Law Commission's Draft Articles on Responsibility of States for Internationally Wrongful Acts.

Article 25 of this document provides that an otherwise illegal act, such as using force to neutralize a terrorist or pirate attack at sea, can be justified if it meets two criteria.

The act was the only means of safeguarding an essential interest of the state against a grave and imminent peril.

The act did not seriously impair an essential interest of the state toward which the obligation existed.

Such activities could be justified on the basis that the ramifications of such an attack would be severe, with

imminent loss of life, and also possible irreversible damage to the environment (i.e., attack on a tanker or offshore drillship resulting in a possible oil spill).

In such situations, minor interferences with navigation such as allowing PCASP to engage and disable an approaching vessel, or as a last resort neutralize attacking individuals, would be considered relatively minor when compared with the grave destruction or loss of life which could result from a successful attack. - MarEx

*This document is a summary of maritime security developments. It is provided for general information purposes only, is not legal advice and does not constitute the offering of legal consultation services. It should not be used as a primary legal resource.*

### **Muscat: One of the world's largest cruise liners, Queen Mary 2, will visit Oman:**

Khimji Ramdas said that Queen Mary 2's port call will put Muscat on the world's cruise liners' map. "This is the best way to showcase Oman's cruise facilities internationally. The length of the ship is 345 metres and the maximum radius of the turning basin is 300 metres. Bringing Queen Mary 2 is one of the biggest challenges and Port Sultan Qaboos has brought the vessel alongside safely before. They have illustrated their technical supremacy by bringing the vessel into the port without turning the ship in the turning basin," said MC Jose, CEO, projects and logistics, Khimji Ramdas.

He also said that it will be great to see such a big ship anchoring at the Sultan Qaboos Port. "I think the schools should take an initiative and bring the children to the Muttrah Corniche to see this ship entering and sailing."

She will come in at 8 am in the morning and will sail at 6 pm. "One can take a close up picture when she comes close to the Muttrah Corniche to enter the port. It will be a great opportunity to have a family picture with Queen Mary 2 in the background," said M C Jose.

The Queen Mary 2 can accommodate 2,620 passengers and 1,253 officers and crew. In her first 10 years of operation, the ocean liner has undertaken more than 420 voyages, including 200 transAtlantic crossings. Queen Mary 2 is Cunard's flagship and offers a huge space on board and an array of state-of-the-art facilities including a 3D Cinema, planetarium and a spa.

History was made in 2010 when she made her maiden visit at Port Sultan Qaboos at Muscat. "It was the first time a ship of such voluminous proportions entered the Port Sultan Qaboos. At that time the port was very congested as cargo loading and unloading used to take place there. But now the port is very safe and there is a lot of space to move around. So, this is a unique opportunity for the residents in Muscat to witness such a majestic ship," Jose said.

It was learnt that Queen Mary 2 will occupy two berths compared to a normal ship which occupies only one. "The management and staff of Khimji Ramdas Shipping is delighted to have this opportunity of bringing in Queen Mary 2 into Oman. This important port call became a reality with the whole hearted support of the Port Service Corporation, different departments of the ROP such as Customs,

immigration and coast guard. The tourism ministry extended tremendous support for convincing the Cruise Line owners for attracting cruise vessels to Oman," he added.

Khimji Ramdas said that they alone are set to receive around 300,000 tourists from all over the world this season. Altogether, they will be handling 134 luxurious cruise ships.

The cruise season started on October 18 last year when Seabourn Odyssey reached Salalah and will come to end on June 13, this year when CS Sea Princess will be leaving Muscat.

### **Libya: Security and Safety for Vessels:**

Members will be aware of the recent high profile incident involving a vessel being targeted by an air strike resulting in two crew deaths. The situation in Libya remains very volatile and any vessel that may call there needs to prioritise safety at all times.

The Association is grateful to its correspondents Gargoum Legal Marine and Germa Shipping & Stevedoring Co. in Libya and H. Vassallo & Associates Ltd. in Malta for continuing to provide information on developments.

**The development:** Recently, as was reported in both shipping and main stream news media, a tanker vessel that was at the Libyan Port of Derna was targeted by an air strike resulting in the tragic death of two crew members and further injuries.

While there have been air strikes from unidentified aircraft in the past near port areas and towns, this incident appears to have occurred with the involvement of the Libyan Air Force and / or other Government military forces. In this regard, reference to a Government is in relation to the institution presently residing in Tobruk, which at this time remains the official internationally recognised body. A competing authority remains in Tripoli.

The incident has led to increasing focus on the safety and security situation in Libya, in particular the Maltese Government renewed its travel warning against all forms of travel to Libya.

**Port of Misrata - Air strikes:** In addition to the development at Derna, the Association has learned that the military of the official Government of Libya has warned of possible air strikes around the Port of Misrata and which could put vessels in that area at risk. This information was also received by BIMCO.

The Association has not been able to fully verify this information, but must urge all vessels going in to this area to exercise caution and seek to advance verify what the latest local position may be.

**Advice:** The Association has previously advised that the internationally recognised Government is currently based in Tobruk, while various militia groups and other armed forces have seized control of or are active in different parts of Libya such as Derna and Benghazi, and possibly Misrata, too.

According to our correspondents, as of 13 January 2015, the situation is as follows in the ports of:

- Benghazi remains closed
- Tripoli is operating "normally"
- Tobruk is operating normally
- Al Khoms is operating normally
- Misrata/Misurata may be operating "normally", but please note the comments above and below

We would highlight to members that Tripoli is currently not under the control of the internationally recognised Government of Libya. Cargo and ship operations still appear to be underway, but it has proven difficult to verify the same.

