

INTERNATIONAL FEDERATION OF SHIPMASTERS' ASSOCIATIONS



36TH ANNUAL GENERAL ASSEMBLY

MANILA, PHILIPPINES, 17-18 JUNE 2010

MINUTES AND ANNEXES

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36th AGA Proceedings PART B

With the Compliments of
The Secretary General

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MINUTES OF THE 36th ANNUAL GENERAL ASSEMBLY

Manila, Philippines

The 36th Annual General Assembly was held in AMOSUP Convention Hall, Manila, Philippines on Thursday 17th and Friday 18th June 2010.

LIST OF DELEGATES

EXECUTIVE COUNCIL

Christer Lindvall (Sweden)	President
Koichi Akatsuka (Japan)	Deputy President
Jerome Benyo (USA)	Vice President
Marcel van den Broek (Netherlands)	Vice President
Remi Boissel Dombreval (France)	Vice President
Marcos Castro (Argentina)	Vice President
Bjorn Haave (Norway)	Vice President
Hans Sande (Norway)	Vice President
Patrick Vignerón-Larosa (France)	Vice President (Outgoing)
Willi Wittig (Germany)	Vice President

FROM MEMBERS OF ASSOCIATIONS

Castro, Marcos	CCUOMM	Argentina
Gray, Allan	CMMA	Australia
Cuyt, Jef	KBZ	Belgium
Kunitake, Gilberto	SINDMAR	Brazil
Lima, Nilson	SINDMAR	Brazil
Dimitrov, Dimitar	BSMA	Bulgaria
Ganzhorn, Fritz	DMO	Denmark
Partanen, Pekka	FSOA	Finland
Djurhus, Eyostein	FSN	Faroe Islands
Boissel Dombreval, Remi	ACOMM / ExCo	France
Vignerón-Larosa, Patrick	ACOMM / ExCo	France
Wittig, Willi	VDKS / ExCo	Germany
Akatsuka, Koichi	ICA / ExCo	Japan
Kojima, S.	ICA	Japan
Morimoto, Y.	ICA	Japan
Van den Broek, Marcel	Nautilus NL / ExCo	Netherlands
Furnes, Asbjorn	NMOA	Norway
Gallis, Roar	NMOA	Norway
Haave, Bjorn	NMOA / ExCo	Norway
Sande, Hans	NMOA	Norway
Lamug, Jose Raul	AMOSUP	Philippines
Oca, Conrad, Dr.	AMOSUP	Philippines
Adanza, Exequiel	FILSCAPTS	Philippines
Aguba, Carlos	FILSCAPTS	Philippines
Alcaraz, Marciano	FILSCAPTS	Philippines
Acellana, Constantino	FILSCAPTS	Philippines
Besana, Dever	FILSCAPTS	Philippines
Bitanga, Hermogenes	FILSCAPTS	Philippines
Cruz, Marsolito	FILSCAPTS	Philippines
Cuison, Severo	FILSCAPTS	Philippines
Del Prado, Victor	FILSCAPTS	Philippines
Eusebio, Hernando S.	FILSCAPTS	Philippines
Genargue, Jose Edgar	FILSCAPTS	Philippines
Martinez, Jesse	FILSCAPTS	Philippines
Mata, Benjamin	FILSCAPTS	Philippines
Mirande, Leo	FILSCAPTS	Philippines
Modelo, Renie	FILSCAPTS	Philippines
Nieto, Roberto	FILSCAPTS	Philippines

Olivar, Rosauro	FILSCAPTS	Philippines
Quinones, Jaime d.	FILSCAPTS	Philippines
Raz, Rodolfo	FILSCAPTS	Philippines
Salvatierra, Juanito	FILSCAPTS	Philippines
Jonsson, Lennart	SSOA	Sweden
Lindvall, Christer	SSOA / ExCo / President	Sweden
Loren, Jorgen	SSOA	Sweden
Benyo, Jerome	CAMM / ExCo	USA

INDIVIDUAL MEMBERS

MacDonald, Rodger	UK (Ind Mem & Secretariat)
Owen, Paul	UK (Ind Mem & Secretariat)
Balaram, Ajit	India (Ind Mem)
Benyo, Jerome	USA (Ind Mem & CAMM & ExCo)
Subhedar, Sudhir	India (Ind Mem)
Fage-Pedersen, Jens	Denmark (Ind Mem)

GUEST SPEAKERS

Haywood, Robert	Oceans Beyond Piracy	USA
Larsson, Fredrik	Intertanko	UK
Malpass, Andy	Pandiman Phils Inc	Philippines

SECRETARIAT

Captain Rodger MacDonald	Secretary General
Captain Paul Owen	Assistant Secretary General
Ms. Roberta Howlett	Administration Officer

A list of apologies received is held at the IFSMA Office.

AGENDA ITEM 1 – Welcome

The Executive Vice President of the Associated Marine Officers' and Seamen's Union of the Philippines (AMOSUP), Dr. Conrad Antonio F. Oca, addressed the General Assembly, welcoming IFSMA Members to the Philippines and wishing all present a successful meeting.

Captain Lindvall, President of IFSMA, thanked Dr. Oca for his introduction and gave his opening address 'Mabuhay!' (see page-2 in the IFSMA Annual Review 2009-2010,) and declared the 36th Annual General Assembly open.

AGENDA ITEM 2 – Adoption of Agenda

The Agenda was adopted without amendment.

AGENDA ITEM 3 – Adoption of the Minutes to the 35th AGA, Rio de Janeiro, Brazil

The Minutes of the 35th Annual General Assembly held in Rio de Janeiro, Brazil, on 6-7 May 2009, were adopted without amendment.

