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**IFSMA Register of Technical Consultants and Maritime Experts
(RTCME) now Available on the Internet at "www.ifsma.org"**

**IFSMA 36th Annual General Assembly to be held in
Manila, Philippines - 17/18 June 2010**

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Some Thoughts from your Secretary General

2010 “Year of the Seafarer”

IMO launched the theme for this year’s World Maritime Day – “2010: Year of the Seafarer” – at an event held at its London headquarters in January 2010.

The IMO Secretary-General Efthimios E. Mitropoulos said 2010 promised to be an auspicious and important year for the seafaring profession, with a Diplomatic conference meeting in Manila in June to adopt amendments that will bring the STCW Convention and its associated Code fully up to date with today’s expectations.

Mr Mitropoulos said that designating 2010 as the Year of the Seafarer would help to reassure those who work at the “sharp end” of the industry – the seafarers themselves – that those responsible for the international regulatory regime understand the extreme pressures seafarers face and that they approach their task with a genuine sympathy for the work that seafarers carry out. The theme had also been chosen, he said, to allow the maritime community to pay tribute to seafarers for their unique contribution to society and in recognition of the vital part they play in the facilitation of global trade. It would also add impetus to the “Go to Sea!” Campaign, which was launched by IMO in November 2008, in association with the International Labour Organization, the “Round Table” of international shipping associations and ITF, to boost recruitment to the seafaring profession.

A former seafarer himself, Mr. Mitropoulos said, “It is my firm belief that, despite the numerical decline in officer-level entrants, shipping remains a potentially exciting, rewarding and fulfilling career – a career that can take people almost anywhere, both in geographical terms and in terms of the sort of work they may finally find themselves doing. Seafaring is not only a satisfying and worthwhile career choice in itself, it is also a passport to a huge variety of related jobs ashore for which experience at

sea will make one eminently qualified.”

He concluded, “Seafarers deserve respect and recognition: let us resolve, during 2010, to ensure that this message is trumpeted loud and clear.”

I believe this message truly reflects the views of IFSMA and I would encourage all our Associations to do what they can to support this theme and IFSMA itself will be holding a Seminar in Manila on the 26th June to celebrate “2010 Year of the Seafarer”.

STCW

This Seminar will follow the Diplomatic conference in Manila on 21 - 25 June 2010 which will debate the draft amendments for the first major revision of the STCW 1978 Convention adopted in 1995.

The STW Sub-committee met at IMO during the second week of January 2010 to finalise the draft amendments for STCW revision. IFSMA had a strong presence at this Sub-committee and on the whole felt it had been a successful week in the interests of our Members. Just to outline the important changes here they are listed by each chapter.

Chapter I: General provisions: Improving measures to prevent fraudulent practices associated with Certificates of competency; strengthening the evaluation process (monitoring of Parties’ compliance with the Convention); and standards relating to medical fitness standards for seafarers;

Chapter II: Master and deck department: Certification requirements for able seafarer (deck); celestial navigation, automatic radar plotting aids and radar requirements; marine environment awareness training; leadership and teamwork; and vessel-traffic-services training;

Chapter III: Engine department: Near coastal requirements; marine environment awareness training; leadership and teamwork; upgrading of competences for engineers; and certification requirements for able seafarer (engine);

Chapter IV: Radiocommunications and Radio Personnel is renamed Radiocommunications and Radio Operators and updated to reflect current regulations, including reference to the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual;

Chapter V: Standards regarding special training requirements for personnel on certain types of ships: Competence requirements for personnel serving on board all types of tankers, including liquefied gas tankers; and regulations for personnel on “ro-ro passenger” and “passenger ships” combined to cover all “passenger ships”;

Chapter VI: Emergency, occupational safety, security, medical care and survival functions, amendments include new requirements for maintaining professional competence in areas where training cannot be conducted on board; and new requirements for security training, as well as provisions to ensure that seafarers are properly trained to cope if their ship comes under attack by pirates;

Chapter VII: Alternative certification: Changes in other chapters are reflected, including addition of requirements for certification of able seafarers and specifications for approved seagoing service and training required for certification of candidates at support level in various functions; and

Chapter VIII: Watchkeeping: Updated and expanded requirements on hours of work and rest and new requirements for the prevention of drug and alcohol abuse.

Alarm over out-of-date charts

Despite the fact that the International Convention for Safety of Life at Sea (SOLAS) requires that, ‘All ships should carry adequate and up-to-date charts, sailing directions, lists of lights, notices to mariners, tide tables, and all other nautical publications necessary for the intended voyage,’ overt negligence of the legislation is a disconcerting issue for the industry. The London P&I Club has raised concern that out-of-date onboard charts and other nautical publications are continuing to prove a contributory

cause of shipping accidents, despite requirements laid down by international legislation. On receiving reports from P&I ship inspectors that the charts or other nautical publications on an entered ship are out of date, including the review of two recent incidents, the Club has placed great emphasis on why compliance with the requirement is imperative.

Are these incidents the result of incompetence, fatigue, complacency or have some elements in our industry just given up on the requirement to support the professional skills of seamanship and navigation?

Four Pillars of International Maritime Law

Capt A K Bansal, L.L.B.(Hons) London, Master Mariner, Bar at Law, Individual Member

Executive summary

International maritime law stands on four strong pillars, namely Law of Sovereignty of Nations, Law of Freedom of the High Seas, Law of Freedom of Contract and Legal Personality of a Ship. Each country is sovereign within its own political boundaries, in which its laws apply. As a general rule, each one of the other three is dependant on this Law. Law of Freedom of the High Seas also allowed MAN to throw human waste into the seas both from ships and from coastal habitations. Today, to save and conserve our ecology and environment, this freedom of the high seas has to be curtailed. Ways and means have been found by the International Community, especially by USA, France and EU to curtail this freedom. Results are showing but more needs to be done. It is under the Law of Freedom of Contract that International Maritime Trade, Commerce and Transport is done. A Bill of Lading is basically a receipt issued by a ship in her own right for quantity of goods loaded on board, in good order and condition, under Law of Legal Personality of Ships. In time, different kinds of bills of lading have been devised, but in essence the nature of a B/L has not changed. Today a B/L made ‘to order’ for goods loaded on board in good order and condition, with port of loading and destination, whether freight has been paid, endorsed on it, is more than a receipt. It is usually an essential document required by bankers under L/C’s established by them on behalf of importer, on the basis of which bankers honour their L/C’s

in favour of exporters. This way the International Community makes guaranteed payments through bankers to exporters on behalf of importers across International boundaries. Furthermore such a B/L is a document of title, and a negotiable instrument. Goods can be bought and sold by selling the B/L, even when goods are still at sea in transit.

Full Article

International maritime law stands on four strong pillars, namely Law of Sovereignty of Nations, Law of Freedom of the High Seas, Law of Freedom of Contract and Legal Personality of a Ship. The cardinal principle of International Maritime Law, is the principle of sovereignty of Nations. This principle has been rarely violated unless one country subjugates another, with or without justification. Domination of Great Britain on an Empire on which the sun never set is one example. Hitler's invasions in Europe were another. Invasion of Iraq by USA is the most recent example.

Articles 2 and 3 of United Nations Convention on Law of the Sea 1982, (UNCLOS), have added sea areas up to 12 nautical miles from coastal base lines, called territorial waters, into the sovereignty of coastal states. Sea areas outside the territorial waters are International waters. Articles 17, 18 and 19 of this convention, limit this sovereignty of a Coastal State in its territorial waters, by providing that foreign flag vessels enjoy the right of innocent passage through this strip of coastal waters, and define what innocent passage is. It is also stipulated that when ships are in the territorial waters of another country even on innocent passage, they are subject to Law of the Coastal State. In essence, it means that regardless of Flag of the ship and nationality of her crew such ships should not prejudice peace, good order or security of the Coastal State during their passage.

It is optional on coastal states, to exercise their criminal jurisdiction within their territorial waters which mainly depends upon whether a crime committed therein, disturbs its peace and good order. Most countries exercise such jurisdiction if a victim OR the suspected offender is a citizen of that state. Japan has now amended their penal code in light of the Tajima incident to extend its criminal jurisdiction in cases where the victim is a Japanese national. This, even if the crime is committed by non-Japanese suspects, on a foreign-flag vessel, on the high seas.

How strictly Law of Jurisdiction within territorial

waters of a country, can be applied if it chooses to do so, can be demonstrated by the following case.

As Seafarers do, in their spare time all over the world, especially since it does no harm, a seaman threw a fishing line over side, from the stern rail of his foreign flag ship, anchored and waiting to enter a US harbour. But to fish in US waters requires a licence. US Coast Guard promptly boarded the ship and arrested the seaman because HE was fishing contrary to US Law, and also the Master because he personified the ship which contravened US Law.

From time immemorial, it has been accepted that the High Seas belong to the entire human race, i.e.¹ to ALL six thousand million humans on this earth. This is the second pillar of International Maritime Law and is usually exerted by most nations AND individuals as an inherent right. This principle is now incorporated in Article 87 and other articles of Part VII of UNCLOS. It is under this principle that ships of all nationalities are able to carry goods from country to country across the oceans, without let or hindrance. But this right of freedom of the High Seas is subject to Law of Nationality. For example, in about 1500 A.D the Chinese Emperor Hong Zhi, made it a capital offence for any of his subjects to sail the high seas. Subsequently, he even ordered all seagoing ships to be destroyed. It was due to this reason that the immense Chinese sea power of earlier years, under Admiral Cheng Ho, was wiped out. It has taken China five centuries to come back into their own, in shipping.

But "Might is always right." Therefore a Nation powerful enough, may block the high seas to fellow man or to another Nation, at will by might of arms. President Kennedy laid a blockade against the approach of Russian ships to Cuba in October 1962, against all canons of International law, as it affected right of freedom of the High Seas to Russian ships, not to talk of Cuba's Sovereign rights. But neither the Russians nor the Cubans could afford to fight the Americans and the rest of the world remained silent. Therefore Kennedy got away with it.

Freedom of the high seas, has also been interpreted by man to mean freedom to throw his waste into the seas, as his birthright. Thus human waste has been thrown into the seas from coastal habitations for centuries, not forgetting sewerage, garbage, oil tank washings, bilges and what not, from ships. In fifty years from 1948 to 1998, world shipping

increased from 98 million tons, to 550 million tons. This, coupled with increase in world population and coastal habitations, pollutants being thrown into the oceans by ships today, including all what comes from the coastal belts, are affecting the environment of our earth. Hence the necessity to curb this freedom and conventions such as MARPOL.

Apart from such pollutants, an estimated 10 billion tons of salt water is being carried yearly across oceans, by Merchant ships. Ballast water transports live micro organisms with it, which easily pass through the water pipes of ships. When this water is pumped out, live alien species are injected into a different environment miles away from their natural habitat. This affects local environment and ecology and also causes a lot of harm to local fisheries etc.

Therefore, it has also become necessary to curb this freedom of the high seas and to find ways and means to stop the migration of live micro organisms across Oceans through large quantities of salt water ballast. Hence ballast water control.

Under Art 92 of UNCLOS, all ships on the high seas, are subject to exclusive jurisdiction of the Flag State. Therefore, conventions such as MARPOL can only be enforced by them. But Flag States, especially flags of convenience States, do not have the infrastructure or the will to control their flag vessels, from polluting the high seas, miles away from their own coasts. Hence regulations on Ballast water control and International Conventions such as MARPOL continue to be flouted by their ships with impunity. Therefore, to lay the onus directly on ships and ship owners, Bimco, Intercargo, International Chamber of Shipping, International Shipping Federation, Intertanko and the Oil Companies International Marine Forum, jointly issued basic guidance in September 2006, emphasizing the vital importance of strict adherence to International Maritime Organization (IMO) requirements, committed to a zero-tolerance approach, to any noncompliance with the IMO MARPOL Convention, including the use of oily water separators. These guidelines add that no-one should engage in any illegal conduct in the mistaken belief that it will benefit their employer. Severe legal consequences have been outlined, both for the company and the seafarers.

Ship operators have ultimate responsibility to establish a compliance culture on their ships. Even the most minor violations of MARPOL will be detected

by the authorities and violators punished. Fines of millions of dollars can be imposed, both on company management and seafarers. They can also be liable to criminal prosecution and imprisonment for any deliberate violation of MARPOL such as by-passing the Oil Water separators, or falsification of records. In France, The Loi Perben extends the concept of individual criminal liability for causing pollution beyond the Master, to owners, managers and others. Since March 2004, ships are being intercepted even on suspicion of pollution and brought into French ports to face fines and jail sentences even on questionable evidence. Foreign Masters convicted of even unintentional pollution face up to 7 years in jail and are open to fines up to \$880,000 OR four times the value of the cargo on board. Furthermore, OPA 90, Clean Waters Act CWA, APPS and allied Laws of USA, are being strictly enforced by US authorities on world shipping in more ways than one. US authorities have also found ways and means to enforce antipollution rules in recent years, on ships of all flags bound for USA, for even polluting the high seas miles away from their own coasts.