We would further highlight that while Misurata is said to be still operating, BIMCO, our correspondents and the Association through other sources understands the area may become subject to military action and that ships may be at risk in this zone.

**Recommendations:** We continue to strongly advise members intending to call at Libya to proceed with caution.

Information should be sought continuously from all available sources about latest developments.

Vessels should be ready and instructed to take, at short notice, appropriate steps to prioritise safety.

In the meantime the Association would refer members to its previous updates on Libya, including that of 19 December 2014: Libya: Renewed fighting.

### **Shipping industry slams Norman Atlantic charges:**

The pressing of charges against crew members of the Norman Atlantic ro-ro ferry, which suffered a devastating and fatal fire on 28 December, has been strongly criticised by some in the shipping industry.



President of the International Federation of Shipmasters' Association (IFSMA), Captain Hans Sande, said he "condemns the action of the Italian authorities".

He said that the practice of arresting the master before investigations are complete adds to a growing perception that authorities are using seafarers as "scapegoats", facilitating a "witch hunt to find someone to blame" in publicly shocking incidents.

"The Master may be guilty but what has happened to the presumption that a person is presumed innocent until proven to be guilty?" Sande asked.

But legal experts in the two prosecuting countries say that there is no presumption of guilt, and that the charges could be amended or dropped during the course of investigations if supporting evidence is not found.

### **Heat hampers Norman Atlantic body hunt:**

Two countries, Italy and Greece, are investigating the incident. The Norman Atlantic was travelling in international waters between the Greek port of Patras and Italy's Ancona when the incident occurred, and legal experts confirm that this gives both countries jurisdiction to launch investigations under European Regulation 392/2009: Liability of carriers of passengers by sea in the event of accidents.

It is expected that once the case has progressed to an advanced stage, the two countries are likely (though not obliged) to coordinate a rational approach to reduce the complexity of their dual involvement.

A total of six people involved in the tragedy have been charged, including Carlo Visentini the principal of owning company Visemar di Navigazione; the ship's master, Argilio Giacomazzi; the ship's first officer; and the ship's second officer (engine room). In addition, civil cases are being lined up by lawyers representing the ferry's passengers.

Silina Pavlakis and Stefano Bertone are lawyers for, respectively, the Greek and Italian division of the Moschos & Associates legal firm, which will be representing the ferry's passengers in civil cases to be filed soon.

Pavlakis said that Greece's Central Port Authority of Piraeus and the Supreme Board for Maritime Accidents have pressed charges against four individuals: ANEK Lines' legal representative in Italy; a responsible officer of the same company; the ship's officer responsible for the deck; and the chief engineer. They are accused of: placing persons and human life into risk, and also death of persons at sea; and secondly 'arson', which Pavlakis said means "acting in such a way that a fire is caused or developed".

Pavlakis said that it is normal for charges to be pressed before the investigation is complete. She said it is not equivalent to a presumption of guilt.

"It means that you are accused," said Pavlakis. And this is because, she said: "There are sufficient indications - not evidence - to make you a person who is potentially liable. But unless you go to trial and are convicted you are not assumed liable."

Pavlakis added that the criminal charges pressed by the state will assist the progression of civil claims brought by the passengers, "even if we don't have convictions", she said.

The case is similar in Italy where two investigations are going ahead, carried out by the criminal prosecutor at the Bari Tribunal (based on the ferry's port of registration), and by the coastguard. Bertone, based in Rome, said that six individuals have had three criminal charges brought against them by the state.

The individuals are Carlo Visentini, Argilio Giacomazzi, the ferry's first officer, the ferry's second officer (engine room), and two personnel from charterer ANEK Lines. And they have been charged with: involuntarily creating an emergency

maritime accident; involuntarily killing more than one person; and involuntarily physically harming more than one person.

"It is normal to press charges prior to investigation," said Bertone. "They may be dropped if the investigation concludes that no fault was committed; and they might be amended if they find other crimes or lesser crimes were committed," he explained.

As in Greece, Bertone said that in Italy sufficient indications are enough to press charges, but that they are not a presumption of guilt, "Simply to charge [someone] with a criminal offence, you don't need evidence. You can have the belief... that a crime was committed". In this case, he said, where multiple lives were lost, "it is self-evident" that something went wrong.

Bertone said that in Italy, whenever there is "an appearance of a crime", it is mandatory for Italian prosecutors to open criminal proceedings, and to add to that file the names of defendants. In this case, he said, the named individuals are in law responsible for the passengers and cargo aboard the ferry hence the addition of their names to the file.

But said, "They might well be acquitted. Being convicted is very different to being indicted. If there is a criminal trial it will depend on evidence; if there is no evidence of responsibility then there will be no charges. They will be presumed innocent until there is a definitive decision," adding that if a trial opens, he would expect the seafarer accused to "receive the maximum compassion and protection from the criminal court" for their assistance during the rescue operation.

Under UK law, sufficient evidence, not just sufficient indications, are required to press charges.

Human rights lawyer and founder of Human Rights at Sea told IHS Maritime that, while it varies between jurisdictions, the competent authorities investigating a crime, "Should have sufficient evidence to meet that State's evidential threshold for what is often termed 'a reasonable prospect of conviction' under the criminal code, as applicable.

"In English law, if criminal charges were to be laid, it would be fair to assume that the authorities responsible for the investigation have reached or indeed surpassed that threshold and therefore have sufficient evidence to lay charges against an individual(s) with a reasonable prospect of conviction."

Referring to the complex international forum that seafarers work in, IFSMA president Sande said that while there is the unquestionable legal responsibility of the master, who has ultimate responsibility and accountability if something goes wrong, the practice of quickly pressing charges is likely to disincentivise seafarer recruitment.