AGENDA ITEM 4 – Establish Drafting Group.

The Drafting Group was established and comprised: Bjorn Haave, Willi Wittig, Marcel van den Broek and Fritz Ganzhorn.

AGENDA ITEM 5 – Secretary General’s Report

The Secretary General gave his report, which is reproduced in the IFSMA Annual Review 2009-2010, starting on page 5. He supplemented his written report with further updates and reports on various subjects as below.

Willi Wittig brought the General Assembly’s attention to information received from the Secretary General of the Master Mariners Society of Pakistan concerning a recent incident aboard the vessel “QSM Dubai” in which the Master, Captain M. Jaffer Jafri, was murdered during hijacking by pirates. He advised that he had sent a message of condolences to the Association and Captain Jafri’s family. It was agreed that this should be the subject of an IFSMA General Assembly Resolution.

Continuing with his report the Secretary General referred to a request for assistance, following the devastating earthquake, received from our colleagues “Nautilus” in Chile, this had been circulated to all Member Associations and he reminded that all voluntary donations should be sent to headquarters clearly marked as being for Chile. He added that at the end of July we would send all donations received to Chile. He thanked those that had already sent donations.

Moving on to better news – he referred to the long running battle between shippers and shipowners over alleged price fixing. It finished up in the highest court in the USA where it was ruled that arbitrators do not have power to rule on class actions, and in future any arbitration will be tied to the ruling of the courts. He commented that this signals a change in the judicial attitude to our industry, which until now has seemed harsh to seafarers and shipmasters in particular.

Since his report was written he added that he had attended an International Lifeboat Group (ILG) meeting, the IMO Maritime Safety Committee (MSC), a Trinity House Joint Users Forum concerning Navigational Aids around the UK and Irish coasts, and he had held an international training programme in Geneva on the international maritime training regulations.

Regarding the ILG meeting he explained that they considered the revised draft LSA Code changes to SOLAS Chapter III, and it had been noted that some manufacturers claim to already comply with the proposed changes although these have not yet been finalised. One of the aims is for functional standardisation of procedures. His personal view, shared by many others, is that davit launched lifeboats should have been banned a long time ago. Regarding Lifeboat release hooks, it has been on the agenda for the IMO DE Sub-committee, there is little time allocated to this, but we have now succeeded in getting an intersessional group agreed to. This provides us with an opportunity to find a better, safer system. We have agreed to fund any research up to a maximum of £1,000.

The MSC discussed piracy and armed robbery against ships, and reviewed the latest statistics. All Governments were once again urged to take all possible actions against these pirates. The main activities of pirates continue to be off the coast of Somalia. He mentioned that we were hoping to have a very good speaker, John Burnett, from MUSC who are mainly involved in anti piracy measures, at this AGA but unfortunately he had to cancel at the last minute. However we do have another speaker on this subject.

The Trinity House meeting raised some issues; they cannot afford to keep all the lighthouses and light buoys functioning due to costs. They have studied how to reduce their costs while continuing to provide a viable service. The main complaints they receive are coming from small boat owners and not seasoned mariners like us. Loran C is favoured by the UK as a backup for GPS and is very cost effective. Per ship the costs of Loran C can be measured in pennies.

Regarding the Strategic Review that was raised last year, one option discussed was the

recommendation to have a full time Secretary General. However, this requires considerably more funds. The present system of three part-timers works well as there is always someone available to handle any urgent matters that may arise while one of us is engaged elsewhere or on leave. Regarding the election of the Secretary General – the general view was no, he should be appointed by the Executive Council. Under normal circumstances the Secretariat will always ask the Executive Council guidance regarding unusual or new situations, they are the elected representatives of the IFSMA membership.

Printing is one of the highest annual costs; the Annual Review is a high quality document that can be handed to interested persons throughout the year and is a worthwhile investment, e.g. we have the agreement of IMO to hand it out at the STW Diplomatic Conference next week, and we will also hand it out to attendees at the Year of the Seafarer Forum on Saturday 26th June.

Regionalisation – in IMO in recent years the EU members have been instructed by Brussels to go one way or another. There are some issues where we ask opinions from EU members and it appears that whether they agree with us or not they must vote with the EU. This became apparent particularly in recent STW matters. We understand that the 27 members of the EU, for their individual votes to count, they must be present in the room at the time of the vote. It has been noticed that countries that usually are silent, are now starting to speak up at IMO meetings. We have 9,000 members based in the EU, the question is should they have separate representation. Other regions such as ASEAN, N/S Americas also need to be considered. It was agreed that we should not concentrate solely on the EU and that we should always work under the name of IFSMA.

We are delighted to see the new associations that have joined us during the year, The Company of Master Mariners of India, The Nigerian Association of Master Mariners, The Company of Master Mariners of Australia, and The Society of Filipino Ship Captains Inc.

He thanked Paul Owen and Roberta Howlett for their hard work during the year, he also thanked the outgoing Executive Council Members for their support and looked forward to welcoming the new Executive Council Members who will shortly be elected.

The General Assembly were then invited to endorse the membership of the new Member Associations: The Company of Master Mariners of India; The Nigerian Association of Master Mariners; The Company of Master Mariners of Australia; and The Society of Filipino Ship Captains Inc. These were all unanimously agreed by the General Assembly.