The third Pillar on which International Maritime Law stands is the law of Freedom of Contract. Whether it is under a Charter Party or a Bill of Lading, International Maritime trade is carried out on the basis of freedom of contract. For example a Charterer in one country can charter a foreign flagship, to carry cargo from a third country to a fourth country. But all these parties are able to enter into such contracts, subject to laws of their own nationalities. Similarly, a foreign national may contract to serve on a Panama Flag ship owned by Greek owners time chartered to British Charterers, to ply between Australia and Japan, subject to the laws which restrict or prohibit his own actions as national of his country. Till 1995, Master, Chief Officer and Chief Engineer of a British Ship had to be of British Nationality. Under American Laws, Master, officers and crew of a ship flying the American Flag have to be first born Americans. Therefore owners of such flag vessels could not contract with seafarers of other nationalities for those ships and positions. In some countries such as Panama, only those holding a Panama certificate of Competency can command Panama Flag Ships.

Similarly, traders are only able to enter into contracts with other nationals subject to their National laws and laws of countries of origin and destination of cargoes. For example, during the Arab Boycott of South Africa under their apartheid regime, no Arab country could contract to supply oil to South

Africa. Again for many years, India had no relationship with Portugal and no Indian could enter into a contract to trade with the Portuguese.

The fourth pillar of International Maritime Law is that a ship has a legal personality of her own in addition to being the property of the owner. Under Art 91 of UNCLOS, every State is required to fix conditions for registration and grant of nationality to every marine craft they recognize as a ship and to give her the right to fly its flag. This way she acquires a legal personality. She can do wrong. Damage caused by her to third parties through collision is a typical example of her own wrongdoing for which she is liable. She has other liabilities. If a ship receives an essential service, the service provider gets a right to exact payment from her if the owner fails to pay. She can be arrested AND even sold, to pay her debts. She also has rights, e.g. to receive freight. But since she has no eyes, ears, hands or brain, the Master personifies her. HIS order may make her liable for damage caused by a collision. His signature on a receipt for supply of bunker oil or essential stores or repairs to the ship, makes the SHIP liable to pay, if the owner fails to pay. Obviously such liability could not exceed the value of the ship herself.

This is the mainstay of International Trade and Commerce. A ship acknowledges receipt of cargo loaded on board in her own right, with essential details of what and how much was loaded, in what condition, at which port, and for which destination. This receipt known as Bill of Lading also contains terms and conditions under which cargo is carried. If freight is not paid the B/L is marked 'Freight to Pay.' Shippers used to mail the B/L to the buyer abroad to enable him to take delivery of the goods at destination. Due to postal uncertainties, the practice developed to issue three originals, which shipper sent to consignee by three different mails. Any one having been honoured, the other two automatically became null and void. In time this document has not only become a contract of carriage but also an instrument negotiable through banks. It is also a document of title. The holder has a right to the goods and is their owner. As maritime traffic became more regular with steam ships, owners employed clever lawyers who drafted clauses absolving the ship and owners from all and every liability for carriage of goods by sea. These clauses were printed on the back of their B/L's as part of the contract of carriage. This left shippers little remedy even if their cargo was never delivered!

Hence Hague Rules 1924, which gave considerable relief to shippers. A protocol was adopted in 1968 at Visby, to amend these rules. The new rules are called Hague Visby Rules. Many Maritime Nations including most commonwealth countries, have enacted laws which incorporate Hague Rules 1924, and/or Hague Visby Rules 1968, which are widely known and used by merchants and mariners alike. Thus under laws of most countries, freedom to stipulate terms and conditions of carriage, is subject to Hague rules and/or Hague Visby rules. Under these rules, the ship owner must exercise DUE DILIGENCE to make his ship seaworthy before and at the beginning of the voyage. The carrier must 'properly and carefully load, handle, carry, keep, care for and discharge' the goods, to be entitled to take protection under the seventeen exceptions to liability under these Rules, which protect ship owners for damage caused to goods through 'Perils of the sea'. If unavoidable damage is caused to goods, through marine perils during the voyage, ship/owners are not liable. An American Judge, defined 'unavoidable' as "something so catastrophic as to triumph over safeguards by which skilful and vigilant seamen usually bring ship and cargo to port in safety."

With containerization, cargo usually moves from factory door in one country, to importer's door in a different country, involving different modes of transportation, in which sea transit may be one. Under multimodal transport systems, a B/L may be issued miles away from the ship, even by a road transporter. Therefore there have been many modifications to the Law pertaining to carriage of goods by sea. In liner trades, B/L's are invariably issued by trusted, well established agency houses, with a one line printed letter, usually signed by the Master authorizing agents to sign B/L's on behalf of the ship. But legal character of a B/L remains a contract between the ship and shipper and a receipt by the ship, signed by the Master or agent, on her behalf. B/L signed by or under authority of Master, means more today, for bankers in International trade and commerce, who issue Letters of Credit L/C, under which a B/L is usually essential.

Under this Documentary Credit System, billions of dollars worth of L/C's are issued and honoured by bankers world wide, to make commercial payments to unknown exporters in foreign countries, based on Count and description of goods as per B/L. Depending upon terms of the L/C, goods are bought or sold through Negotiable B/L's, even while still on the high seas. The holder can endorse it to buyer

for value received, unless B/L is non negotiable, i.e not "To Order." It is usually transacted first through the exporter's bank in his country and finally, through the importer's Bank in the country of destination. When the original B/L reaches the importer's bank, which usually establishes the L/C, it pays to exporter's bank, debits the importer and delivers the B/L to him. If the importer receives the goods without producing B/L to the ship, he gets the goods free.

Recently, the Supreme Court of Finland held that where an agent delivered the goods without taking possession of the original B/L, he is liable for damages suffered by the exporter who did not get paid by the buyer's Bank for the goods he shipped. Because the B/L never came into the hands of the buyer's bank which established the L/C, they could not bill the importer and therefore could not pay to exporter's bank. But in practice, if there is delay to receive B/L's through banks, the importer normally furnishes a bank guarantee or a LOI to obtain delivery of the goods without the B/L.

Again, in a Maersk line case¹, the container was delivered at destination against production of a fraudulent B/L. A British Court held against the ship owners and ruled that the B/L is THE KEY to the goods as it represents and secures legal title to goods and to their physical possession. Only very clear words would exempt a ship owner from his liability to deliver goods except against a genuine original B/L, which the owner should be able to recognize.

Lord Denning's observations² in this respect, are most appropriate when he said that "It is a perfectly clear law that a ship owner who delivers without production of the B/L does so at his peril. The contract is to deliver, on production of a Bill of Lading, to the person entitled under the Bill of Lading." He further added "The shipping company.....delivered the goods, without production of the Bill of Lading, to a person who was not entitled to receive them."..... "No court can allow so fundamental a breach to pass unnoticed under the cloak of a general exemption clause"

The B/L performs functions, which a C/P cannot. For example, a C/P cannot certify quantity and condition of goods shipped. A B/L does. It also binds the carrier to deliver the goods to its holder, who may not be the Charterer, "in same good order and condition". Therefore where a C/P exists a B/L may be an essential document. But a B/L can exist with-

out a C/P. The concept of a B/L being a negotiable instrument and document of title, has also given rise to frauds from time to time.

M.V. Lord Byron, 8200 DWT³, sub-chartered to carry a load of sugar, was kept idle in Bangkok for 13 days waiting for cargo, to make out a case that she took 13 days to load 10,000 tons sugar. During this time the Charterer's agent invited the Master ashore many times, and entertained him with every facility, courtesy and hospitality. Suddenly, on a Saturday afternoon, 6,874 bags of sugar were loaded from a few barges, against 6,874 TONS nominated by the Master. At 0400 Sunday, the same charterer's agent who had entertained the Master lavishly, told him to SAIL as charterers had already lost a lot of money by detaining the ship waiting for cargo. He assured the Master that demurrage and dead freight will be paid, but that since neither B/L could be signed, nor manifest prepared that early on a Sunday morning, all these would be forwarded to the Master at port of discharge. The Master fell for it and gave written authority to charterer's agents to sign the B/L. L/C for \$ 5.9 Million was negotiated in the Bank early Monday morning, by submitting B/L's under Master's written authority.

The ship was detained by Somali authorities as she should have brought 11,000 Tons, not 6,874 bags of sugar, for which they paid US\$ 5.9 Million under L/C. Master explained that a vessel of 8,200 DWT, cannot carry 11,000 tons of sugar and that he nominated only 6,874 tons but loaded only 6,874 BAGS, but failed to convince Somali authorities that he had not participated in a fraud against the Somali people.

More recently, The Hamburg Rules were framed by a Convention on Carriage of Goods by Sea, which made some fundamental changes to the Form of B/L, and to some details, as also to laws applicable to B/L's. This convention has also defined a B/L in so many words, for the first time ever. "A document which evidences a contract of carriage by sea and the taking over or loading of the goods by the carrier, and by which the carrier undertakes to deliver the goods against surrender of the document." Hague-Visby Rules do not apply to inward shipments. Hamburg Rules apply to ALL contracts of carriage by sea, whether in writing or not, without regard to Ship's Flag, provided Port of loading OR Discharge is located in a contracting State or if contract of carriage is issued in a contracting State.

Hamburg Rules also apply if the contract provides

that this convention is to govern! This includes the carrier, actual carrier, shipper and consignee! 'Carrier' includes any person by whom or in whose name a contract of carriage of goods by sea has been concluded.

Actual Carrier has been defined in Article 1(2), which includes truckers, stevedores and terminal agents. Article 10 holds the ocean carrier responsible for acts of the actual carrier. Liability of Carrier & Actual Carrier, has been made joint and several. But a single limit of liability applies. The Shipper holds that party responsible in whose name the B/L was issued. A merchant can include a clause in HIS contract that Hamburg Rules will apply, regardless of whether his country has ratified this convention or not.

Under Hague Visby Rules, the carrier is responsible from 'Tackle to Tackle'. Article 4 of Hamburg Rules extends responsibility from the time the carrier 'takes over' the goods even on a truck at factory door, to point of delivery. Now the Carrier is liable for DELAY in delivery. Consignee can treat the goods as lost if they are not delivered within 60 days after expected time of delivery. Exceptions covering negligence in Navigation and management of the ship, have been abolished. Deck Cargo shipped in agreement with shipper is covered. To issue 3 original B/L's, is optional. But Hamburg Rules have neither received ratifications necessary for their entry into force, nor adopted by any state with a major share of seaborne world trade. Therefore the 1968 Hague-Visby Rules are still widely used.

When the C/P requires that the Master is to sign B/L's as presented, it does not mean that the Master cannot endorse actual condition and/or quantity of cargo loaded on board. The bonafide buyer of a B/L is entitled to rely on accurate count and description of the goods as endorsed on it. Sometimes shippers try to persuade the Master not to make such endorsements. They either confront him with the above-cited clause or alternatively offer him a letter of indemnity in exchange for a clean B/L. If the Master falls prey to such persuasions, he participates in a fraud against ultimate buyers of the B/L by not correctly describing the condition and/or quantity of the goods loaded on board. Also an indemnity letter of a foreign shipper, is not enforceable against a consignee/receiver in another country.

In 2002, a British Court⁴, defined the nature of the Master's duty to issue and clause B/L and circumstances under which he is entitled to

decline to sign clean B/L. Specifications of Goods to be loaded on "David Agmashenebeli" were "Urea in Bulk, white colour, free flowing, free from contamination" etc. C/P terms were, "Master to sign B/L as presented, in conformity with Mate's or Tally Clerk's receipts". Documents to be presented under L/C were a full set of clean on board B/L's, and a certificate of quality to be issued by Independent Inspector. It was also provided that, "no damaged cargo to be loaded into the holds." Master had the right to stop loading. Within three hours after loading commenced, Master informed all parties, that cargo contained rust, plastics and other contaminants, and was of a dirty colour, and sent a letter of protest. The Mate's receipt was endorsed, "Cargo discoloured also foreign materials e.g. plastic, rust, rubber, stone, black particles found in cargo." B/L was endorsed accordingly.