The six or seven figure legal defense cost would be impossible to meet if the ship owner and P&I Club bailed out, leaving the seafarer to plead guilty and throw themselves on the court's mercy, he said.

Sande advised seafarers to get professional indemnity insurance, or to join a union or association that provides insurance cover for such eventualities, but said that the

complexities created by the international nature of shipping calls for a dedicated court for the prosecution of maritime criminal cases.

He said that in particular the influence or pressure exerted by external bodies or organisations should be avoided to ensure a true and factual report from which it can be decided whether the case should be answered in court.

"This needs to be implemented to ensure that the victims and their families in such incidents have a full account of what took place so that they can have closure on the matter and move their lives forward in the aftermath of the event," said Sande, adding: "In many cases the persons facing charges are as much victims as those that died or were injured."

## **Nigerian FG to detain ships entering nation's territorial water with foreign guards:**

**LAGOS** - THE Federal Government has said that it will not hesitate to detain any vessel entering the country territorial and coastal waters with security escorts on board, whether armed or unarmed.

The Nigerian Maritime Administration and Safety Agency, NIMASA, gave this warning when the agency detained three vessels, LILAC VICTORIA, UACC EAGLE and MORGANE, because they sailed into Nigeria with individuals linked to private security firms overseas offering training on the use of weapons.

The NIMASA Director of Shipping Development, Captain Warri Enisuh, said the agency was uncomfortable that vessels with high probability of entering Nigeria with disposable arms or ammunition were beginning to sail in shortly after the agency and other sisterly agencies had cleansed the Nigerian waters of scourges such as piracy.

Describing it as "a new threat" that now "looms over the horizon with possible far-reaching consequences," Enisuh warned ship operators, cargo owners, ship agents, among others that resultant interventions and delays may lead to possible forfeiture of their ships and cargo to the Federal Government.

"Private registered security firms in collusion with unscrupulous officials have embarked on unconstitutional MoUs and partnerships that threaten our national security.

"NIMASA has embarked on tackling this problem as it seems to be gaining tacit support underground as local Nigerian lawyers now intervene when they are arrested."

"There is no doubt that they come with arms hidden within the ship or throw them overboard when threatened with a search.

"The weapons they come with could be sold. This could well threaten the peace and calm we enjoy in our waters.

"The agency is, therefore, sounding a note of warning that any vessel that comes into Nigeria with a foreign guard, whether armed or unarmed will be detained."

**Reducing Administrative Burdens:** Through resolution A.1043(27), the 27th Assembly in November 2011

adopted a process of periodic review of administrative requirements in mandatory instruments, and acknowledged that releasing resources from administrative tasks for Administrations and industry alike, contributes to the Organization's goals of efficient regulation of safety and security of shipping and the prevention and control of pollution by ships.

The Ad Hoc Steering Group for Reducing Administrative Requirements (SG-RAR), established by the Council at its 108th session in 2012, evaluated the responses received in the public consultation and developed recommendations on how to alleviate administrative burdens that have become unnecessary, disproportionate or even obsolete. The recommendations were presented to the 113rd Session of the Council on December 3rd, 2014.

The Council, in general, agreed with the recommendations, and took the following action:

- A draft resolution to emphasize the importance of considering and reducing administrative burdens, will be prepared for discussion by the council at its 114th session with the aim of adoption at the 29th session of the Assembly at the end of 2015 (recommendations: 1, 3, 4, 9 and 11);
- Relevant committees have been tasked to further consider a number of issues (recommendations: 5, 6, 7, 8 and 10) that came up during analysis of findings at their sessions in 2015;
- The IMO Secretariat was requested to provide more information on a web-based information portal that could help alleviate burdens experienced by stakeholders (recommendation 2);
- Further information and proposals were requested from Member States in relation to review of non-mandatory instruments (recommendation 10), specific principles and criteria for future regulations (recommendation 12); and
- Sent the recommendations to the checklist for identifying administrative burdens to the established Correspondence Group (recommendation 13).

Below you will find the final report of the SG-RAR detailing the recommendations, as well as the formal report sent to Council.

As the SG-RAR has now completed its work, we would once again like to extend to you our sincere thanks for participating in the public consultation. The work of the Steering Group would not have been successful without the excellent contributions by all respondents -individuals and organizations- that took the time to respond and offer indispensable insights into the practical implications of IMO's mandatory administrative requirements.

**ITF Launches East Asian Maritime Action Week:** Teams of inspectors from the International Transport Workers' Federation (ITF) will begin the first East Asian maritime action week of 2015 on Monday, the Federation said in a release.

The teams will include dockers' and seafarers' union members, the release said.

The action will be done across ports in Japan, Korea, Russia and Taiwan lasting from 26- 30 January.

The ITF said that the teams will check and enforce decent pay and working conditions on board vessels.

The Federation also announced staging of a rally at Kotoku Kaiun company in Japan over its refusal to engage in dialogue with union representatives.

The ITF has also used these action weeks previously as an opportunity to explain the provisions of the Maritime Labour Convention 2006 (MLC), which started to come into force last August and sets minimum standards for seafarers.

**Inlecom Introduces i-Ship:** Inlecom Systems Ltd (Inlecom) has launched i-Ship, an innovative software application, enabling ship representatives to fulfil their reporting obligations to European and International maritime and custom authorities with greater speed and efficiency.

Developed as part of the part EU-funded FP7 eMAR project, i-Ship has been designed specifically to automate reporting formalities in a timely and correct manner taking into account the type of ship and/or voyage and is fully compliant with Directive 2010/65/EU.