The President then opened the meeting to discussions:

The first subject was - should we consider the Deepwater Horizon incident for a resolution? **Jef Cuyt** remarked that he wondered if any responsible executive would end up in jail, as do shipmasters. **Marcel van den Broek**, pointed out that we do not yet have all the facts of this case and recommended caution on this subject. **Ajit Balaram** said he was interested to know what contingency plans were in place. **Dimitar Dimitrov** added that coastal states should be aware of the pollution problems in the area. **Hans Sande** said that there were several Norwegian ships operating in the area and there is a health and safety issue from the oil fumes, seafarers become ill and a proper risk assessment is required. Agreed that we now had enough information to make a resolution for acceptance tomorrow.

The incident raised by Willi Wittig concerning the murder of a Pakistani shipmaster – it was agreed that a general resolution on piracy that included this incident, should be drafted. **Fritz Ganzhorn**, every AGA should have a resolution on piracy until the situation is resolved, we should make it clear that we support the US ban on paying ransoms. **Marcel van den Broek** reminded of the electronic

petition against piracy which IFSMA is supporting. **Willi Wittig** – should UNCLOS take over the legal aspects of this problem. **Bjorn Haave** suggested that we might have two resolutions.

International Lifeboat Group – **Bjorn Haave** felt that we are hooked up on certain issues. We need a system that seafarers can actually use. **Rodger MacDonald** stated that the best concept is a float free device such as the accommodation block. However, manufacturers are in favour of the present systems.

Regarding virtual aids to navigation, **Alan Gray** commented that these are visible on ECDIS but not on paper charts which makes it more difficult to plan passages.

It was agreed that the Secretariat should be kept as it is at present.

Newsletter – it was agreed that it should continue as it is at present.

Finally, **Rodger MacDonald** thanked Willi Wittig for his efforts in producing the new IFSMA brochure that was distributed during the meeting.

The Secretary General's Report and appointment of the Hon Auditor was approved.

AGENDA ITEM 6 – Executive Council Elections

The President handed over proceedings to the Secretary General for the election of the President.

Rodger MacDonald announced that there was only one candidate for the **Presidency**, Christer Lindvall and asked for agreement by acclamation. Unanimously agreed. He then handed the meeting back to the President.

Christer Lindvall thanked the General Assembly for their support. He then announced that the next post to be elected was for **Deputy President**, again with only one candidate Koichi Akatsuka. He was unanimously agreed by acclamation.

He then came to the election of the **seven Vice Presidents**, for which there were only seven nominations, these were:

Jerome Benyo (USA)
Marcel van den Broek (Netherlands)
Remi Boissel Dombrevail (France)
Marco Castro (Argentina)
Bjorn Haave (Norway)
Hans Sande (Norway)
Willi Wittig (Germany)

These were all agreed by acclamation.

Jef Cuyt requested that in the future short CVs of the candidates be circulated before the elections, this was agreed.

The Secretary General was then invited to present the 2009 Annual Accounts for agreement; he explained the Balance Sheet and Profit and Loss Statement presented on pages 6 and 7 of the AGA Part A document. He took the meeting through the figures explaining any variances to the budget for the year.

The Secretary General's Report and the Accounts were approved.

He then moved on to the Budget for 2011 and also gave notice that he would, during the AGA in 2011, request the General Assembly to consider an increase in the annual subscriptions in 2012.

The Budget for 2011 allowed for an income of £87,550, and expenditure of £87,330, giving a contribution of £220.

He then distributed two alternative budgets for 2012, one allowing for a full-time Secretary General, the other for continuing the Secretariat as at present. There was a significant difference in the costs and therefore the subscription increase required in 2012. There was a discussion on the pros and cons of the two options. Members were asked to consider these budgets and be ready to agree an increase in subscriptions for 2012 at the next AGA in 2011. The President noted that there was no opposition today to an increase to £12 in 2012, with a part time Secretary General, but he emphasised that the final decision would not be taken until the next AGA in 2011.

Bjorn Haave was reappointed as Hon Auditor for the next year.

AGENDA ITEM 7 – Criminalisation and Recruitment in the Tanker Sector

Presented by Fredrik Larsson, INTERTANKO

See Annual Review 2009-2010, page 10, for the written paper.

Following the presentation the following points came out of the discussions: **Marcel van den Broek** – he asked about initiatives to make it more interesting for youngsters and also to make it more interesting for women. If women become pregnant they argue that they cannot continue their careers. **Fredrik Larsson** replied that it is a bit tricky, and suggested that they be offered a post ashore. **Willi Wittig** – 1. One problem for females is that they find themselves in a special situation on board, often they are the only female on board, this is something that needs to be considered. 2. INTERTANKO is standing very close to seafarers as regards criminalisation, this is not always the case for all shipowners, thank you to your organisation for taking this stance. 3. Like to consider how to encourage youngsters to stay at sea a little longer, he considered that a key element for this was to see how proud their fellow colleagues were to be part of the community. We have to show the youngsters that this is an industry with a bright future. **Fredrik Larsson** answered that organisations of shipowners were one of many players in the industry; all need to improve their image of industry to youngsters and need to work on this together. Part of the message needs to be that women are equally welcome. A stricter STW Convention will help to change this, but agreed that shipowners must stand behind seafarers. **Bjorn Haave** commented that the next week when the STW Diplomatic Conference was taking place the hours of work and rest will be considered. The documents presented are asking seafarers to work 18-hour days with 6 hours rest, he added that he sees this as being a negative effect on recruitment. **Fredrik Larsson** replied that the existing STW does contain exception clauses for working hours, and that INTERTANKO is promoting an exception clause for exceptional cases in the revision. **Bjorn Haave** responded that shipping can be considered an exceptional case all the time!