Banks refused to honour L/C under claused B/L. An inspection report at discharge port concluded that the cargo was in normal condition. Owners contended in courts that what mattered was not actual apparent condition but what an ordinary, reasonably skilled Master, honestly believed to be 'apparent order and condition'. Claimants argued that as a responsible and reasonable ship's officer, the Master could only sign B/L which accurately stated apparent order and condition of the goods. **It was held** that Master should make up his mind whether in so far as he could see, the cargo appeared to satisfy its description in the B/L. If he honestly believed that cargo was not in apparent good order and condition, and that was a view which could properly be held by a reasonably observant Master, he was entitled to qualify the B/L. But if he honestly took an ECCENTRIC view of the apparent condition of the cargo, which would not be shared by any other reasonably observant Master, he would not be justified in qualifying the B/L. On evidence, the level of contamination in the cargo prior to loading was slight. The Master was entitled to clause the Mate's receipt to say that a small proportion of the cargo was discoloured but not to use words which conveyed the meaning that the entire or a substantial part of the cargo was affected. Since the urea was not entirely white in colour, the Master should have referred to partial discoloration.

In *Sea Success Maritime Inc v African Maritime Carriers Ltd*⁵, the Master was authorized to reject any cargo that is "subject to clausing of B/L's." Cargo of hot rolled steel coils was tendered for shipment in a damaged condition. Master refused to permit it to

be loaded. Survey report stated that the hot rolled steel coils had been kept in an open store, subject to adverse weather conditions. Cargo was rusty, with a percentage of it suffering from dents and buckles. Arbitrators held that on true construction of clause 52, Master was entitled and obliged to reject cargo presented for shipment.

It was held on appeal in the QBD by Mr. Justice Atkin on 15.7.2005, that under specific provisions of T/C, Master was obliged to sign B/L "as presented". But if he inaccurately described the cargo as being in "good" or "apparent good" condition, it would make a misrepresentation of fact. If on examining the cargo, the Master took the view that he would have to qualify the B/L, either charterers/shippers had to agree to change the description of cargo in the draft B/L, or the Master had to qualify, or "clause" B/L, as to its apparent good order and condition, assessed by him. If shippers insisted on THEIR description and Master reasonably concluded that it was not correct, he had the right and duty to reject the cargo leaving shippers with a choice to take back their cargo.

The M.V 'Normadic'⁶ carried goods from Holland to Apapa. Defendants used the vessel as a warehouse after arrival. Plaintiff claimed demurrage/damages for detention. B/L's were 1978 Congen bills, stated to be used with charter parties. Clause 1 printed on back of B/L stated that all terms, conditions, liberties and exceptions of the charter party were incorporated in the B/L. Defendants disclaimed liability, arguing that they were strangers to the charter party.

The Nigerian Supreme Court rejected this argument and held that B/L properly incorporated terms and conditions of C/P and defendants were bound by it. The Court further added that appellants, having taken delivery of the goods as consignees must know or be deemed to have had notice of terms and conditions of the charter parties.

CONCLUSIONS

Today, the Master rarely signs B/L's. They are usually signed under his authority. Also, through B/L's are signed miles away from the ship. When the C/P stipulates that the Master is to sign B/L as presented, it does not mean that he should sign them clean even when cargo is damaged or if quantity of cargo is not what is stated on the face of the B/L. L/C may require cargo to be shipped before a certain date and may not remain valid if cargo

is not loaded before that date. The Master never sees the L/C and would not know this. But the B/L MUST be dated in accordance with the date cargo was shipped, otherwise it is a fraud against ultimate holder of the B/L, and a letter of indemnity does not alter the nature of such a fraud.

B/L being a document of title, unless the Master has clear instructions from owners, he must not lose possession of cargo unless B/L is produced. Even though a straight B/L cannot be endorsed to transfer constructive possession of goods to someone else, a carrier is still obliged to deliver, only against an original B/L, but to the named consignee. When a B/L is produced and cargo delivered, it must be endorsed 'accomplished' to avoid subsequent frauds.

Under UNCLOS 1982, ships come under laws of the country where they are. Freight prepaid B/L's do not usually pose problems in foreign countries. But 'Freight collect' or 'freight to pay' B/L's are usually a problem if receiver does not pay before discharge of Cargo. Master has a lien on Cargo for unpaid freight, local laws may intervene in exercising such a lien in a foreign country. Also it may be impractical or very expensive to exercise a lien and the ship may be delayed. There can be other issues pertaining to cargo and B/L's in a foreign country especially under local laws.

Historically the international commercial and trading communities, have always engineered to amend rules of private International Maritime law, from century to century and from year to year, to protect and advance their own interests, to suit exigencies of their times and in accordance with requirements of trade and commerce. For example today there are many types of Bills of Lading such as received for shipment B/L, Way Bills, straight consigned B/Ls, switch B/Ls etc etc., all devised by the trade, to suit exigencies and requirements of their times. Most countries of the world have usually accepted and enforced such variations within their sovereign territories, in the interest of International Interaction and for their own prosperity which comes in the wake of International trade, and Commerce.

Finally, for over 200 years since the modern University system began, there has been an ongoing debate amongst academics whether there is anything such as International Law or for THAT matter International Maritime Law, at all!? Those who say yes, claim that most prevailing rules and traditions are normally followed by most countries world-wide, and that therefore the core of Interna-

tional Law in general and International Maritime Law in particular, cannot be ignored or disputed.

Those against, say that if any one and any country in the world can violate the rules and traditions of International Law or International Maritime Law with impunity, through might and AT will, they have no force and no sanctity. Therefore International Law or International Maritime Law, is the Law of the Jungle. Thus the debate continues.

There is an old proverb

GOOD COMMERCIAL PRACTICES PROMOTE BAD LAWS.

GOOD LAWS PROMOTE BAD COMMERCIAL PRACTICES.

(Endnotes)

^[1] *EWHC* [2004] 2929 (Comm) 15 December 2004

^[2] *Sze Hai Tong Bank v Rambler Cycles Co* [1959] 3. All England Reports 182

^[3] *Unreported*

^[4] *David Agmashenebeli English Admiralty Court*: [2002] Colman J.: 31st May

^[5] *Sea Success Maritime Inc v African Maritime Carriers Ltd.* [2005] *EWHC* 1542 (Comm)

^[6] *Sea trade Groningen B.V Vs P.A.Awolaja (M.V.Normadic)*

Defending Ships Against Piracy

From BIMCO Website

Strange though it might appear, piracy is a real problem in the 21st century, with regular attacks on shipping in the Indian Ocean and Gulf of Aden, and off West Africa. An earlier piracy "hotspot" has been the Malacca Strait and other parts of South East Asia and the China Sea, but better policing seems to have reduced this problem somewhat. Successful capture and prosecution is a great disincentive to piracy. Political instability ashore is at the root of this modern marine plague, and ultimately the piracy problem must be solved on land by governments imposing proper law-enforcement. Ships and those aboard them have to defend themselves against pirates by a combination of strategy, vigilance and communications. The Somali pirates, which have been most active, attempt to seize ships and those aboard them for ransom, using fast skiffs to board and armed with a selection of light weapons and rocket propelled grenades to capture the unarmed merchant ships. Slower ships and those with a low

freeboard, facilitating easy boarding, are the most vulnerable.

Strategies to counter the Somali pirates have included the patrolling by warships and aircraft and the use of recommended routes through the Gulf of Aden where surveillance can be provided. Ships have been recommended to keep several hundred miles off the Somali Coast. The pirates however have extended their range by means of "mother ships" and have successfully captured lone ships as far east as the Seychelles, more than 600 miles from the east coast of Africa where they have their bases.

Can ships offer any defence against this modern plague? It is a fact that there have been almost no successful attacks upon fast ships, so if speed is possible, it should be employed. Vigilance is a useful tool, as pirates often rely on fast, surprise attacks from their small craft, and extra lookouts should be used. Should merchant ships be armed? Should armed security guards be employed? The shipping industry has agonised about such questions, but the consensus is that seafarers are not trained in the use of weapons and even the use of armed security guards risks the pirates escalating the situation, perhaps tooling up with heavier arms.

Rather more "passive" security is recommended, such as the use of water hoses and fire monitors to dissuade pirates from boarding. Razor wire strategically deployed around the accommodation island has been effective and the use of high intensity sound has kept pirates at bay. Better design for new ships, it has been suggested, could help ships become more intrinsically secure, and prevent pirates from boarding, or if they succeeded, in ensuring that they could not enter the accommodation.

IFSMA Seminar - Saturday 26th June, Manila

We will be holding a one day seminar immediately following the STCW Diplomatic Conference in Manila, Philippines.

The IMO Secretary General has agreed to give an opening speech at this event.

The theme will be "2010 The Year of the Seafarer".

Dangerous Cargo Vapours on “Jo Eik”

UK MAIB Report 24/2009

On 6 May 2009 the chief officer and an AB on board the chemical tanker *Jo Eik* were overcome as they entered an area of the main deck which contained released cargo vapours. They were rescued and taken to hospital, where they made a full recovery.

Jo Eik loaded a cargo of MARPOL Category “X” Crude Sulphate Turpentine (CST) in Savannah, USA. Arrangements were made for a Ship to Ship (StS) transfer with the chemical tanker *Puccini* while alongside the Vopak Terminal at Teesside. Following the StS transfer, *Jo Eik* carried out a mandatory MARPOL pre-wash using portable washing equipment because the majority of the fixed washing systems were defective. The washing machine water supply hose was passed through P10 cargo tank inboard Butterworth hatch, which remained open. As the cargo tank was washed, water mist containing cargo vapours escaped through the open hatch as the tank’s atmosphere was agitated. The vapours accumulated around the Butterworth hatch in what was an unidentified enclosed space. The on watch AB entered the area to isolate the cargo pump hydraulic motor valves. He was immediately overcome and lost consciousness. The chief officer and another AB attempted to rescue the unconscious AB. Neither was wearing breathing apparatus. The chief officer was rapidly overcome. The AB also suffered the effects of vapour inhalation/oxygen depletion, but managed to escape unaided.

There were two Material Safety Data Sheets (MSDS) in circulation for the CST. The cargo specific MSDS held by *Jo Eik* identified hydrogen sulphide (H₂S) as a constituent part. The other MSDS passed to the terminal staff and to *Puccini* did not. The CST cargo hazards were not recognised by the chief officer of *Jo Eik* because proper reference was not made to the MSDS and the crew were not informed because a Teesside pre-arrival conference was not carried out. This contributed to inadequate risk control measures being established.

Some areas on the deck of *Jo Eik* fell into the category of enclosed spaces as defined by the International Maritime Organization (IMO). This was not recognised by the crew, so the appropriate safety precautions were not taken. There was also a com-

placent attitude regarding the need for respiratory protection during cargo operations. The requirement was not enforced and this put the crew at risk.

Jo Tankers AS has established a range of measures to address its organisational shortcomings. These include instructions for management of unfamiliar cargoes, including those containing H₂S, surveying the deck to identify and label areas falling into the enclosed space category, the use of personal gas detectors and repair of the fixed tank washing systems.

A number of recommendations have also been made to Jo Tankers AS. These include actions to ensure pre-arrival conferences are carried out which identify the cargo risks and safety measures required, for the diligent completion of cargo operation checklists, and for enforcing the use of respiratory protection in accordance with the ship’s Quality Management System (QMS).

A MAIB safety flyer covering the circumstances of the accident has been distributed to the chemical tanker and related industries.

The full report may be viewed at:
<http://tinyurl.com/yh7t2ej>

Book Review

I am always pleased to see a book that will help Shipmasters meet the responsibilities which are piled upon them as increasing international legal pressures can make their lives very difficult. One such book has come onto the market and apart from concisely and clearly explaining the legal aspects of maritime law, it makes a really good read. The book is *Captains Legal* and is written by the same author, Captain Michael Lloyd, that brought us another excellent book *In Command*.

As its name implies the author rightly focuses the contents on the issues from the aspect of the serving Shipmaster, but I will also be recommending this book to students of the Maritime Diplomas that I am involved in. Highly recommended! The book is Printed by *Witherby SeamanShip* and is available from www.witherbyseamanship.com

2010 Award for Exceptional Bravery at Sea

The closing date for nominations of candidates to be considered for the 2010 IMO Award for Exceptional Bravery at Sea is 15 April 2010.

Nominations, for actions performed during the period 1 March 2009 to 28 February 2010, may be made by non-governmental international organizations (NGOs) in consultative status with IMO, such as IFSMA. **The deadline for IFSMA receiving nominations is 1 April 2010 for forwarding on to IMO.** If you wish to make a nomination please contact IFSMA for a copy of the guidelines.