Creating a new way to interconnect ships with operational stakeholders & reporting authorities, i-Ship offers a collaborative web-based reporting environment, designed to meet the needs of ship managers and their business associates. It acts as a common gateway to all reporting nodes (Port Systems, National Single Windows, Customs), providing a single link for shipping companies to submit their reporting formalities.

i-Ship offers a range of advanced reporting features and key benefits including flexibility and ease of use including easy pre-loading and change of data repeated frequently in notifications such as ship particulars and port codes. Users will also benefit from a streamlined reporting process that affords harmonisation with international standards such as ISO 28005, WCO, EDIFACT and EU specific formats and requirements.

Other benefits include complete systems integration and customisation. A reduction of IT complexity can be achieved through SAAS (software as a service) whilst the system is designed to be easily customisable. Finally, i-Ship provides visibility of the reporting and compliance status of the fleet by the shipping management team plus a full range of time and cost efficiencies stemming from a reduced reporting burden, berthing synchronisation and vastly reduced lead times.

Dr Takis Katsoulakos, Director of Inlecom Systems, explains: "i-Ship is a unique product both in terms of functionality and technology innovation that alleviates the burden of reporting formalities from shipping companies at a very cost effective way."

Dimitris Theodosiou, Managing Director of Danaos Management Consultants says i-Ship is the first product designed to be compliant with Directive 2010/65/EU. It reflects the deep knowledge of Inlecom in both shipping and the regulatory environment particularly the EU maritime

transport directives. i-Ship has been integrated easily with the DANAOS shipping applications using advanced software engineering technologies. For once i-Ship gives shipping operators the ability to respond effectively to new EU legislation.

**Ships must prepare for Sulphur Rules:** The shipping industry is fully committed to total compliance with the 0.1% sulphur in fuel requirements, in Emission Control Areas, from January 2015. And there is no reason to suggest that there will not be full compliance, says the industry's global trade association, the International Chamber of Shipping (ICS).

"But there is nevertheless concern amongst those owners who know that they themselves will comply but who may worry about their competitors" said ICS Director of Policy & External Relations, Simon Bennett, speaking today at the Mediterranean Bunker Fuel Conference (organized by Platts in Barcelona).

Mr Bennett remarked "The shipping industry will be investing billions of dollars in order to ensure compliance with this major regulatory change. It therefore seems only fair that governments should implement the rules in a uniform manner as we enter a brave new world in which fuel costs, for some ships, will increase overnight by around 50%".

Mr Bennett suggested that, unlike some of the national authorities in Europe, the United States had made its approach to enforcement relatively clear.

"The real crime in the U.S. is to be caught providing false information to the Federal authorities" said Mr Bennett. "This is a criminal offence, attracting the possibility of multi-million dollar fines. If a ship has been found to supply false information, the US Department of Justice can be expected to throw the book at the operator. The DOJ is always very motivated by the chance to secure relatively easy prosecutions and shipping companies are easy pickings."

Looking forward to the implementation of the global sulphur cap, most likely in 2020, it was still unknown whether significant numbers of ships would make use of options for alternative compliance instead of burning low sulphur fuel, a provision which ICS had fought hard for during the negotiations at IMO when the MARPOL amendments were adopted.

With respect to port state control and scrubbers, there was still a need for a harmonised approach about the acceptability of 'closed loop' and 'open loop' systems, and the extent to which overboard discharges would be subject to inspection.

With respect to sulphur-free LNG, while new some ships were being fitted with dual fuel systems, Mr Bennett suggested that for most existing vessels the engineering involved would probably be too costly to encourage retrofitting. The other major unknown was the extent to which the current lack of LNG infrastructure will be addressed before 2020. Apart from uncertainty about the comparative costs of LNG and distillate, there were also uncertainties about the future of the US shale gas revolution.

In the medium term, there was also the possibility of alternative fuels such as methanol, which for some ships might produce a clean and economically viable alternative. There were genuine concerns about safety, although if handled correctly these were arguably little different to the risks surrounding LNG, and trials using such alternatives should therefore be permitted.

It had also been suggested that the availability of distillate could be immediately increased by lowering the minimum permitted flashpoint from 60 degrees, which is the requirement under the IMO SOLAS Convention, to something comparable to conventional diesel. Mr Bennett stressed that "this is highly controversial because of the danger of fuel coming into contact

with hot surfaces in ship's engine rooms, with the potential for catastrophic explosions and loss of life. However, the question of the higher flashpoint required by SOLAS is now being looked at again by IMO".

Because of legitimate concerns about safety, simply lowering the flashpoint of diesel on existing ships, in the belief that it will lower the price, may well prove a step too far for the regulators. "But there is a school of thought that says that a future generation of ships, with appropriately trained crews, could be constructed or operated in a manner such that use of low flashpoint diesel would be safe, just in the same way that LNG has proven to be safe and cost effective fuel. This is not yet the current position of ICS, but a discussion is starting to take place."

Five of the people killed at Tunisia's Bardo Museum attack this week were from the Costa Cruise ship Costa Fascinosa. Bodies are still being identified, and two Costa passengers are still believed to be unaccounted for.

### **Costa Passengers Die in Tunisian Attack:**

Islamic State has claimed responsibility for the attack which also resulted in the death of 12 MSC Splendida cruise passengers.



Costa commenced making calls in Tunisia's capital Tunis late last year, but has since announced that it will stop all calls to Tunis, probably for the rest of this year.

The Fascinosa's passengers had arrived in Tunis at around 9am on Wednesday, and The Guardian cites a witness saying that a man in his twenties, holding a Kalashnikov automatic rifle, stood in front of a bus of cruise passengers and began shooting.