Sudhir Suhedar asked when will the number of inspections be reduced as this has a direct effect on rest hours? **Fredrik Larsson** replied that in the tanker industry Vetting Inspections cause a lot of distractions, and he agreed that this has an impact on rest hours, we are talking to OCIMF but to be successful we need to talk to all the charterers. Multiple inspections do not add to safety. **Sudhir Subhedar** continued – would better competence among the crew be helpful. **Fredrik Larsson** there is an officer matrix that is used to demonstrate to charterers that a ship is operated

by competent people. They are measuring this by means of years in terms of years in service and years in company on tankers; this is how they assure that a tanker is operated by a competent crew. 20 years in service does not necessarily equate to competence – it could come from 1 year of experience and 19 years of repetition. We have in INTERTANKO developed a tanker officer training standard to ensure that the officers are competent rather than have many years of service. This does not replace the matrix, it is simply another way of measuring competence. **Hans Sande** The number of seafarers are lacking. In Norway we spent \$50m telling the youngsters to go to sea you can trust this industry and it is a career that will take you far. Now we have the recession we find that shipowners are no longer taking cadets despite the lack of officers. No one is taking responsibility for the recruitment of officers. If IFSMA is to make a Resolution, it should say that administrations and shipowners need to take on the responsibility to ensure the recruitment of cadets and to persuade them that they can trust this industry. Regarding inspections the responsibility for safety also lies with the cargo owner. Christer Lindvall responded that any IFSMA Resolution should be directed towards the stakeholders, including IMO, on recruitment. **Jef Cuyt** made two remarks, first, that many ships today are being built without enough accommodation for cadets and asked if more pressure should be put on shipowners to provide such accommodation, and secondly, on the one hand excessive hours is not acceptable, while on the other hand many seafarers do not complain on hours of work due to the overtime they are able to earn. **Jerome Benyo**, does not agree that women should be encouraged to go to sea, in his personal experience he has found them to be a disruption. **Fredrik Larsson** best practice is to have two cadets on board at the same time. Generally the feeling is amongst the industry that there are not enough cadets; a survey amongst tanker owners revealed that there is enough accommodation onboard. INTERTANKO is willing to work with others to solve this problem. **Allan Gray** announced that his wife is a Master Mariner and now works as a pilot. However, these days the trend is to recruit pilots and harbour masters taking a very short sighted view. With taking students out of school at 18 years of age and training them for these jobs, same trend throughout the industry, so this avenue for seafarers coming ashore is gone. When he trained there was an expectation that out of 5 trained, only one would stay at sea the other four leaving the industry. We need to offer a full career package. **Fredrik Larsson** remarked that the industry ashore relies on people having sea experience. **Fritz Ganzhorn** List of problems regarding life at sea also the potential ability to recruit new people. Topics such as criminalisation and piracy are not the main topics amongst his members, rather they are concerned with the decrease in respect for the master, decision making is removed from the ship to the office, they would like to see more decision making on board. Another problem is that repetition of providing the same information on many different forms to the shore. Also, while you might get your rest hours, there is a feeling of isolation onboard with no one to talk to. There is scope for improving the life at sea and owners should look more into human resource management rather than looking at the seafarer as someone who is recruited at the lowest possible price. **Victor del Prado** agreed there is shortage of officers. The threat of piracy impedes the recruitment of officers, we need guidance on how to avoid pirates and this needs to be updated all the time. **Paul Owen** reminded the General Assembly that there was a link on the front page of the IFSMA Website to a piracy petition and he urged members to sign this petition.

Christer Lindvall thanked Fredrik Larsson for this presentation and the interesting discussion that followed.

AGENDA ITEM 8 – Criminalisation

Presented by Rodger MacDonald, IFSMA Secretary General

He brought members up to date with recent developments and incidents that IFSMA had been involved in. He explained that IFSMA has good contacts with the representatives of Administrations

through IMO and the Embassies located in London. One country that had given problems was Taiwan, where there were no official representatives based in London. He identified five types of problem:

1. Hostage taking (Prestige)
2. Scapegoat (Hebei Spirit)
3. Ignorance of Industry (Coral Sea)
4. Abandonment of ships (Cormorant)
5. Over zealous law enforcers (whistle blowers)

He reminded that another resource available to seafarers was the International Tribunal for the Law of the Sea, which had to be triggered within a certain time and can only be used by the Flag State of the vessel concerned, or the arrested crew's country of nationality, this was an important resource which so far is being under-used.

Headquarters tries to cooperate with as many parties as possible – we get together as an industry as soon as possible. It is important that you let us know as soon as you become aware of a criminalisation incident.

Christer Lindvall reiterated we need to know about any incidents as soon as possible in order to have the best chance of success when criminalisation occurs. **Allan Gray** added that recently in Australia they have had a victimisation incident, where the Pacific Adventurer grounded on the Great Barrier Reef just before an election, should such cases go to court the seafarers do not have much chance of a fair trial due to press coverage. He asked how do we get the media and politicians to take a fair view. **Rodger MacDonald** replied in the UK rarely do we criminalise a seafarer, the Sea Empress case influenced UK policy, the appointed SOSREP has all the powers he needs to use resources, he takes over responsibility from the master, no politician or media can influence him. Perhaps we should explore the possibility of contacting the media to put our point of view **AGENDA ITEM 9 – STCW Revisions – Missed Opportunities**

Presented by Sudhir Subhedar, Individual Member

See Annex 3 for the paper.