Individuals wishing to highlight an act of bravery should approach IFSMA to make the nomination.

The winner of the Award will be presented with a medal, which will be accompanied by a certificate citing the act of exceptional bravery performed.

The annual award was established by the Organization to provide international recognition for those who, at the risk of losing their own life, perform acts of exceptional bravery, displaying outstanding courage in attempting to save life at sea or in attempting to prevent or mitigate damage to the marine environment.

The recipient of the Award is invited to a special ceremony at IMO to receive a medal and a certificate citing the act of exceptional bravery performed.

11 People on a Rope

Eleven people were hanging on a rope under a helicopter, ten men and one woman. The rope was not strong enough to carry them all, so they decided that one has to leave, because otherwise they are all going to fall. They were not able to name that person, until the woman made a very touching speech.

She said that she will voluntarily let go of the rope, because as a woman she is used to giving up everything for her husband and kids, or for men in general, and was used to always making sacrifices with little in return. As soon as she finished her speech, all the men started clapping their hands.....

Norwegian E-navigation User Needs Survey

Conducted by the Norwegian Coastal Administration, Maritime Safety Department

Background

The purpose of the survey was to help bring mariners and shore operators' experiences and views into the e-navigation studies. Many findings in this survey strengthen the findings from other surveys and the e-navigation user needs as they are written now. However, there were also a few issues that have not yet been captured in relation to e-navigation.

Norway conducted a survey of maritime user needs in relation to e-navigation during October and November 2009.

The questionnaire used in this survey was slightly adapted from the questionnaire used in the German survey that was the basis for the German input to NAV55: NAV55/11/3 and NAV55/INF.9 Development of an E-navigation implementation plan.

In total 575 responses were received in the period up to November 21st. Of these 486 were mariners and 72 were ashore operators. The majority of respondents were Norwegians or associated with Norwegian ship owners, but some respondents were from Sweden.

The mariner respondents have their primary experience from a large variety of types of ships ranging from cruise-ships, tankers, cargo vessels, offshore supply vessels, fishing vessels and HSC. Each of the operational areas of coastal, regional, international and global oceanic areas are represented by at least a third of mariner respondents.

Around half of the ashore respondents represent vessel traffic centres, maritime rescue centres, coastal radio stations and harbours. The remaining half possesses much maritime experience but currently fill various shore-based administrative positions with ship owners and government agencies.

More than two thirds of the respondents have more than 10 years experience and less than

2% have less than one year's experience.

The primary findings from the survey are included below.

Which problems occur during communications?

In communications between ships language skills is considered to be a problem to a high or moderate degree by 81% of respondents, non-standard communication phrases is similarly rated by 55% of respondents, unreliable communications equipment by 28%, user inability to operate the communications equipment 41% and busy communication channels 49%. Taking only the high degree rating into account, language skills in communications between ships is considered to be a problem to a high degree by three times as many respondents as the second most significant issue.

In ship-shore communications, language skills is rated by 44% of respondents as a problem to a high or moderate degree, non-standard communication phrases is similarly rated by 30% of respondents, unreliable communications equipment by 23%, user inability to operate the communications equipment 22%, busy communication channels 43% and time-consuming ship-reporting requirements 42%.

This would indicate that respondents consider language skills to constitute an important challenge in maritime communications

Ship-reporting

77% of respondents are in favour or rather in favour of improving the efficiency of administrative ship-reporting procedures by use of the single window concept.

AIS text message communication

45% of respondents consider AIS text messages to be an effective means of communications (agree or rather agree), whereas 28% consider it to be ineffective (disagree or rather disagree).

Between 40% and 47% of respondents are highly concerned about the lack of confirmation that AIS text messages were received and understood, that texting is a slow means of communications and that many vessels are not equipped with AIS.

Respondents comment that the AIS equipment is too time consuming to operate and generally lacking in user friendliness.

Thus there seems to be no clear recommendation that AIS binary messages are a feasible form of communication at least when quick and reliable communications are needed.

Maritime information and navigation display

There seems to be a clear view from the respondents that many different kinds of information should be available for display on the ship's navigational display.	
Taking in-favour and rather-in-favour ratings together a rated list of categories of maritime information can be created.	
Type of environmental information	In Favour or rather in favour
Wind speed / direction	94,0%
Current speed / direction	91,0%
Wave height / direction	85,0%
Tide / water level	84,0%
Ice information	70,0%
Barometric pressure	63,0%
Air / water temperature	58,0%
Relative humidity (dew point)	35,0%
Navigational warnings (f.ex. buoy off station)	92,0 %
Fairway closed	91,0 %
Harbour closed	89,0 %
Zone information (e.g. construction work, SAR area)	88,0 %
Sailing directions (route advisories)	82,0 %
Bridge open / closed	81,0 %
Anchorage assignment	79,0 %
Berthing assignment	77,0 %
Lock order	70,0 %
Procession order	65,0 %

The S-mode is supported by 70% of respondents (in favour and rather in favour taken together) whereas 7% do not support it (Not in favour or rather not in favour).

Terrestrial backup for radio navigation

71% of the respondents consider visual and radar positioning as sufficient backup for GNSS (in favour and rather in favour taken together). More than half the respondents (56%) chose to be in favour or rather in favour of an additional terrestrial navigation system as a backup.

Although radar and visual is considered a good backup for GNSS there is also a significant portion, more than half, of respondents that consider that a terrestrial navigation-system is needed as a backup.

Communications technology

90% of respondents are in favour or rather in favour of satellite broadband as a means of communications in maritime communications.

Other communication systems are pointed to in comments, like Iridium for use in polar areas, VHF voice and VHF-data link. Also range limitations for Wi-Fi and mobile is commented on, along with issues regarding high cost, narrow bandwidth, lacking reliability and blind sectors for broadband satellite.

This would indicate that there is a clear expectation that high-capacity communications will be needed and that satellite based broadband technology will be part of a communications infrastructure for e-navigation.

Other comments

The respondents contributed many comments and suggestions in their feedbacks.

To a large degree these reflect lack of user friendliness in equipment, technical complexity and a too large flow of information. Reliability of equipment and of AIS-data in particular is also forwarded by a number of respondents.

- The need to employ electronic maritime publications including frequent and automatic

updating plans

- An on-board data repository containing information about the ship, crew, passengers and cargo that may be interrogated in an automatic way, as needed by shore authorities like, for example, VTS is suggested
- Voice communications, like VHF, is pointed at as the quickest and most effective means of communications between ships and ship/shore as compared to typing text-messages
- More frequent updates and stricter requirements for updating electronic charts
- The ships MMSI should be automatically fed from AIS-targets into the VHF in order to more quickly be able to initiate communications with a selected ship.

Telephone Problems

An elderly lady phoned her telephone company to report that her telephone failed to ring when her friends called - and that on the few occasions when it did ring, her pet dog always moaned right before the phone rang. The telephone repairman proceeded to the scene, curious to see this psychic dog or senile elderly lady. He climbed a nearby telephone pole, hooked in his test set, and dialed the subscriber's house. The phone didn't ring right away, but then the dog moaned loudly and the telephone began to ring.

Climbing down from the pole, the telephone repairman found:

1. The dog was tied to the telephone system's ground wire via a steel chain and collar.
2. The wire connection to the ground rod was loose.
3. The dog was receiving 90 volts of signaling current when the phone number was called.
4. After a couple of such jolts, the dog would start moaning and then urinate on himself and the ground.
5. The wet ground would complete the circuit, thus causing the phone to ring.

Which goes to show that some problems can be fixed by p***ing and moaning.

A Flood and Fire – a Testing Time

UK MAIB Safety Digest 3/2009 – may be viewed at <http://tinyurl.com/yfz88x7>

Narrative

The master of a Panamax container ship obtained a weather forecast before sailing just after midnight. The forecasted winds of force 5 to 6 were set to worsen, but this did not concern him. After dropping off the pilot the master instructed the bosun to fully secure the anchors. The chain lashing was fitted and the Senhouse slip tapered pin pushed in by hand, the guillotine blocks were lowered and it was said that the brake was fully tightened (Figure 1). After the bosun reported the anchors secured, the master increased speed. No heavy weather checks were carried out.

Overnight the weather deteriorated and the ship's speed was reduced. At about 0800 the chief officer was sufficiently concerned about the conditions that he put the upper deck out of bounds so that heavy weather checks could not be undertaken. However, he did warn the engineers and catering staff to check that their departments were properly secured for rough weather. A rapid sequence of events was about to take place.

By 1200 the wind had further increased to force 8 to 9, with rough seas. At about 1215 alarms sounded in the Engine Control Room. There was a smell of burning around the electrical supply breaker panels, and a number of earths were detected, as well as a high temperature bow thruster motor alarm – although the motor was not running. The symptoms were somewhat confusing. A short time later the bow thruster fire alarm sounded.

The master altered course to provide safe access across the deck. On entering the bow thruster room the cause of the confusion quickly became apparent. A number of holes were found in the port side of the bow thruster room shell plating, through which water was pouring. The crew blocked the holes with wedges and neoprene rubber, and this stemmed the water ingress. It was found that the port anchor chain lashing had released and the anchor had fallen against the windlass brake tension, into the water. As the ship had pitched, the anchor had impacted against the hull, causing numerous indentations and holes (Figure 2), and flooding to five adjacent compartments.

After securing the anchor once again, the passage was resumed to the next port, where repairs had been arranged by the shore management. Despite the crew's damage control efforts, and continuous bilge pump operation, the water level in the bow thruster room eventually reached the outside sea level because of undetected holes in the bilge area. As the ship continued her passage, the weather moderated, and she arrived in port for repairs and cargo operations 3 days later.

On arrival at the lay-by berth, a survey identified the need for 23 insert plates. The port authority approved the hot work, which was conditional upon the contractor complying with the ship's Safety Management System (SMS). However, the instruction was in a foreign language which the crew did not understand, and they did not query it.

The ship duly moved to the container berth to discharge her cargo. As far as the crew were concerned the contractors were moving their repair equipment on board, which included 15 acetylene and 16 oxygen bottles stowed on the forecastle, in preparation for hot work to be carried out on return to the lay-by berth. However, this plan was not the one to which the technical superintendent, who was overseeing the repair, or the repair contractor, was working.

The ship moved to the container berth at 1930 and, at 2045, unbeknown to the crew, the contractor started to burn out the damaged sections of the hull plating in the forepeak and in the bow thruster room. After a short meal break the contractor resumed work at 2345. At 0055 the safety watchman on the forecastle left the area and went to the accommodation area without telling the foreman. Very soon afterwards, oxyacetylene burning stopped so that the rough edges of the holes could be ground off. At 0110 the foreman decided to leave the forepeak to check progress in the bow thruster room. As he was about to go onto the forecastle, he was met by a mass of sparks, which prevented his exit. Because the contractors were not equipped with VHF radios, the foreman used his mobile telephone to ask the safety watchman about the cause of the fire. The safety watchman, believing this was a joke, did not return to the forecastle.

In the meantime, the burner in the bow thruster room tried to re-light his blowtorch and found the acetylene pressure was too low. He and his assistant went to the acetylene storage area, but were confronted by a ferocious fire on the port polypropylene mooring rope and from the acetylene bottles. They

attempted to close off the bottle valves, but the fire was too fierce. To their credit they then rigged a fire hose, but because the ship operated a dry fire main their efforts were thwarted. They then raised the alarm as the safety watchman returned to the scene.

The ship went immediately to muster stations, and soon afterwards two acetylene and one oxygen bottle exploded. Two fire parties made an attack on the fires from behind the breakwater bulkhead (Figure 3). They successfully extinguished the fire on the mooring rope, and then set about cooling down the gas bottles as the local fire brigade arrived.

One of the workers in the forepeak managed to escape onto the forecastle, and four others escaped onto a harbour tug through the holes they had cut in the forepeak shell plating.

By 0400 the fire had reduced and, at 0546, it was confirmed extinguished.

Fortunately there were no casualties and the damage was limited to the forecastle area, where burnt clothing was found. Had the ship's fire-fighting teams not taken the action to cool the acetylene bottles, more of the bottles could easily have exploded, causing structural damage and personal injuries. All the acetylene and oxygen bottles were badly damaged, the deck plating was distorted and the mooring winch electrical supplies were burnt, as was the winch.