MSC Cruises earlier confirmed that 12 of its passengers from MSC Splendida were killed including two from Colombia, three from France, three from Japan, two from Spain, one from the U.K. and one from Belgium. Additionally, 13 passengers were injured, two seriously.

Tunisia said it would deploy the army to major cities and arrested nine people on Thursday after the shooting, the worst attack on the North African country in more than a decade.

The attack appears to be aimed at Tunisia's economy, with tourism accounting for around seven percent of gross domestic product. The government estimates that losses this season for the tourism sector could reach \$700 million.

In total, the attack has left 23 dead and dozens injured.

### **Budget'15 Bonanza for Indian Seafarers:**

The Union Budget of India for the year 2015-16 has revitalized the Indian shipping and ports sector, paving the way for corporatization of major port trusts and bringing a much awaited tax relief for Indian Seafarers and Sailors.

The Shipping Ministry along with various Seafarer welfare organizations and Associations has been, for the past couple of years, pushing for rectification of the anomaly for Indian Seafarers who are put at a tax disadvantage vis-a-vis their Sailors sailing in global flags.

On 28 February, presenting the BJP Government's second budget, the Finance Minister ArunJaitley ended a more than two-decade-old seafarers' taxation anomaly that is cited by Indian fleet-owners as the main reason for an acute shortage of sailors to man their ships.

To elaborate, an Indian Seafarer serving on ships outside India for a period of 182 days or more in a year is considered to be a non-resident for Income Tax purposes.

However, the time spent by a ship in Indian territorial waters is considered as period of service in India, according to Income Tax Rules framed in 1990.

Since, Indian flags frequent Indian ports due to their nature of business, most of the Crew on Indian Flags face difficulties in maintaining and complying with the 182 days criteria for getting a Non-Resident status for Tax purpose.

For example, if there is an Indian flag vessel for international trade, say Australia (Coal), the Vessel goes overseas to Australia to fetch Coal and returns back to Indian ports for the offloading. During the course of this journey the Vessel will possibly pass through various Indian ports in Kerala, Goa, Maharashtra and Gujarat and spend a considerable amount of time in the Indian territorial waters before moving onto the International waters.

In this case, the number of days outside India of crew on such ships gets counted only from the date when the ship crosses the coastal boundaries of India. Hence even if the Indian sailor spent more than 6 months on such an Indian Flag vessel, his NRI days will be counted only for the days that the vessel was in International waters and the days sailing in Indian territorial waters will be considered to be as if he has been resident in India.

However, if the sailor is doing the same route on a Foreign Flag vessel, irrespective of the fact that it was in Indian or Foreign waters, his number of days in Indian waters is also considered to be as if he is NOT resident in India and hence he will not pay any Tax in India.

The financial effect of this anomaly makes the income earned on the Indian vessel Taxable and the foreign vessel tax free. Hence if a Sailor aboard a Foreign Vessel is earning Rs 30,00,000 for the year (Tax Free) then his Indian counterpart will be actually be earning Rs 30,00,000 - 9,00,000 = Rs 21,00,000 as Rs 9,00,000 will be deducted or be payable as Income Tax(gross figures for example only).

This led to a continuous drift of personnel from Indian ships to foreign flag ships under the lure of higher "take home" pay packets, without having to pay tax in India, where the income tax rate is higher, due to this unintended differential tax treatment.

As a result, Indian flag ships that are by law required to hire only Indian crew, faced an acute shortage of experienced manpower, particularly in the officers' category. The problem of this drift is compounded with the actual CTC (cost to company) and the perquisites on offer to the Sailor are much high with Foreign Flags.

The budget 2015 has hence taken note as follows: "In the case of foreign bound ships, where the destination of the voyage is outside India, there is uncertainty with regard to the manner and basis of determination of the period of stay in India for crew members of such ships who are Indian citizens," according to the budget documents. "In view of this, it is proposed to amend the Act to provide that in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed," the documents said.

India provided more than 50000 fresh Seafarers and close to 45000 officers in 2014, according to the Manpower Update 2010-2014. However, according to the DG of Shipping, nearly three-fourths of Indian Seafarers are employed with foreign shipping organizations.

The amendment gives powers to CBDT to prescribe the manner and procedure for computing period of stay in India. This would be effective retrospectively from April 1, 2015, so the benefit can possibly be drawn from the next financial year onwards.

### **ILO Revises Seafarers' Identity Documents Convention (Known as CDC Continuous Discharge Certificate):**

International Labour Organization (ILO) held a tripartite meeting of employers, seafarers' unions and governments in Geneva last week, to consider possible adjustments to the Seafarers' Identity Documents Convention (Revised), 2003 (ILO 185), the International Chamber of Shipping, shipowners' representative at the meeting, said in a release.

ILO 185 requires ratifying nations to issue resident seafarers with Seafarers' Identity Documents (SIDs), and to facilitate



the entry of foreign seafarers holding SIDs into their territory for the purposes of shore leave, transfer and transit. However, since its adoption in 2003, the Convention has failed to achieve widespread implementation, in large part because the technical standards adopted have been superseded by the technologies and infrastructure now used for the issuance and verification of ePassports.

Most notable among the recommendations agreed by the tripartite meeting was a proposal that the technical specifications for Seafarers' Identity Documents, within the annexes to ILO 185, should be updated in order to bring them into line with those technologies currently used for ePassports. In practice, this would mean the inclusion within SIDs of a facial image biometric and a digital signature, both stored on a contactless chip, making SIDs inter-operable with the infrastructure used by most countries to issue ePassports and to verify them at their borders.