Hans Sande You said we have lost the opportunity to integrate, could you explain please. **Sudhir Subhedar** The only criteria for entrance seems to be age. It should be possible for seafarers to be better integrated into the national training systems. **Bjorn Haave** Agreed with everything said except that the articles should be changed as this would, if this was done, they would take forever to ratify such changes. Some of the limits, e.g. 500 tons and 3,000 tons, are very artificial, there should be a full education for any ship over 500 tons. With the ROC and GOC are we introducing lower limits so those officers could receive a minimum education, the term 'near coastal voyage' should be removed. The concept of operating vessels close to the coast of your own country is no longer valid. **Sudhir Subhedar** Agreed with the previous speaker and added that when the original STW was written much of it was based on historical precedents. However, he added that a country like Japan, with its large coastal area, would be unlikely to agree with such a proposal. **Fritz Ganzhorn** commented that in Denmark they have a saying that "there is more to quality shipping than a clean certificate", seafarers must be educated for their present position.

The President then moved the debate on to the subject of working hours.

Bjorn Haave took the floor to open the debate by explaining the current working hours situation – the proposed changes to the Chapter VIII on rest hours is dramatic, we have the possibility to

deviate from the proposed texts. The EU came up with a proposition which we do not favour, where seafarers were able to work for 98 hours. This was then revised to a position where we have three propositions today, the first paper is from the EU where they say we should have 10 hours rest in any 24 hour period, one rest period should be at least 6 hours, the remaining 4 hours could be split up into many pieces. This means that for these 4 hours you would not have a sleep or much rest, so you would be active for 16 hours a day. The paper from Bahamas and others is more or less exactly the same. The third paper is from Norway which proposes similar, the main difference being that there is the option to deviate from 77 hours rest per week down to 70 hours for one week for a maximum of two weeks, following which the rest period has to revert back to 77 hours per week. IFSMA's position on this is that we do support the Norwegian paper. In the Diplomatic Conference next week it will be down to a vote where a two-thirds majority is required. His preference is that none of the proposals receives a two-thirds majority. **Jef Cuyt** asked if we accept the six on six off watch system. **Bjorn Haave** replied no, but that the only choices available are those he had just outlined. He added that he might be prepared to accept six on six off if there was more than a master and mate on board. **Allan Gray** remarked that there needs to be a restrictive manning system in place to support the watch keeping and rest hours system. Bjorn Haave agreed, but added that unfortunately this was not up for discussion next week. **Christer Lindvall** the problem with safe manning is that it is not up for discussion next week, however, we have got a statement accepted that an administration should be careful not to agree to less than a master plus two mates. **Bjorn Haave** added that without the IFSMA intervention the EU proposal would have been accepted. **Fritz Ganzhorn** suggested that six on six off is possible and has nothing to do with the deviations. Present suggestions from EU say that 10 hours work with 6 hours plus 4 hours rest can be split for only two days, EU proposal is for deviation from 77 to 70 hours for one week cannot be run continuously whereas Norway says for up to two weeks. If IFSMA has a position it should be that we cannot accept any of these suggestions and other countries may then follow our lead. **Bjorn Haave** agreed that we do not have to support any proposed position. The industry raised the argument that they need flexibility in working hours for exceptional circumstances; most arguments are not exceptional.

In conclusion the President announced that IFSMA will not support any of the three proposals and will read out a statement during the Diplomatic Conference, the statement will be agreed at the end of this AGA.

AGENDA ITEM 10 – When will Seafarers be Freed from Asbestos

Presented by Marcel van den Broek, Nautilus International - Netherlands

See Annual Review 2009-2010, page 4, for the written paper.

Following the presentation the following points came out of the discussions: **Rodger MacDonald** thanked Marcel for his important presentation noting that he, and he suspected many others, had no idea about the continued prevalence of asbestos on ships being under the impression that all asbestos had been banned on new and existing ships. He added that this also affected those involved with recycling ships. He found the situation quite unacceptable. **Allan Gray** there had been issues in ports where he worked, always check the asbestos register on every vessel. **Marcel van den Broek** replied that you can search on the internet for spare parts and find declarations that no asbestos is used, however, this is no guarantee that asbestos is in fact not being used in spare parts. It is just down to ignorance, persons in shipyards just look for spares and buy good offers, it is a terrible surprise to them too. **Ajit Balaram** asked if there was an asbestos detector on the market. **Marcel van den Broek** replied that there was not, it required very expensive equipment, adding that a single asbestos fibre that was disturbed required about 5-10 hours in calm conditions

to settle on the floor. **Koichi Akatsuka** wholeheartedly supported a resolution on this subject; he asked if IMO had done enough to protect seafarers from asbestos. **Marcel van den Broek** replied that the legislation is already in place. You can prohibit it but there are lots of ways to circumvent these prohibitions. Incorrect information is provided by manufacturers; in many places around the world they do not know and they do not care. e.g. asbestos blankets used during maintenance work in port, they are removed when the vessel leaves port but the contamination remains. **Jef Cuyt** agreed to produce a resolution and remarked that there must be thousands and thousands of ships in service with this asbestos problem, we cannot stop them all from trading so how do we cope with that. **Marcel van den Broek** replied that if the asbestos is sealed then there is no problem – it is when it is disturbed that the problems arise. There is the potential for all these ships to be a danger so we need to raise awareness. The Dutch PSC officials will often send out experts before they enter ships. If asbestos is found the PSC informs the owner, but will the owner tell the crew. **FILSCAPTS** should tell the owners to come up with procedures. **Fritz Ganzhorn** Agreed with suggested resolution but asked should we have training and admit we can live with it. **Willi Wittig** Agreed that we make a resolution and leave the detail to the Drafting Group. **Hans Sande** added that he worked on the SS Norway where there was 750 tons of asbestos and that many ships contain asbestos. He asked if it might be possible to ask for old ships to be issued with a certificate to state how much asbestos was on board.