The Lessons – Heavy Weather

The heavy weather damage was caused because the chain lashing Senhouse slip tapered securing pin was not fully secured. As the ship pitched in the heavy seas, vibration would have been set up, and this would have been exacerbated by water rushing up the hawse pipes because the covers had not been fitted. As the pin became displaced, the slip released, allowing the chain lashing to fall into the hawse pipe. The anchor cable progressively dropped as the acceleration forces overcame the winch brake, which was not fully applied. As the ship pitched, the anchor made contact with the hull, causing the indentations and penetrations.

1. Do take due account of the weather forecasts when deciding to carry out heavy weather checks – do it early, because when the weather turns it may be too late.
2. Ensure the heavy weather checklist is sufficiently detailed and adapted to be ship-specific.

Many are not, and this can lead to important checks being missed.

3. Make sure that the relevant crew are familiar with the anchor chain securing arrangements. Bottle screws should be tightened after the Senhouse slip is connected to ensure the system is fully secured. All too often the bottle screw is considered to be in the right position as long as the slip can be connected. The acceleration forces are high, and will find any slackness in the system.

4. In this case, the Senhouse slip was a tapered pin, and it could be argued that it was not best suited to the application. Mousing the pin or changing it for a “drop nosed” pin would have made it more secure.

5. Winch brakes need to be applied tightly. Take due account of the stature of the individual crew responsible for tightening the brake. Using a wheel spanner or extension bar to get added purchase may be necessary.

The Lessons – Fire

The fire was likely to have been caused by a discarded cigarette, which had ignited clothing found in the vicinity of the mooring rope and acetylene hoses. The acetylene ignited because the gas bottle valves were open. Because the “in use” bottles were co-located with the storage bottles, the fire spread to the other bottles and so escalated.

Unfortunately none of the hot work Permit To Work (PTW) control measures were in place, and the contractors were not briefed on safety procedures because the crew were unaware of the intention to carry out hot work. Effective communications were an early casualty in this accident.

1. Ship's staff must become fully engaged with contractors and understand their scope of work.
2. If shore management undertakes the oversight responsibility, the safety of the ship and her crew remains with the master.
3. Where there is high risk work being undertaken it may be appropriate to pressure dry firemain systems – a risk assessment will help in making the decision.
4. Where a port authority gives work approval in a foreign language, arrange for it to be translated so that the ship's responsibilities are fully understood.

5. Where the contractors provide the safety watchman, insist on him/her always being on station.

6. Conduct regular rounds of the work site, and do not hesitate to order work to stop if you believe safety is being compromised.

Remember: it is good practice to segregate the “in use” gas bottles from the storage bottles to reduce the risk of a fire spreading.

Safety Management 911

First published in “ReportISM” #16 – www.consult-ism.co.uk

Commercial Issues and Safety Management – are they incompatible goals?

A practice has become apparent, both from the legal cases we are involved with, as well as reports and feedback being received from Vetting Inspectors, Ship’s Masters and others, which is of great concern.

Some tanker operators appear to be experiencing considerable difficulty satisfying the requirements of Vetting Inspectors acting on behalf of Oil Majors. They appear to be ‘fire-fighting’ in their attempts to deal with the various problems and deficiencies being identified by the Vetting Inspectors. Sometimes they can do just enough to resolve the specific issues and manage to scrape through – until the next Inspection when a whole range of new deficiencies are identified.

This in spite of the ship operators supposedly applying the principles set out in the Tanker Management Self Assessment (TMSA) program.

When this situation is analysed closely it becomes clear that what the tanker operator is doing is dealing with symptoms and not addressing the underlying cause.

The analogy of a physician is useful and illustrative to help understand the problem.

When a patient consults the physician he may describe one or more symptoms which are affecting his general health and well being. He may, for example, complain of headaches. The physician may not go into any detail with a diagnosis but simply prescribe aspirin – which may help to relieve the symptom – the headache – for a short time. However, a week later the patient is back to see the physician complaining of dizzy spells. On this occasion the

physician conducts a more detailed questioning of the patient and discovers that the patient has also been vomiting and has experienced blurred vision – more symptoms of an underlying problem.

Using this information and a detailed physical examination followed by blood tests and x-rays – the underlying cause is discovered – the actual illness / disease is diagnosed and the appropriate cure properly prescribed. Only once the underlying causes have been dealt with will the symptoms stop appearing and a cure properly achieved.

Returning to the situation which exists in some tanker operating companies and on board their ships – there are a number of warning signs to look for which should alert you to a serious underlying problem:

- Numerous deficiencies and problems being identified during vetting inspections;
- Numerous deficiencies and problems being identified during Port State Control inspections;
- Zero observations or non-conformities being identified during internal audits.

Such a situation would be indicative of a Company in self-denial with a seriously defective safety management system. Such a Company could continue trying to fix the deficiencies – i.e. the symptoms – but will never solve its problems until they properly develop and implement their SMS.

The reality is that the ‘fire-fighting’, whilst trying to provide the short term fixes to the immediate problems identified by the Vetting Inspector or Port State Control, will be an enormous drain on resources of all types. This situation also puts the Company in a poor light with the potential customer – the Oil Major.

Deficiencies being raised by Port State Control may lead to detentions with the consequences which may flow from that and in any event will attract the attention of PSC in other ports visited – which in turn will result in additional visits and the potential for more deficiencies being identified. Such problems may also come to the attention of the P&I Club or Hull Underwriter who may decide that they should have a look at the vessel and how the SMS is working – and no doubt they will compile their own list of deficiencies and problems.

The Master, Officers and Crew onboard such a ship

will make their own judgement on the situation and the top quality staff will look towards other Companies for their future careers. Of course the most important point is that such a situation has a very high potential for accidents – and consequently claims – to arise.

Inevitably, the Company which is trapped in the ‘treating symptoms’ syndrome, doing just enough to get the ship through the latest Vetting Inspection, will find that almost all its resources are being directed to that activity. The Company adopts the position that if the ships do not get through the Vetting Inspections then they will not be taken on Charter and if they are not on charter they are not earning money – and so all priorities are spent on getting the ship through the Vetting Inspection. This whole attitude is short sighted, misguided and seriously mistaken.

Indeed the Master, Officers and Crew on board are frequently the ones who suffer most from this situation. They are often torn between trying to implement an ineffective SMS which is probably well past its sell-by date and abandoned by the Company and, on the other hand, trying to provide the quick fixes to whatever is picked up by the Vetting Inspector. The result is confusion and demotivation amongst the sea staff.

As this demotivation sets in and the experienced sea staff make their exit the result is that less experienced and competent officers move in to take their place. Vetting steps up a notch to address the issues arising from the reduced experience and competence of the officers and the spiral downwards seems to be increasing without any solutions being proposed.

The short-term fix is nothing more than that – the deficiencies and problems will continue to arise and a serious accident is likely to arise at any time. The only way to solve the problem is to dig deep and identify the root cause problem and then do what is necessary to cure that disease. Invariably, the problem is an ineffective SMS which has not been either adequately developed and / or implemented.

Clearly there must be a SMS in place – and, at some point, a Flag State Administration / Recognised Organisation must have considered the SMS adequate since, presumably, the Company was issued with a Document of Compliance (DOC) and the ship a Safety Management Certificate (SMC). Unfortunately, this does not necessarily mean that the SMS is either effective or efficient.

The reality is that a Company is expending considerable sums of money, and other resources, ‘fire-fighting’ trying to get its ships through Vetting Inspections and will also incur not inconsiderable sums doing just enough to maintain its DOC and SMCs. Whilst an initial outlay, and other commitments, may be necessary to deal with the underlying root cause problem this will be the greatest investment a tanker operator could possibly make and would be quickly recovered in the medium term. Once that investment is made the symptoms will cease to appear and all the costs and drain on resources ‘fire-fighting’ simply will not be necessary in the future.

The reputation with the customer – the Oil Major – will grow. The record with Port State Control will improve – resulting in fewer visits. The Company will become an attractive career option to the top quality Masters, Officers and Crew - motivation will be increased and through strong leadership the people at the sharp end will make the SMS efficient and effective. Most important of all, the chance of an accident happening will have been reduced to a minimum. Everyone is a winner – including the customer – the Oil Major.

Every tanker operator should take a long, hard and honest look at itself and reflect upon whether its focus is on getting its ships through Vetting Inspections or on managing safety. These should not be seen as conflicting goals or competing for resources. The reality is that if a tanker operator gets its management of safety properly sorted then it will, quite naturally, take Vetting Inspections and Port State Control inspections in its stride.

That Crazy English Grammar - 1

Verbs HAS to agree with their subjects.

Never use a big word when a diminutive one would suffice.

Eschew obfuscation.

A writer mustn't shift your point of view.

About them sentence fragments.

As far as incomplete constructions, they are wrong.

Check to see if you have any words out.

Use words correctly, irregardless of how others use them.

Understatement is always the absolute best way to put forth earth shaking ideas.

ReCAAP & ISC

The *Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP)* is the first government-to-government agreement that addresses the incidence of piracy and armed robbery in Asia. The ReCAAP initiative aims to enhance multilateral cooperation among sixteen regional countries. The Agreement was finalised on 11 November 2004 in Tokyo, and came into force on 4 September 2006.

To date, there are fifteen Contracting Parties to the agreement. These are the People's Republic of Bangladesh, Brunei Darussalam, the Kingdom of Cambodia, the People's Republic of China, the Republic of India, Japan, the Republic of Korea, the Lao People's Democratic Republic, the Union of Myanmar, the Kingdom of Norway, the Republic of the Philippines, the Republic of Singapore, the Democratic Socialist Republic of Sri Lanka, the Kingdom of Thailand, and the Socialist Republic of Viet Nam.

The ReCAAP ISC (Information Sharing Centre) was officially launched on 29 November 2006 in Singapore. The ReCAAP ISC is overseen by a Governing Council which comprises one representative from each Contracting Party.

The ReCAAP Information Sharing Centre (ReCAAP ISC) is established under the Agreement. The roles of the ReCAAP ISC include exchanging information among Contracting Parties on incidents of piracy and armed robbery, facilitating operational cooperation among Contracting Parties, analysing the patterns and trends of piracy and armed robbery and supporting the capacity building efforts of Contracting Parties.

Each ReCAAP Contracting Party designates a Focal Point responsible for its communications with the ReCAAP ISC. The role of the ReCAAP Focal Point is to facilitate smooth and effective information sharing among the Focal Points and with the ReCAAP ISC.

The ReCAAP ISC is staffed by international as well as local staff, and headed by the Executive Director, Mr Yoshiaki Ito. Prior to being appointed Executive Director by the Governing Council, Mr Yoshiaki Ito was a minister at the Permanent Mission of Japan to the United Nations. Mr Yoshiaki Ito is assisted by LTC(Retd) Nicholas Teo, the Deputy Director of

the ReCAAP ISC.

Operating Principles of the ReCAAP ISC

- Respect for Sovereignty
- Effectiveness
- Transparency

The ReCAAP Contracting Parties advocate the International Maritime Organisation's MSC/Circ.623/Rev.3 (Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships). Information Sharing through an Information Network Sharing information on the incidence of piracy and armed robbery information can help improve operational cooperation when responding to incidents. The ReCAAP ISC facilitates exchange of information among the ReCAAP Focal Points through a secure web-based Information Network system (IFN). Through this network, the ReCAAP Focal Points are linked to each other as well as the ReCAAP ISC on a 24/7 basis, and are able to facilitate appropriate responses to incident.

In the event of an incident of piracy or armed robbery, ships are strongly encouraged to report the incident to the nearest coastal state as advocated in the MSC/Circ.623/Rev.3. The agency receiving the report will manage the incident in accordance to its national policies and response procedures, and provide assistance to the victim ship where possible. The agency will, in turn, inform their ReCAAP Focal Point which will submit an incident report to the ReCAAP ISC as well as its neighbouring Focal Points. Where possible, the ReCAAP Focal Points shall conduct or facilitate post-incident investigation, and manage incidents within their national jurisdiction. The ReCAAP ISC gathers the information from these incident reports for analysis purposes.

Further information and reports of incidents may be found on the ReCAAP website www.recaap.org. Statistics from the Singapore-based information-sharing body showed 11 actual cases of piracy in the first 10 months of 2009 and two attempted piracies.

Protest Against Criminalisation of Seafarers

The Mariners Welfare Guild of India organized a protest gathering in Chennai on seafarers day to draw attention to criminalisation of seafarers.

The Guild had been launched on Aug 15th as a platform to bring together marine professional bodies of Marine professionals: Master Mariners, Marine Engineers, Naval Architects etc with the objective of helping mariners when all else lets them down.