The recommendations will be considered by a future meeting of the ILO Governing Body which will consider whether the proposed measures should be taken forward.

"The effective implementation of ILO 185 is of great importance to the welfare of seafarers and the efficiency of the global shipping industry, as well as addressing the legitimate security concerns of governments," Joe Cox, President of the Chamber of Shipping of America, said. "It will therefore be incumbent upon the ILO Governing Body to give careful consideration to the recommendations that have been put forward by this ILO tripartite meeting."

**Tripartite Meeting of Experts:** A tripartite meeting of experts, including representatives of flag and port States, employers' and workers' organizations and international non-governmental organizations, adopted recommendations in Geneva on 6 February to revise the Annexes to the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185).

The Convention is designed to provide seafarers with verifiable identification in order to facilitate their temporary admission into foreign territory for the purposes of shore leave, transit and transfer. It was adopted in 2003, revising the Seafarers' Identity Documents Convention, 1958 (No. 108), and takes into account modern-day security concerns. The biometric standards and the procedures to be complied with, which are set out in the Annexes to the Convention, aim to ensure an interoperable seafarers' identity document that satisfies national security requirements. Importantly, Convention No. 185 provides for a rapid procedure to amend its Annexes, precisely to enable them to keep pace with technological developments.

In light of the advances that have been made concerning border security and identity documents since the adoption of the Convention in 2003, the Governing Body decided at its 320th Session (March 2014) to hold the tripartite meeting, which included maritime and visa experts, to examine those issues and discuss various options concerning Convention No. 185. Ms Cleopatra Doumbia-Henry, Director of the International Labour Standards Department, recalled that "The decision to convene a tripartite meeting of experts on this important issue highlights the ILO's recognition of the fundamental rights of seafarers to have easier access to port areas, to transit through countries and to go ashore after weeks or months of working and living on board in an inherently stressful work environment. While ensuring these rights, the Convention aims to strike the right balance with national security concerns. This has been a process of social dialogue among the governments, shipowners and seafarers, and has benefitted greatly from the guidance and support of the ILO's international partners, including the International Maritime Organization, the International Civil Aviation Organization and the International Organization for Standardization."

Following constructive discussions, the tripartite experts adopted a general conclusion and recommendations to the Governing Body, which recommended that the Annexes to the Convention be amended to bring them into line with the current technology used for ePassports, thus facilitating the authentication by border authorities anywhere in the world of Seafarers' Identity Documents issued under Convention No. 185. If the recommendations are approved by the ILO Governing Body, and corresponding amendments are adopted by the International Labour Conference, seafarers' identity documents issued under the Convention will no longer use a fingerprint template in a two-dimensional bar code, but will include a facial image biometric and a digital signature, stored in a contactless chip, which will permit them to be inter-operable in the infrastructure used by most countries to issue and authenticate ePassports.

The recommendations will be considered by the ILO Governing Body at its upcoming 323rd Session (March 2015).

**Shipping Industry Confident about Environmental Performance. ICS Discusses Issues and Expresses Confidence at Arctic Summit:** At a high-level Arctic Summit, organized by The Economist magazine in Oslo on 12 March, the International Chamber of Shipping (ICS) - the global trade association for merchant ship operators - highlighted important issues associated with the growth of Arctic shipping and expressed confidence in the industry's environmental performance.

ICS stressed the critical importance of a mandatory and uniform regulatory framework to ensure maritime safety and environmental protection, as the volume of Arctic shipping gradually increases in response to new interest in developing the region's natural resources.

ICS Secretary General, Peter Hinchliffe, explained: "The International Maritime Organization is the appropriate forum



for developing standards for ships operating in the Arctic as it has the necessary legal and technical expertise to take full account of the interests of all maritime nations including those with an Arctic coastline." He added that the shipping industry is fully committed to the implementation of the mandatory IMO Polar Code, following its recent adoption by IMO Member States and its expected entry into force in January 2017. "The Polar Code will deliver an even greater level of confidence in the environmental performance of shipping using a risk-based approach which addresses the hazards relevant to the type of ship operation, the ship's location and the season of operation."

ICS asserts that the shipping industry's environmental performance is very impressive. But the industry fully recognizes the concern about the potential sensitivity of Arctic ecosystems and the need for a high degree of care when ships navigate Arctic waters, which is fully reflected in the new IMO Polar Code.

With respect to society's concern about the negative impact of CO2 emissions on climate and the delicate environmental balance that exists within the Arctic region, ICS emphasizes that shipping is the only industrial sector already covered by a binding global agreement, at the IMO, to reduce CO2 through technical and operational measures. According to the latest IMO Green House Gas Study published in 2014, the global shipping industry has reduced its total emissions by more than 10% between 2007 and 2012.

With regard to the future governance of Arctic waters, ICS believes that Arctic coastal states should avoid imposing discriminatory treatment that might prejudice the rights of ships registered with non-Arctic nations, and highlights the importance of appropriate fees for services. ICS suggests there is a need for greater clarity regarding the legal status of Arctic waters as determined by the UN Law of the Sea. "As remote Arctic sea routes become accessible these once academic issues are becoming increasingly important," Hinchliffe explained, arguing that the UNCLOS regime of 'transit passage' for straits used in international navigation takes precedence over the rights of coastal states to enact unilateral measures against international shipping.