In conclusion the President agreed that we should have a resolution and passed this to the Drafting Group.

AGENDA ITEM 11 – Cancelled, speaker unable to attend.

AGENDA ITEM 12 – Oceans Beyond Piracy

Presented by Robert Haywood, Executive Director of Oceans Beyond Piracy.

The paper is at Annex 2.

AGENDA ITEM 13 – Discussion on Piracy

Allan Gray talking about definitions we have trouble with attacks on various vessels (sheep carriers) but not from piracy. He asked if these types of incidents might be included. **Robert Haywood** replied that there had only been one recent case in Europe against attackers and this was against Greenpeace. **Sudhir Subhedhar** in recent times piracy has been linked to social and economic problems, rather than anything else. **Robert Haywood** added that it has also been related to increases in international trade and instability in a local region. Regarding instability of nations in modern times, our ability to influence these nations is far more limited than we would like it to be and did not believe we should have mariners depending on our ability to solve these problems on land. In Somalia we had a failed state for 15 years before piracy became a problem. It is not true that piracy needs a failed state or that piracy needs to be solved by creating a stable economic structure. Only 100th of 1% of the Somali population is involved in piracy. Following a question he added that a citadel type of protection area on board is a good idea and had worked on some vessels but he was not sure how successful it would be where there was no outside rescuers available. **Christer Lindvall** concerning the invitation for IFSMA to join in the Oceans Beyond Piracy Working Group, it was agreed that this was a good idea.

AGENDA ITEM 14 – Casualties at Sea and Insurance Problems**Presented by Captain Andy Malpass, Pandiman Philippines Inc.**

Andy Malpass recounted his experiences and the circumstances of several casualties he had investigated from the insurance aspect.

Rodger MacDonald remarked that he was not surprised by the incident involving the female officer and VHF situation, (where the officer failed to act due to lack of any response on the VHF and spent 15 minutes talking to a container vessel asking it to give way,) and asked if the way colleges rely on simulated computer systems is putting the concept of ‘communicate before acting’ into the minds of the trainees. **Andy Malpass** replied that everyone is used to Xbox, and games, etc. with reset buttons; youngsters are distracted. Today ships have the Internet and SMS messages, so that daily family problems are with the crew all the time. It is time to go back to basics. **Bjorn Haave** The actual problem is with experience, 12 months sea time required under STCW and education is a minimum based on STCW requirements, what we need is a combination of experience and education. **Ajit Balaram** The biggest problem is with GPS, they do not know what to do without it, they assume the GPS is always correct and when using ECDIS they can zoom in to such an extent that the clearances look acceptable. **Sudhir Subhedar** The insurance industry is helpful in making changes, why doesn't the Group of P&I Clubs push for more changes. **Andy Malpass** responded that in years gone by ships could be registered in Liverpool, operated out of Liverpool, insured with the Liverpool P&I Club, and manned from the Liverpool area. You knew whom you were dealing with. These days when I board a ship and try to find out who the owner is, you find that the management is in one country, with another management company in another country and that the vessel is owned by a conglomerate of banks, things have become very cosmopolitan, very spread out. P&I Clubs produce a vast amount of loss prevention information. He asked how could decisions be made by IMO when no one who has ever been on a ship makes these decisions. **Allan Gray** Very concerned about an industry that blames technology but still trains using old techniques. **Andy Malpass** To be a competent operator you need to understand the limitations of the equipment you are using. Allan Gray commented that aircrew train for the specific type of aircraft. Ships crew do not have type training. We are still a long way behind the airline industry. **Rodger MacDonald** We are in a digital age and you have to accept it. We need to use seamanship and there is not enough sea time required. **Hans Sande** I used to work for DNV in 1994 as an SMS Auditor just before the ISM was introduced, one of the requirements is that when developing procedures you must consider industry guidelines and procedures. One of the things that surprised me when doing these audits was that the information was on the bridge, nicely marked, but never opened, the other thing was that when I asked a mate to take me through the checklist, several times he did not know what he had checked off but just said yes. This demonstrated to me that you can make as many checklists as you like but you need to make sure that the checkers understand what they are checking off. Standardisation between ships is also important, for example with different radars.

AGENDA ITEM 15 – Japan's Maritime Meteorological Information Services and Safety at Sea**Presented by Yasuyuki Morimoto, President of Japan Captains' Association**

See Annual Review 2009-2010, page 7, for the written paper.

Following the presentation an extract of the JCA Video was shown. Copies of the video are available upon request to JCA. The President thanked JCA for a very interesting and useful presentation.

AGENDA ITEM 16 – “2010 - Year of the Seafarer”**Presented by Rodger MacDonald, IFSMA Secretary General**

Rodger MacDonald explained that a conference had been arranged. A Programme had been distributed for the full day Forum being held on Saturday 26th June, the day after the end of the IMO STW Diplomatic Conference. Although this was IFSMA's idea it has now become a shared conference together with GLOBALMET, Newslink International, FILSCAPTS, Nautical Institute.

The event is divided into four sections with IFSMA chairing the first part. It is anticipated that in the final section, chaired by GLOBALMET that we will have lots of interaction with the seafarers attending where they can tell us what they want us to do, the first three sections consisting of us telling the seafarer what we have done and are doing.