To create a maritime constituency for highlighting and lobbying for maritime related matters, it was decided to celebrate the first Saturday in December as SEAFARERS DAY. 5th Dec 2009 was so celebrated in Mumbai, Chennai and other Indian seafaring centres.

In Chennai, the Day was more specifically used to draw attention to criminalisation, to the plight of the seafarer and the impact on seafaring careers. Seafaring has proven to be of high professional and employment potential for Indians over the last few decades and they have in fact garnered a dominant quality share through diligence and hard work, utilizing their advantage of English proficiency.

Members of the Merchant Navy Officers Association, Institute of Marine Engineers, Nautical Institute, Company of Master Mariners and a few Naval Architects, came together under the Mariners Welfare Guild banner to mark Seafarers Day and use the occasion to draw attention of the public to the burning issues of their profession.

About 100 seafarers, including seamen staying in the Seafarers Club, trainee Cadets from HIMT, Maritime Foundation and Vels Academy, gathered outside the Seafarers Club at 0800 with placards drawing attention to the current hot cases of detention of Capt Aroza of VLCC TOSA in Taiwan and Able Bodied Seaman Sakhil Sakharkar in Algeria.

The road in front of Chennai Port Trust building was marched on silently without blocking traffic enabling the media to obtain proper coverage. Stalwarts like Capt A K Bansal – a

mariner turned Barrister and Industrialist, Dr P. Misra, K. Chidambaram, K. Shankar, Capt Suresh Amirapu were amongst the attendees.

In true Gandhian spirit of helpless protesters for the cause of hapless mariners, there was no speech making or sloganeering. But with advance coverage notice in the Indian Express, the media had turned out in numbers and provided good live coverage on Television, and recorded for distribution/later transmissions for the print and visual segments.

The protest gathering was broadcast live by TIMES NOW, and ZEE TV and IBN recorded for later transmissions. They interviewed Capt Vivekanand President of MNOA, Capt Pullat founder of the GUILD, Capt. Venkat of Tradex Shipmanagement etc., Capt Pullat was later interviewed by ANI (Asian News International) and NEWSX (INXNEWS) specifically for dissemination to the news media at large. Media coverage was organized by the Guild and provided by AccoladePR.

The stories and issues behind detention of Capt Aroza in Taiwan, AB Sakharkar in Algeria, and Capt Yin Shen Yan and Chief Officer Yang Gao Peng in Mangalore were aired. The increasing trend to criminalise mariners for accidents that unavoidably happen in the course of their duties and associated problems arising there-from were talked about. Apprehension about seafaring losing its charm as a career to youth of today, due to criminalisation was highlighted.

Lack of action by international bodies and the governments were expressed as frustrating. It was agreed that jurisdictional laws will apply generally, but when international conventions have been ratified and in force, they had to be followed in letter and spirit. The apathy of the Indian government and others involved - who could work towards solutions, in the absence of diplomatic relationship - was seen as distressing.

It was hoped that such protest gatherings and media coverage would draw the attention of the public and all concerned, and assist in reversing the tendency to criminalise.

A similar event was simultaneously held in Mumbai.

DG Tren Evolves into DG Move

Followers of the EU may be interested to learn that DG Tren the former directorate-general for transport and energy, has been split up and a new transport DG has been named DG Move (short for *Mobilitat und Verker* – mobility and transport). It was argued that whereas ‘transport’ implies continued attention for the technical operation of the different transport modes, ‘mobility’ reflects today’s focus on sustainable mobility and on systems’.

In other EU news, a new seafaring panel has been appointed to tackle the crew recruitment crisis, it will be headed by Sir Robert Coleman who is to lead the task force. Other members of the panel, which will include independent experts, have not yet been announced. While demand for officers still exists, there is no demand for European ratings, however, some countries have been successful in attracting young people to seafaring, though overall the profession is in decline. The success stories will be studied to see how to improve the EU crew recruitment.

News from EMSA

Green Light For 2010 Work Programme

The 25th meeting of the EMSA Administrative Board took place on 19-20 November in Lisbon. The Board approved the Work Programme and related budget and establishment plan for next year. In 2010 the Agency will focus on: the development of THETIS, the new Port State Control database; the awareness campaign to help prepare the Paris MoU region for this new inspection regime; and improving its current maritime information systems, such as SafeSeaNet and the EU LRIT Data Centre. The Board extensively debated the themes to be further developed in the Agency’s 5 year strategy and followed with interest a report on the first months of operation of the EU LRIT Data Centre and on the pilot project on piracy in co-operation with EUNAVFOR.

Two More Oil Response Vessels Contracted

On 17 November, EMSA contracted two new oil recovery vessels. For the Northern Baltic Sea, an innovative arrangement based on ice-breaker *Kontio* was contracted with the Finnish ship-owner *Finstaship*. She will service the Gulf of Bothnia during the ice-breaking season and stay at Helsinki the rest of the year. For the Atlantic/Channel, Belgian shipowner *Aegean Bunkers at Sea* will provide a

service based on a bunker tanker, *Sara*, operating from Portland (UK). Both vessels are expected to enter into operational service during the second half of 2010.

Air Emissions: Less Sulphur In Port

EMSA recently held a meeting with major industry stakeholders to identify the technical risks, safety concerns and mitigation measures required when switching fuels in ships’ boilers. Under Directive 2005/33/EC, from 1/1/2010, ships at berth in EU ports for longer than 2 hours have to use fuels with sulphur content not exceeding 0.1%. The meeting conclusions formed the basis of a report on the safety concerns and risks, which is now being used by the European Commission to assess the implications of this requirement coming into force.

Catastrophic Failure of a Windlass Motor

From MAIB report 25/2009

On 23 March 2009, the starboard windlass hydraulic motor on board the oil tanker *Stella Voyager* exploded as the vessel was attempting to recover her starboard anchor in adverse weather and sea conditions, off Tees Bay, UK. Fragments of the motor and its casing seriously injured the windlass operator, who was evacuated to hospital in Middlesborough by helicopter, where he was treated for a broken leg and injuries to his groin.

The investigation identified that the catastrophic failure of the windlass, which was manufactured by Friedrich Kocks GmbH, resulted from the anchor chain being ‘heaved in’ under considerable tension, exceeding the machinery’s safe operating limit. Examination of the failed components indicated that the windlass had over-pressurised.

This accident is one of a series of recent catastrophic failures of anchor windlass motors supplied by TTS Kocks GmbH and other manufacturers. The number and frequency of these failures is a serious cause for concern, and on 17 August 2009, the MAIB, together with the Australian Transport Safety Bureau, the Bundesstelle für Seeunfalluntersuchung (Germany) and the Bahamas Maritime Authority, issued a Safety Bulletin highlighting the failures and providing guidance on how they can be avoided. It made an urgent safety recommendation to TTS Kocks GmbH aimed at identifying the technical causes of the failure of its machinery and determining tech-

nical solutions for preventing similar accidents in the future. TTS Kocks GmbH has partially rejected the recommendation. The Chief Inspector of Marine Accidents has written to TTS Kocks GmbH urging them, in the interests of safety, to reconsider the recommendation.

The American Bureau of Shipping has been recommended to submit a proposal to the International Association of Classification Societies which seeks to ensure: a revision of its technical requirement for windlass hydraulic motors in order to prevent the catastrophic failure of this type of equipment; and class approval of equipment is conditional on thorough technical investigation into the causes of catastrophic failures being conducted by equipment manufacturers whenever these occur. A recommendation has also been made to the Oil Companies International Marine Forum with the aim of providing guidance on weighing anchor, particularly with regard to the safe operation of windlasses. A further recommendation has been made to TTS Kocks GmbH intended to improve the technical and operational information it provides when supplying windlass machinery.

Request For Information

To gain an accurate assessment of the incidence of the catastrophic failure of anchor windlasses, all ship owners, ship managers, windlass manufacturers, classification societies and marine accident investigation organisations are requested to forward details of any incidents which have resulted in the fracture of the windlass motor casing. All information, which ideally should include the date of the occurrence, the vessel's name, details of any injuries, and the manufacturer of the windlass, will be treated in confidence and only used for the purpose of accident investigation. Reports should be forwarded to maib@dft.gsi.gov.uk with the title 'windlass motor fractures'.

Haitian Navigational Hazard Removal

A Titan salvage team is working in Haiti to remove navigational hazards, including the collapsed Washington gantry crane, in Port-au-Prince for the U.S. Transportation Command (USTRANSCOM), in an effort to increase the cargo throughput in the heavily damaged port.

Titan's team, led by Salvage Master Roy Dodgen and Project Manager Leo McDonough, is using Resolve Marine Services' 142-foot crane barge

RMG300 to help clear debris and other navigational hazards. Additionally, Titan has hired Associated Marine Salvage's 150-foot crane barge MB1215 to support the marine construction needed to position two, 400-foot by 100-foot Crowley deck barges in the port. The barges will be used as floating piers for discharging cargo.

In January, the Titan team conducted an extensive survey of the port to map navigable routes into the port and determine what underwater obstacles needed to be removed to allow cargo to enter the country directly via vessel. During that survey, Titan determined that a cargo lightering operation was possible in Port-au-Prince whereby a Crowley containership could transfer full container loads to a smaller vessel offshore and deliver that cargo over a beach.

Since then, Crowley has delivered approximately 935 containers of relief cargo using this lightering method.

"We're working closely with USTRANSCOM to re-establish port functionality," said Dan Schwall, managing director of Titan. "The faster the port becomes more usable, the faster relief and commercial cargo will make it into the hands of the people of Haiti."

Titan, a wholly owned Crowley subsidiary, is a worldwide marine salvage and wreck removal company based in Pompano Beach, Florida.

That Crazy English Grammar - 2

Exaggeration is a billion times worse than understatement.

Don't abbrev.

Don't use commas, which aren't necessary.

Don't write a run-on sentence you have to punctuate it.

Each pronoun agrees with their antecedent.

In a letter themes reports articles and stuff like that we use commas to keep a string of items apart.

It is important to never ever under any circumstances split an infinitive.

Its very important that you use apostrophe's right.

Join clauses good, like a conjunction should.

Just between you and I case is important.

The active voice is preferred. Use of the passive voice is to be avoided.

International Maritime Medical Association

The International Maritime Medical Association (IMMA) was launched in January 2010. It is a not for profit trade organization, founded in response to a global need for a central focal point for the maritime industry to get answers to medical or health-related issues. It is located at the Baltic Exchange in London.

Its mission is to represent the interests of the maritime medical sector at the highest governmental and non-governmental levels to ensure its voice is heard and the actions of its stakeholders understood when vital decisions concerning the regulation and operation of the sector are being formulated.

Another goal is to eliminate all the duplication shipowners/managers and P&I Clubs perform when certifying pre-employment medical examination (PEME) facilities, medical providers and ancillary medical services.

IMMA has a board of nine directors, is incorporated in England with offices in the Baltic Exchange in London under the Presidency of Michael Van Hall, who is also president of Gezellig, Inc. and formerly president of van Hall Health Inc. and managing director Maritime Sector at Health Systems International, Indiana, has been elected as the association's first president. He said "Seafarer health has become such a crucial issue as concern over the seafarer shortage problem impacts on lengthening sea-time, longer working hours and less relaxation time. Conversely, crew managers and ship owners are finding it hard to balance the demands for higher operational output from their seagoing workforce with the needs for a healthy and contented crew base. And that is before we consider the insurance implications of rising health costs in a sector that suffers from a lack of understanding and empathetic regulatory structure."

Further information from - www.maritime-medical.org

That Crazy English Grammar - 3

Don't use no double negatives

Don't never use no triple negatives.

No sentence fragments

Corollary: Complete sentences: important.

Stamp out and eliminate redundancy.

The Merchant Navy Medal

Our congratulations go to Captain Nick Cooper, Individual Member and Master of Maersk Maryland, who in November was awarded the Merchant Navy Medal for 'services to merchant shipping and to the Nautical Institute'. Captain Cooper is a former President of the Nautical Institute.



Captain Cooper receiving his award from Admiral Lord West of Spithead.

Aftermath of Hong Kong Tragedy

Both Masters and two Pilots have been sentenced in Hong Kong for their roles in a fatal casualty, Hong Kong's worst since 1971. The prison sentences – ranging from two and a half to three years and two months – were imposed in Hong Kong's District Court on the Masters of a Ukrainian tug and a mainland bulker, together with two local pilots.

The tug sank after colliding with the 120,000dwt Yaohai in fog off Hong Kong in March 2008, costing 18 crew members their lives. The tug's crew did not try to steer clear until about 45 seconds before the collision, the court found.