Source: International Chamber of Shipping

Shipping as a whole is the single most energy efficient form of transport (goods and cargo) and the LEAST polluting. There is no widely accepted form of benchmarking transport carbon pollution (yet) but currently narrowing down to kg per cargo tonne mile (carbon). The discussion currently rages over how you can make a true comparison between different modes of transport and the distances they travel. A truck with a pallet of goods..... the same pallet loaded onto an aircraft, or onto a vessel, all travel different routes

when being transported from a common manufacturer to a common delivery point. Be that as it may, for 1 tonne of cargo per mile travelled, an aircraft is by far the greatest polluter (Index value of about 80), railways a lot less (index about 40), road transport about the same as railways (Index of about 38) and shipping comes in with an index value of about 16.

**What makes shipping such an important target is the shear volume of cargo transported per vessel.**

Great improvements are being made in terms of fuel efficiency and reduction in polluting gasses. One must consider that although sulphur can be removed from fuels, carbon cannot, nor can nitrogen be removed from the air. The thermodynamic process of combustion is a balance - you can reduce the NOx emissions but at the expense of fuel consumption. Likewise you can significantly improve fuel consumption, but to do so you will have to take the combustion process into the are of higher NOx production.

Alternative fuels are a thing of the future. We are indeed slowly researching into new fuels and at present gas is evolving as the fuel of choice for future ships. The main problem here is where do you put it. THAT much gas is difficult to store. Current large container vessels have capacity to carry about 5000mT HFO ( a volume of about 5100cu mtr). Liquid LNG has an SG of about 0,77 so where are you going to find 6500cu mtr of space for liquid LNG? (Same weight - similar amount of energy content). This is going to take a seachange (forgive the pun) in thinking on ship design and cargo-carrying capacity from shippers.

Future fuels yet to be developed; go back to wind power? I don't think so, however efficient it may have become, the wind does not always blow in the direction you want, or even at all! However, we SHOULD be looking at nuclear energy again, but not with Uranium fuels. We should be considering alternatives such as Thorium. It works (Thorium reacotrs have already been built and run. - India is currently looking at thorium reactors for their future energy needs). Thorium does not require a different reactor design, current reactors can be cheaply converted to use Thorium. It is easy to refine(unlike Uranium), readily available as a raw resource (unlike Uranium) and cheap (unlike Uranium). It is almost completely consumed in the reaction (unlike Uranium) therefore has little waste. It emits a far less harmful level of radiaton as it degrades (unlike Uranium) and waste products have a far shorter half-life (unlike Uranium).

US Army are (were) looking at using thorium reactors for onsite power generation, the size of two shipping containers. They would run for years without the need for refueling and can be left behind after military operation so the local community can benefit from "free" energy. There is no fear of the nuclear reactor falling into enemy hands because thorium cannot be used to make weapons-grade material.

Nuclear ship are not new, they do not require much higher level of expertese to man and operate and the equipment is recoverable for re-use in new hulls. (Life expectancy of a vessel is falling. It used to be 25 - 30 years, dropped recently to 20 years and now there is talk of a ship's working life being no more than 15 years), hence payback time can be spread over a number of hulls.

**Food for thought: Interesting but one must take a wider view.....** Shipping as a whole is the single most energy efficient form of transport (goods and cargo) and teh

LEAST polluting. There is no widely accepted for of benchmarking transport carbon pollution (yet) but currently narrowing down to kg per cargo tonne mile (carbon). Th ediscussion currently rages over how you can make a true comparison between differen modes of transport and the distances they travel. A truck with a pallet of goods..... the same pallet loaded onto an aiircraft, or onto a vessel, all travel different routes when being transported from a common manufacturer to a common delivery point. Be that as it may, for 1 tonne of cargo per mile travelled, an aircraft is by far the greatest polluter (Index value of about 80), railways a lot less (index about 40), road transport about the same as railways (Index of about 38) and shipping comes in with an index value of about 16.

What makes shipping such an important target is the shear volume of cargo transported per vessel.

Great improvements are being made in terms of fuel efficiency and reduction in polluting gasses. One must consider that although sulphur can be removed from fuels, carbon cannot, nor can nitrogen be removed from the air. The thermodynamic process of combustion is a balance - you can reduce the NOx emissions but at the expense of fuel consumption. Likewise you can significantly improve fuel consumption, but to do so you will have to take the combustion process into the are of higher NOx production.

Alternative fuels are a thing of the future. We are indeed slowly researching into new fuels and at present gas is evolving as the fuel of choice for future ships. The main problem here is where do you put it. THAT much gas is difficult to store. Current large container vessels have capacity to carry about 5000mT HFO ( a volume of about 5100cu mtr). Liquid LNG has an SG of about 0,77 so where are you going to find 6500cu mtr of space for liquid LNG? (Same weight - similar amount of energy content). This is going to take a seachange (forgive the pun) in thinking on ship design and cargo-carrying capacity from shippers.

Future fuels yet to be developed; go back to wind power? I don't think so, however efficient it may have become, the wind does not always blow in the direction you want, or even at all! However, we SHOULD be looking at nuclear energy again, but not with Uranium fuels. We should be considering alternatives such as Thorium. It works (Thorium reacotrs have already been built and run. - India is currently looking at thorium reactors for their future energy needs). Thorium does not require a different reactor design, current reactors can be cheaply converted to use Thorium. It is easy to refine(unlike Uranium), readily available as a raw resource (unlike Uranium) and cheap (unlike Uranium). It is almost completely consumed in the reaction (unlike Uranium) therefore has little waste. It emits a far less harmful level of radiaton as it degrades (unlike Uranium) and waste products have a far shorter half-life (unlike Uranium).

US Army are (were) looking at using thorium reactors for onsite power generation, the size of two shipping containers. They would run for years without the need for refueling and can be left behind after military operation so the local community can benefit from "free" energy. There is no fear of the nuclear reactor falling into enemy hands because thorium cannot be used to make weapons-grade material.