The theme of the Forum “2010 - The Year of the Seafarer” to tell the seafarers that we are in an industry that we can all be proud of and that we should all work together. We don't want an us and them attitude here, they are all the essential element.

He expected banners from the organisers to be displayed and tables would be available to distribute literature from the organisers. He really hopes it would be a success, and hoped that as many members as possible could attend.

Victor del Prado added that although we had booked a minimum of 500 places he expected around 650 to attend. He added that it is also planned to build an Obelisk close by the venue to commemorate “2010 - Year of the Seafarer”.

Christer Lindvall announced that AMOSUP and the Swedish organisations have a training fund and have contributed US\$8,000 to the running costs of the Forum and he stated this would also contribute to the building of the memorial. He hoped that this would be a successful event in tribute to all seafarers and also to their families.

AGENDA ITEM 17 – Drafting Group Report

The Drafting Group reported that they had drafted General Assembly Statements and Resolutions for consideration and approval by those present.

AGENDA ITEM 18 – Approval of Resolutions

Two General Assembly Statements and four General Assembly Resolutions were presented. After some discussion and amendments they were all approved, subject to any tidying up, as required, by the Secretariat. See Annex 1.

The President, on behalf of the General Assembly, thanked the drafting group for all their hard work in producing the agreed statements and resolutions.

AGENDA ITEM 19 – Any Other Business**Invitation for 37th Annual General Assembly**

The Company of Master Mariners of Canada (CMMC) had invited IFSMA to hold the 37th Annual General Assembly in Halifax, Nova Scotia, Canada. In support of this invitation a short video was shown and a formal letter of invitation read out. There had been no other invitations.

Members agreed to accept CMMC's invitation, the tentative dates will be 8th and 9th June 2011, with a one-day conference organised for 7th June and the Annual Dinner also on the evening of 7th.

CLOSE OF GENERAL ASSEMBLY

Victor del Prado on behalf of FILSCAPTS expressed his appreciation for accepting their application for membership to IFSMA. He also said they were very interested to see how IFSMA worked on matters that affect masters and seafarers. The Philippines have a number of Shipmasters and have up to now isolated themselves from IFSMA but now feel proud to be part of IFSMA and promised to take an active part in future. He also noted that there is much work to do within the local Philippine shipping trades. He looked forward to participating at the next AGA in Halifax Nova Scotia. In closing he congratulated the leadership of Christer Lindvall, and also thanked the Secretariat and Members.

President's Concluding Remarks

The President, in closing the General Assembly, thanked the speakers both from the membership and those who had joined us just for this event. We have had good discussions and made some fruitful decisions in the Statements and Resolutions. The General Assembly had been very successful and he thanked those attending who had travelled great distances to be with us. He also thanked Rodger, Paul and Roberta who have made a significant contribution to the organisation and success of the event. He thanked AMOSUP too and FILSCAPTS, and especially thanked Butch and his staff for their excellent arrangements in Manila. He looked forward to seeing everyone in Halifax next year.

He wished all delegates a safe journey home.

ANNEX 1**General Assembly Statements and Resolutions****IFSMA STAT 1/2010 (AGA 36) – Deepwater Horizon**

On the occasion of the 36th Annual General Assembly the delegates of IFSMA assembled in Manila, Philippines, 17/18 June 2010, expressed their deep concerns about the Deepwater Horizon catastrophe and expressed its sympathy not only to the families of those who lost their lives, but to all those who will suffer from economic, environmental and domestic impact in their lives, particularly to seafarers and other people who work and earn their income at sea in the affected area.

Regarding the ongoing and forthcoming operations at sea in connection with the Deepwater Horizon, IFSMA recognizes the need for urgency in order to save the environment from as much damage as possible. But at the same time IFSMA is concerned with reports from its members on the safety and wellbeing of the masters and crews on board salvage vessels and other vessels operating in the area. IFSMA has received reports on illness caused by fumes and gases as well as reports on excessive working hours over long periods of service.

Without any direct connection to the Deepwater Horizon and in respect of the ongoing accident investigations and the future findings and conclusions IFSMA also wants to emphasize that maritime skills and competences in general, and especially in terms of offshore operations, are vital to any deepwater operation. IFSMA therefore urges IMO to address standards for manning of moveable offshore installations and standardization of certification, training, competence and proficiency within the field of offshore operations as well as setting the standards for contingency planning.

IFSMA STAT 2/2010 (AGA 36) – Hours of Rest

On the occasion of the 36th Annual General Assembly the delegates of IFSMA assembled in Manila, Philippines, 17/18 June 2010, expressed their concern over the proposals for revision to the hours of rest in the STCW Convention. Therefore IFSMA wishes to use the opportunity of this Conference to share the views of IFSMA Members.

At IMO the subject of fatigue has been discussed at length on many occasions. As fatigue is of great concern to all of us, actions to prevent it should be taken whenever possible. The Secretary General has mentioned fatigue as an important cause of incidents and accidents and has also requested the Member States to always take the Human Element into consideration.

Over the years IMO has taken initiatives in order to achieve a reduction of fatigue. At this Diplomatic Conference the Member States are given the opportunity to improve the existing regulations and thereby reduce the problems of fatigue even further. During STW-39 the fatigue problem was discussed once again and action was taken on the derogation paragraph in the STW Chapter VIII, Section A-VIII/1.4. It was agreed that this paragraph was contradictive to the work to reduce fatigue. Therefore this paragraph was removed. This action was also recognized at the following meeting of the Maritime Safety Committee.