Yuriy Kulemesin, 45, Captain of Neftegaz-67, received a term of three years and two months after being found guilty of failure to keep a proper lookout, failure to avoid a collision and failure to navigate correctly in a narrow channel. Tang Dock-wah, 61, senior pilot on Yaohai, was handed a three-year sentence and his junior pilot, Bruce Chun Wak-tak, 49, was sentenced two years and four months.

Yaohai's mainland Captain, Liu Bo, 37, was sen-

tenced for two years and four months. Tang, Chun and Liu Bo were all found guilty of failure to comply with COLREGS 5 and 8.

The four had pleaded not guilty, but when handing down the sentences, Judge Susana D'Almada Remedios said they had committed serious navigation errors. She added that they did too little, too late to avoid the collision: "The dire situation which arose should never have happened. Both vessels had ample time to pass clear from each other." She said those in charge on both vessels had neglected to make full use of their radars and stayed on a course towards each other despite multiple warnings from the Hong Kong VTS.

Manila Conference - Revised STCW Convention and Code

Draft amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (the STCW Convention), and its associated Code, have been approved by the Sub-Committee on Standards of Training and Watchkeeping (STW) and are ready for submission to a Diplomatic Conference that will meet in Manila, Philippines, from 21 to 25 June 2010, for adoption.

The proposed amendments mark the first major revision of the two instruments since those, completely revising the original 1978 Convention, adopted in 1995.

Among those proposed this time, there are a number of important changes to each chapter of the Convention, including:

- In chapter I General provisions: improving measures to prevent fraudulent practices associated with certificates of competency; strengthening the evaluation process (monitoring of Parties' compliance with the Convention); and standards relating to medical fitness standards for seafarers;
- In chapter II Master and deck department: certification requirements for able seafarer (deck); celestial navigation, automatic radar plotting aids and radar requirements; marine environment awareness training; leadership and teamwork; and vessel-traffic-services training;
- In chapter III Engine department: near coastal requirements; marine environment awareness training; leadership and teamwork; upgrading

of competences for engineers; and certification requirements for able seafarer (engine);

- Chapter IV Radiocommunications and Radio Personnel is renamed Radiocommunications and Radio Operators and updated to reflect current regulations, including reference to the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual;
- In chapter V Standards regarding special training requirements for personnel on certain types of ships: competence requirements for personnel serving on board all types of tankers, including liquefied gas tankers; and regulations for personnel on "ro-ro passenger" and "passenger ships" combined to cover all "passenger ships";
- In chapter VI Emergency, occupational safety, security, medical care and survival functions, amendments include new requirements for maintaining professional competence in areas where training cannot be conducted on board; and new requirements for security training, as well as provisions to ensure that seafarers are properly trained to cope if their ship comes under attack by pirates;
- In chapter VII Alternative certification: changes in other chapters are reflected, including addition of requirements for certification of able seafarers and specifications for approved seagoing service and training required for certification of candidates at support level in various functions; and
- In chapter VIII Watchkeeping: updated and expanded requirements on hours of work and rest and new requirements for the prevention of drug and alcohol abuse.

The Sub-Committee also approved, for submission to the June conference, 13 draft resolutions relating to:

- The contribution of the International Labour Organization;
- Development of guidelines to implement international standards of medical fitness for seafarers;
- Revision of model courses published by IMO;
- Promotion of technical knowledge, skills and professionalism of seafarers;
- Attracting new entrants and retaining seafarers

for the maritime profession;

- Promotion of technical co-operation;
- Transitional provisions and early implementation of the revised STCW Convention and Code;
- Promotion of the participation of women in the maritime industry;
- Accommodation for trainees aboard ships;
- Verification of certificates of competency and endorsements;
- Standards of training and certification and ships' manning levels;
- Future amendments and review of the STCW Convention and Code; and
- Recommendation on measures to ensure the competency of masters and officers on ships operating in polar waters.

IMO Secretary-General Efthimios E. Mitropoulos said that last week's work of the Sub Committee has now cleared the way for the amendments to be adopted.

"Our vision of the revised Convention and Code has always been that the two instruments would provide, at any given time, the necessary global standards for the training and certification of seafarers to operate technologically advanced ships today and in the foreseeable future. I am both pleased and confident that this vision will come to fruition in June. The Sub Committee deserves full credit for this" he said.

Review of the principles for establishing the safe manning levels of ships

The Sub-Committee also completed its review of the principles for establishing the safe manning levels of ships and agreed a draft Assembly resolution on Principles of Minimum Safe Manning, which would replace the Principles of Safe Manning (resolution A.890(21), as amended).

The draft resolution will be submitted to the Maritime Safety Committee for approval at its 88th session in December 2010, subject to comments by the Sub-Committee on Safety of Navigation (NAV) at its 56th session in July 2010.

The Sub-Committee also endorsed proposed draft amendments to SOLAS regulation V/14 Ships' manning, to require Administrations to take into account the guidance on minimum safe manning adopted by IMO (with a footnote referring to the Assembly resolution on Principles of Minimum Safe Manning), with a view to approval by MSC 88, subject to comments made by NAV 56.

Note: IFSMA will be well represented during the STW Conference in Manila. The Conference is immediately preceded by the **IFSMA 26th Annual General Assembly** on Thursday 17th and Friday 18th June, and followed by the **IFSMA Seminar** on Saturday 26th June on the theme of "The Year of the Seafarer" we are pleased to announce that the IMO Secretary General, Efthimios Mitropoulos, has agreed to open the Seminar.

2009 IMO Awards for Exceptional Bravery at Sea

The 2009 IMO Awards for Exceptional Bravery at Sea have been presented to a professional rescue swimmer who, in Arctic conditions, single-handedly rescued eight crew members of a foundered vessel in the Bering Sea, and to two amateur sailors who rescued three people from a sunken yacht in very heavy weather off a remote South Pacific coral reef.

In a linked ceremony, *Certificates for Exceptional Services Rendered to Shipping and Mankind* were presented to the Commanding Officers, Officers, Petty Officers and Crews of navy ships (from EU and NATO member countries and several other individual countries from various regions), which have participated in the international efforts to repress piracy off the coast of Somalia and in the Gulf of Aden.

Bravery Award winners Aviation Survival Technician Second Class (AST2) Abram A. Heller is a professional rescue swimmer with the United States Coast Guard. In the early hours of 23 March 2008, in arctic weather conditions, he single handedly rescued eight crew members of the foundered F/V Alaska Ranger. Having plunged into the waters to rescue survivors, he then gave up his place in the rescue helicopter to enable five rescuees to be taken to safety and waited on a liferaft for over one hour for the return of the helicopter, with three further rescuees whom he had pulled into it. In so doing, he was deemed to have acted over and above the stand-

ard expected of a professional rescuer, particularly on his first deployment. He was nominated for the Award by the United States.

Mr. Maurice Conti and Mrs. Sophie Conti were sailing their yacht *Ocealys* in the South Pacific with their young family when they heard a late night distress call from the yacht *Timella*, which had struck a reef, two and a half hours sailing time away. The Contis made contact with authorities in New Zealand and Fiji but, in the absence of marine or aviation rescue assets being immediately available, they planned and executed themselves the rescue of the three *Timella* crew members, in the early morning of 13 October 2008, exposing themselves to considerable risk. The Contis, United States citizens, were nominated for the Award by New Zealand.

The Award, a silver medal depicting on one side a search and rescue operation with a sinking ship in the background and a helicopter rescuing survivors from the sea in the foreground, and with the IMO logo on the reverse side, was presented to the winners by IMO Secretary-General Mr. Efthimios E. Mitropoulos, at a special ceremony at IMO Headquarters on 23 November 2009, during the 26th session of the Organization's Assembly.

Certificates to highly commended nominees

In addition to the Bravery Awards themselves, certificates were also presented to the following "highly commended" nominees or their representatives:

- The Master and crew of the vessel *Xin Ou Zhou*, nominated by China, for rescuing, in the early morning of 29 September 2008, 15 crew members of the grounded F/V *Zhe ling yu yun 101*, during Typhoon *Jangmi*;
- Lt. César Osvaldo Lara Basto, Officer in the Propulsion Division of the coastal patrol vessel *ARM Rayon (PC-206)*, nominated by Mexico, who, on 4 October 2008, single-handedly put out a fire in the engine-room of the tug *ARM Yaqui*, thereby saving the lives of 34 crew members;
- Captain Cha Sang Geun of the M/T *STX ACE 7*, nominated by the Republic of Korea and Viet Nam, for rescuing 15 crew members from the sunken vessel *M/V Binh Dinh River*, over a period of eight hours on 8 January 2009; and
- Captain Bobby Noble and Mr. Tejay England, crew members of the Canadian Coast Guard

Auxiliary vessel *Lynette Marie*, for supporting and keeping the remaining two crew members alive in the water, for some 45 minutes after the vessel had sunk, on the night of 16 August 2008. They were nominated by the International Maritime Rescue Federation (IMRF).

Letters of Commendation

Letters of commendation for the 2009 Award were sent to the following nominees:

- Mr. Nabil Abdelaziz (posthumously), able-seaman on the tugboat *Skikda*, nominated by Algeria, for his part in an operation to save the lives of 17 crew members, on 6 March 2008, from the vessel *MV Sophia*. He lost his own life in the process;
- Lt. Cdr. Leonardo Barbosa Corrêa (2nd Pilot), Lt. (Marine Corps) Wagner Pinto Alves (1st Pilot), Lt. Junior Grade (Medical Corps) Mahmud Nayef Mahd Hasan Ihamid (Doctor) and Corporal Ângelo Cesar Suzano Rocha (Flight mechanic/Winch operator), of the *AS350 Squirrel Helicopter (HU-5 Helicopter Squadron, Brazilian Navy)*, nominated by Brazil, for rescuing an injured fisherman from the F/V *Primavera XVII*, in very heavy weather on 29 August 2008;
- Captain Zeng Zuoqing of the rescue tug *Nanhaijiu 101*, *Nanghai Rescue Bureau*, nominated by China, for towing the stricken bulk carrier *Asia East*, with 27 crew members on board, away from oncoming Typhoon *Changmi*, on 26 September 2008;
- The crew of the patrol ship *Hai Xun 1903*, *Beihai Maritime Safety Administration*, nominated by China, for rescuing 33 fishermen from fishing rafts during Tropical Storm *Kammuri* on 7 August 2008;
- Seventeen Italian Coast Guard Officers and Personnel, nominated by Italy, for rescuing 17 migrants, including children, following the capsizing of their small vessel in heavy weather on 10 June 2008;
- Lt. Cdr. Vanessa Anne I. Garon and Ensign Maria Alexandra I. Garon, *Philippine Coast Guard Auxiliaries*, nominated by the Philippines and IMRF for participating in several dive operations on 26 June 2008, to recover bodies from the capsized *M/V Princess of the Stars*;

- Captain Kim Shin Ho of the M/V KMTC Portkelang, nominated by the Republic of Korea, for rescuing four surviving crew members from the vessels Yinson Power 1 and Yinson Power 2, in stormy weather on 29 September 2008;
- Captain Jason T. Bosley, Associated Branch Pilots (American Pilots' Association), nominated by the International Maritime Pilots' Association (IMPA) who, on 19 September 2008, while travelling as a passenger on board the ferry Cape Point, took control of the vessel, at night and in heavy weather, when its Captain collapsed (later dying of a heart attack), thereby saving the lives of 60 passengers and one further crew member;
- Captains Reed Southerland and Matthew Bailey, Association of Maryland Pilots (American Pilots' Association), nominated by IMPA, for rescuing four crew members of the F/V Bass Tracker after the vessel had capsized in rough seas on 14 January 2009;
- Mr. Dan Schwall (Project Manager), Mr. Jim Conroy (Salvage Master), Mr. Mike Wood (Salvage Engineer), Mr. Stephen Wood (Assistant Salvage Master), Mr. Terry Barrows (Salvage Foreman) and Mr. Nigel Raithby (Salvage Officer) of the Titan Salvage Team, nominated by the International Salvage Union, for rescuing 25 crew members and one rescue swimmer from the grounded M/V Fedra on 11 October 2008, after a helicopter rescue had to be aborted; the team members mobilized a shore crane to a cliff, rigged and operated a man-basket to lift the rescues to safety, over a 12-hour period; and
- Mr. Jun Wang, rescue swimmer of Beihai No.1 Rescue Flying Service, China Rescue and Salvage, nominated by IMRF, for rescuing four crew members of the container ship Xing Mingfa 17 from icy waters after their vessel had capsized on 1 November 2008.