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is falling. It used to be 25 - 30 years, dropped recently to 20 years and now there is talk of a ship's working life being no more than 15 years), hence payback time can be spread over a number of hulls.

## **EU Proposes North Africa to Rescue Migrants:**

Italy wants Egypt and Tunisia to play a role in rescuing stricken migrant vessels in the Mediterranean, a government planning paper showed, so that survivors could be taken back to African instead of European ports.

The plan, which calls for the European Union to support the proposed Egyptian and Tunisian operations, was prepared by the Italian home affairs ministry and seen by Reuters. It represents an attempt to stem the growing flow of people risking their lives to reach Europe, most of whom try to get to Italy, often on overcrowded or defective vessels.

Last April Italy rescued 4,000 migrants from boats trying to reach European shores in only 48 hours in a deepening immigration crisis that is being made worse by the turmoil in Libya, which has grappled with chaos and rampant militias since the ousting of Muammar Gaddafi in 2011.



In one of the worst such tragedies in October 2013, a boat carrying migrants from Libya to Italy sank off the Italian island of Lampedusa. The Italian Coast Guard managed to rescue 155 survivors but more than 360 migrants drowned.

Italy is already in bilateral talks on sea-rescue operations with Tunisia and Egypt, but joint diplomatic action of the EU is crucial to get them involved, the paper, said.

According to the plan, Tunisian and Egyptian naval units would intervene to rescue migrants in areas close to Libya, which is the main departing point for migrants bound for Europe, but has no effective control of its territorial waters because of the ongoing conflict between its warring factions.

Once the migrants are taken out of the sea by the Egyptians or the Tunisians, they could be taken to North African ports, the paper said.

The Tunisian and Egyptian operations should be carried out in cooperation with Italian and European authorities and be adequately financially and technically supported by the EU, Italy said.

Last November, Italy stopped its Mare Nostrum search-and-rescue missions in the Mediterranean, citing cost concerns.

Since then, Triton, a European border control operation, was launched under the lead of the European border agency Frontex.

Italy says that the number of migrants that arrived on its shores in the first two months of 2015 was almost twice as big as in the same period of last year, when the Mare Nostrum operation was in place, the paper said.

## **Hong Kong Wants Ship Emission Standards Now:**

The Legislative Council of Hong Kong will soon mandate fuel burning 0.5% sulfur or liquefied natural gas (LNG) for all ocean-going vessels (OGV) ships at its berths. In September 2012, the government launched a three-year incentive program to encourage OGVs to switch to low-sulfur fuels. By June 2014, only about 12% of the OGVs registered, with operators indicating that the rebates covered only 40% of the cost of switching fuels.

The Hong Kong government wants mandatory the use of 0.5% (5,000 ppm) sulfur fuel starting by July 2015. In 2013, Chinese ports handle about 178 million TEUs (30%) of the world's 600 million TEUs -- Hong Kong (22.3 million TEUs) is the third largest port in China behind Shanghai (33.6 million TEUs) and Shenzhen (23.3 million TEUs).

These higher standards will make Hong Kong the first Asian jurisdiction to control its ports' ship emissions. The proposal has raised some concerns from operators who will bear the brunt of the increased shipping costs due to the required switch to low-sulfur marine fuel.

On January 1, 2015, the United States including the U.S. Caribbean, Canada and Northern Europe have required ships docked in the sulfur emission control areas (SECA - ECA) at their ports to switch to fuel with less than 0.1% sulfur content. Container companies operating in the SECA-ECA areas have since levied an additional \$30 to \$90 per TEU from their customers to support the increased fuel costs.

Low-sulfur fuel is up to \$300 more per ton compared to marine bunker, which contains around 3-3.5% sulfur. Fuel costs account for up to 30% of a shipping line's operational costs.

According to a spokesperson for the Environmental Protection Department of Hong Kong, "the Regulation prohibits OGVs from using any fuel other than compliant fuel while at berth in Hong Kong, except during the first hour after arrival and the last hour before departure. And, vessels are required to record the date and time of fuel switching and keep the relevant records for three years.

"If OGVs use technologies (scrubbers), which can reduce the emission sulfur dioxide (SO<sub>2</sub>) levels to that of low-sulfur marine fuel, they will be exempted from switching to compliant fuel."

Ship owners calling Hong Kong that do not comply with the law will be fined a maximum of about \$25,000 (HK\$200,000) and six months imprisonment. And, ship owners failing to keep the required records of fuel switching will be liable to a maximum fine of about \$6,400 (HK\$50,000) and three months imprisonment.

Just 35 years ago, Hong Kong was China's largest container port for container imports and exports. Currently, China has seven of the top 10 ports in the world and Hong Kong's container traffic throughput has been in decline. Meanwhile, nearby Shenzhen's municipal government promised to subsidize carriers 100% for switching to low-sulfur fuel last year in an attempt to attract vessels to the ports. While the traffic has come, Shenzhen has failed to implement the rebate.

As for emission control areas in the rest of the world, ICS Chairman Masamichi Morooka says that the global cap will most likely be implemented in 2020, regardless of the lack of available compliant fuel and the cost it could have on the sea's world trade. When implemented, the drop to 0.5% sulfur fuel could cost the shipping industry as much as \$50 billion a year, and will once again affect lubricant choice.

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“Maritime Group” knows as to what we are, not forgetting that we are here to share our valued flow of thoughts, inter-changed with quality of expression exchanged, is to arrive at a QUALITY consensus, since “MARINE NEEDS A MULTI-DISCIPLINARY APPROACH - Do something instead of killing time or else, time will be killing you.”

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