The IMO Award for Exceptional Bravery at Sea was established by the Organization to provide international recognition for those who, at the risk of losing their own life, perform acts of exceptional bravery in attempting to save life at sea or in attempting to prevent or mitigate damage to the marine environment - and, by so doing, help to raise the profile of shipping and enhance its image.

Commending all the nominees at the Award Ceremony, Secretary-General Mitropoulos said that the event had provided the opportunity "to honour

and pay tribute to courageous men and women, all of whom have displayed heroism, valour, courage and dedication under life-threatening conditions prevailing at the time of their remarkable acts".

Efforts to repress piracy acknowledged with certificates to navies

The Secretary-General also presented Certificates for Exceptional Services Rendered to Shipping and Mankind to the Commanding Officers, Officers, Petty Officers and Crews of navy ships that have participated in the international efforts to repress piracy off the coast of Somalia and in the Gulf of Aden, thanking them "for their dedication, their courage, their commitment and for the sacrifices they make".

Certificates were presented to Commanding Officers (or their representatives) of ships from Australia, Canada, China, Denmark, France, Germany, Greece, India, Islamic Republic of Iran, Italy, Japan, Malaysia, Netherlands, Portugal, Republic of Korea, Russian Federation, Saudi Arabia, Singapore, Spain, Sweden, Turkey, United Kingdom and the United States.

IMO Assembly Elects New 40-Member Council

The Assembly of the International Maritime Organization has elected the following States to be Members of its Council for the 2010-2011 biennium:

Category (a) 10 States with the largest interest in providing international shipping services:

China, Greece, Italy, Japan, Norway, Panama, Republic of Korea, Russian Federation, United Kingdom, United States.

Category (b) 10 States with the largest interest in international seaborne trade:

Argentina, Bangladesh, Brazil, Canada, France, Germany, India, the Netherlands, Spain, Sweden.

Category (c) 20 States not elected under (a) or (b) above, which have special interests in maritime transport or navigation and whose election to the Council will ensure the representation of all major geographic areas of the world:

Australia, Bahamas, Belgium, Chile, Cyprus, Denmark, Egypt, Indonesia, Jamaica, Kenya, Malaysia,

Malta, Mexico, Nigeria, the Philippines, Saudi Arabia, Singapore, South Africa, Thailand, Turkey.

The Council is the executive organ of IMO and is responsible, under the Assembly, for supervising the work of the Organization. Between sessions of the Assembly, the Council performs all the functions of the Assembly, except that of making recommendations to Governments on maritime safety and pollution prevention.

The 26th session of the IMO Assembly was held at IMO Headquarters, London, from 23 November to 4 December 2009.

IMO launches “Year of the Seafarer”

The International Maritime Organization (IMO) “launched” the theme for this year’s World Maritime Day – “**2010: Year of the Seafarer**” – at an event held at its London headquarters on 11 January 2010, co-hosted with the International Shipping Federation (ISF) and the International Transport Workers’ Federation (ITF).

Speaking at the event, IMO Secretary-General Efthimios E. Mitropoulos said 2010 promised to be an auspicious and important year for the seafaring profession, with a diplomatic conference meeting in Manila in June to adopt amendments that will bring the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (the STCW Convention), and its associated Code, fully up to date with today’s expectations.

Mr Mitropoulos said that designating 2010 as the Year of the Seafarer would help to reassure those who work at the “sharp end” of the industry – the seafarers themselves – that those responsible for the international regulatory regime understand the extreme pressures seafarers face and that they approach their task with a genuine sympathy for the work that seafarers carry out. The theme had also been chosen, he said, to allow the maritime community to pay tribute to seafarers for their unique contribution to society and in recognition of the vital part they play in the facilitation of global trade. It would also add impetus to the “Go to Sea!” campaign, which was launched by IMO in November 2008, in association with the International Labour Organization, the “Round Table” of international shipping associations and ITF, to boost recruitment to the seafaring profession.

A former seafarer himself, Mr. Mitropoulos said,

“It is my firm belief that, despite the numerical decline in officer-level entrants, shipping remains a potentially exciting, rewarding and fulfilling career – a career that can take people almost anywhere, both in geographical terms and in terms of the sort of work they may finally find themselves doing. Seafaring is not only a satisfying and worthwhile career choice in itself, it is also a passport to a huge variety of related jobs ashore for which experience at sea will make one eminently qualified.”

He concluded, “Seafarers deserve respect and recognition: let us resolve, during 2010, to ensure that this message is trumpeted loud and clear.”

Those addressing the event included Mr. Peter Brady, Chairman of IMO’s Sub-Committee on Standards of Training and Watchkeeping, Mr. Spyros Polemis, President of the ISF, and Mr. Jon Whitlow, representing the ITF.

Planning for Future Shipments Directly into Port-au-Prince

Crowley Maritime Corporation, working under contract with the U.S. Transportation Command (USTRANSCOM), is unloading Haiti relief cargo in Rio Haina, Dominican Republic. Containers of water and meals-ready-to-eat (MREs) are trucked across the border into Haiti.

Other loads aboard the container ship Marcajama are transported by water to Port-au-Prince, Haiti and offloaded in an experimental lightering operation and delivered across a beach. If successful, future shipments could be made directly to Port-au-Prince.

The Crowley plan calls for the Marcajama to anchor offshore near the port’s damaged south pier and near the exposed beach. Using a shipboard crane on the Marcajama, the containers will be lowered onto a smaller vessel operated by G and G Shipping and delivered across the beach on wheels.

A team from Crowley’s TITAN Salvage subsidiary surveyed the port area and determined that such an operation was possible. They also determined that it would be possible to establish a temporary docking structure on the beach using a Crowley 400-foot-long by 100-foot-wide flat deck barge. Crowley is mobilizing such a barge (the 410) and a crane from Orange, Texas that could be used for cargo discharge, and plans to have both on the scene in Port-au-Prince during February.

Ships delivering aid to Haiti have been recommended to install guards at access points to address increased security risks due to the devastation caused by the recent earthquake. There are concerns regarding Haiti's current ability to execute, maintain and audit international security standards. Increased and appropriately logged security measures on board will generally expedite vessel entry in to other ports, in particular in the USA.

IMO Members Audit Scheme

The IMO Council has approved, in principle, a five-year plan that would see the Voluntary IMO Member State Audit Scheme phased-in as an institutionalized, mandatory scheme.

The Council requested the Secretariat to prepare a resolution delineating the way forward, together with a proposed timeframe and schedule for the further development of the Audit Scheme, for consideration and approval by the next session of the Council, for submission to the IMO Assembly for adoption, both scheduled to be held in November 2009.

Such a timeframe would entail, in principle, the introduction of appropriate requirements in the relevant mandatory IMO instruments, with consequential amendments to these being adopted possibly in 2013, for subsequent entry into force in January 2015. A resolution on the framework and procedures for the new phase of the scheme would also need to be adopted by the IMO Assembly, with preparatory work for commencement of an institutionalized scheme following thereafter.

Under the current scheme, the first audits were carried out in 2006 and, to date, 53 IMO Member States and one Associate Member have volunteered for audit and 38 audits have been completed.

Meanwhile, the Council encouraged Member States that have not yet volunteered for audits to do so as and when they are ready, and as early as possible, and invited Member States to nominate qualified auditors who can be selected for audit teams and who can participate in the related training courses convened by the Organization.

INTERPOL Antipiracy Task Force

The first-ever international conference on maritime piracy financing at INTERPOL with the aim of fighting maritime piracy through closer global co-operation in financial investigations has heard that INTERPOL is to create an anti-maritime piracy task force.

Hosted by INTERPOL's General Secretariat headquarters in Lyon, the two-day conference (19-20 January) aimed to formulate and provide the international community with a cross-sector platform for information-sharing and alerts on the financial aspects related to maritime piracy cases, and in particular to identify key money trails and networks.

The conference was co-sponsored by the United States Department of State and the United Kingdom's Foreign and Commonwealth Office (FCO), and brought together some 100 investigators, experts and policy makers from both the public and private sectors from more than 30 countries and from a dozen international organizations.

With law enforcement 'key' to tackling maritime piracy, which he described as a transnational organized crime threatening international trade, INTERPOL Secretary General Ronald K. Noble told the conference that since its launch in 2005, INTERPOL's Project BADA had laid the foundation for law enforcement to bridge the gap between military interdiction and the prosecution of pirates.

In this respect, the head of INTERPOL announced that to further enhance INTERPOL's contribution to fighting international maritime piracy, INTERPOL was to create a dedicated task force.

"The role of the task force will be to co-ordinate INTERPOL's international response to the maritime piracy threat in all its facets," said Mr Noble, adding that it would maximize the value added by INTERPOL's multiple components and by its new strategic partnerships across the world, notably with Europol.

Key topics during the conference included the impact of maritime piracy on the financial environment in the Horn of Africa and neighbouring regions, the role of the private sector (including shipping companies and insurers), asset recovery, alternative money transaction systems, as well as specialist training and best-practice in financial investigations. The conference also reviewed maritime piracy in other regions of the world, including

West Africa, Latin America, the Caribbean and South-east Asia.

With maritime piracy in the Horn of Africa big business, and ransom demands linked to maritime piracy in the region today averaging 2.2 million US dollars, Mr Noble said that pirates would always be looking for easy targets and easy profits.

“To strike at the heart of maritime piracy, we must investigate, understand and use to our advantage the financial component behind each of these attacks”, Mr Noble added. “We must follow the money as part of a global response involving law enforcement against maritime piracy.”

The conference opened just a day after reports said that Somali pirates had freed a Greek-owned oil tanker and its crew of 28 after receiving a record ransom allegedly amounting to between 5.5 and 7 million US dollars.

Concern Over Hijacked Tanker

During December 2009, IMO Secretary-General Efthimios E. Mitropoulos expressed concern that adverse weather conditions and other contributing factors may bring about an accident to the supertanker **Maran Centaurus** – hijacked by pirates on 29 November 2009 with a cargo of 2 million barrels of crude oil – possibly resulting in an environmental catastrophe off the coast of Somalia, where the vessel was currently being held.

The vessel, with a 28-member crew, was some 800 miles from the Seychelles Islands when it was hijacked and then taken to an area off the port of Hoby in Somalia. Weather conditions are at the time said to be changing for the worse in the area which, coupled with reported unsafe anchorage conditions, led to concerns that the vessel might be damaged by grounding, leading to its cargo being spilled and resulting in serious ecological damage.

Mr. Mitropoulos was concerned that, while any hijacking incident is to be deplored because of its impact on the seafarers on board, the potential for ecological disaster, in an area of the world that presently lacks the infrastructure, equipment, resources and expertise to cope with it, makes this a particularly serious case.

Accordingly, in a letter to the Prime Minister of the Transitional Federal Government of Somalia, Mr. Mitropoulos expressed his concern that any accident

to the ship might, because of the large quantity of oil carried in its tanks, cause serious environmental damage, with repercussions to the nearby fishing grounds and consequent negative economic impact on the livelihood of the population in the area.

Recognised Derbyshire Campaigner Honoured

Paul Lambert, the chairman of the Derbyshire Families Association, has been recognised by the Queen for his services to maritime safety in the New Year Honours list.

The association, which was set up after the loss of the 169,000 dwt oil/bulk/ore carrier *Derbyshire* in September 1980 with the loss of 44 lives in the South China Sea, led a lengthy campaign to ensure an investigation into the casualty and kept the case in the headlines. The association has continued to campaign for better shipping safety regulations.

Mr Lambert, who was appointed Member of the Order of the British Empire, told Lloyd's List that he was honoured by the recognition but vowed to continue campaigning for much needed improvements in safety standards for bulk carriers.

“I know it has been given to me but I think it should be shared amongst a lot of people,” he said.

This year marks the 30th anniversary of the loss of the Bibby Line combination carrier with all hands, and the award has been welcomed by industry officials as a timely recognition for somebody who has worked tirelessly over the years to first of all discover the wreck, to help the relatives of those who lost their lives and to encourage a proper inquiry, and to ensure that any lessons from the loss were reflected in bulk carrier structural safety and operation.

According to Mr Lambert, this is a process that will continue to be necessary.

“You have to keep a spotlight on the shipping industry because the worry is that once the public pressure is off and the media moves on to something else, it will go back to the way it was and nobody wants to see a return to the era of the rustbucket being sent out to sea,” he said.

“It has taken a lot of people a lot of time to get where we are, and we don't want it to go back to the way things were 30 years ago.”