A number of papers have now been submitted, with the purpose to include new possibilities and means of deviating from the main rule set out in STW Chapter VIII, Section A - “fitness for duty”, the main rule providing for 10 hours of rest a day and 70 hours of rest a week.

IFSMA is not supportive of any of the submissions as they will all have an increased negative effect on fatigue and therefore also on safety.

IFSMA urges the IMO Member States to focus on safety and prevention of further fatigue to seafarers, particularly with regard to watch keeping personnel.

IFSMA RES 1/2010 (AGA 36) – Piracy

On the occasion of the 36th Annual General Assembly the delegates of IFSMA assembled in Manila, Philippines, noted with great concern the immense and increasing threat to seafarers from maritime piracy, particularly from pirates operating off the coast of Somalia.

IFSMA calls upon relevant national bodies to criminalize maritime piracy in their domestic jurisdictions, in accordance with current international law.

In this process, IFSMA encourages states to include in their criminal laws a prosecutable definition of intent to commit piracy. IFSMA recommends this be done by using equipment specific to maritime piracy as an evidentiary standard to prove intent.

IFSMA also encourages a UN Security Council Resolution that would call for the incorporation of equipment laws into national jurisdictions.

IFSMA will continue to be actively engaged in discussions of potential solutions for maritime piracy, particularly in forums that give voice to non-governmental organizations.

IFSMA calls upon the international community to provide the framework to enable ITLOS and respectively ICC to become engaged in trials against pirates.

IFSMA has noted with great concern the recent US initiative to impose civil penalties on shipping companies who pay ransoms to pirates in order to end the hijacking of their crews and vessels.

IFSMA once again recalls its position that under no circumstances the crew on board merchant ships should be armed or any armed guards be taken on board

IFSMA calls upon all seafarers, their families and friends as well as everyone else, to sign the “End Piracy Now” petition at www.endpiracypetition.org to urge Governments to act now to fight piracy.

IFSMA RES 2/2010 (AGA 36) – Victims of any Acts of Piracy

On the occasion of the 36th Annual General Assembly the delegates of IFSMA assembled in Manila, Philippines, noted with great concern the information provided by the Master Mariners Society of Pakistan about the circumstances of the death of its member Captain M. Jaffer Jafri, who was murdered during the hijacking of the ship “QSM Dubai” by pirates.

IFSMA is calling upon all Governments and Shipping Companies to take responsibility by giving full support to the families of any victims amongst ships crew resulting from any act of maritime piracy.

IFSMA is of the opinion that all victims of any acts of piracy affecting crew and their families should be taken care of financially and by the provision of trauma counselling.

IFSMA RES 3/2010 (AGA 36) – Recruitment

On the occasion of the 36th Annual General Assembly the delegates of IFSMA assembled in Manila, Philippines, noted that the shipping industry will continuously need to attract, employ and retain young talent to keep the world fleet sailing.

The delegates further noted that attracting and retaining sufficient new entrants is a major task that will need the efforts of all stakeholders.

The delegates emphasised that optimising recruitment would require a review of present recruitment methods and the exploration of new ones.

Moreover, the delegates noted that the assessment of the quality of life on board vessels should be an integral part of all stakeholders' considerations in the shipping industry in order to recruit and retain seafarers.

IFSMA RES 4/2010 (AGA 36) – Asbestos on Board Ships

On the occasion of the 36th Annual General Assembly, the delegates of IFSMA assembled in Manila, Philippines, noted with great concern the continuous trend of seafarers being exposed to asbestos on board vessels.

Apart from the dangers related to exposure to asbestos present on vessels built before SOLAS Chapter II-1 Construction - Structure, subdivision and stability, machinery and electrical installations, came into force on 1 July 2002, the delegates noted that in addition to the current limited exemptions, ending 1 January 2011, that asbestos is also found on some new builds with the keel being laid after 2002.

The delegates also noted the concern recently expressed at the 53rd Session of the IMO Sub-Committee on Ship Design and Equipment, a proposal for the inclusion of a footnote to Regulation II-1/3-5 expressly prohibiting the installation of any material containing asbestos purchased prior to 1 January 2011, being kept in any ship's store or in a shipyard for a ship under construction, that it should not be permitted to be installed after 1 January 2011 as a working part.

The delegates moreover noted that when vessels enter into service, they frequently become contaminated with asbestos when undergoing repairs at shipyards throughout the world and/or while storing and using maintenance products and spare parts that often contain asbestos.

The delegates further noted that without proper training seafarers cannot easily identify whether or not products or spare parts contain asbestos, and that they therefore run a serious exposure risk during maintenance work.

IFSMA calls upon the relevant international, regional and national bodies to take appropriate action to ensure compliance to national, regional and international regulations regarding the use of asbestos products.

IFSMA strongly recommends that information is provided on materials containing asbestos and seafarers are made aware of the dangers of asbestos through appropriate training.

ANNEX 2

Oceans Beyond Piracy: Equipment Laws, Prosecutions, and a Collaborative Solution to Maritime Piracy

by Robert Haywood, Executive Director, One Earth Future

The Current Situation

Maritime piracy is one of the world's oldest international crimes. Cicero called pirates "*hostis humani generis*" or "enemies of mankind". Unfortunately, over two millennia after Cicero, we still have not found a viable and sustainable solution to this crime, and nation states increasingly find it difficult to respond effectively. In the past piracy was defined as "attacks that were made without legal authority on ships and maritime villages." or "robbery and deprivations committed at sea that on land would be a felony." Piracy could occur anywhere beyond the high water mark and included mutiny. Today, the legal framework and international strategy for dealing with piracy are based on rules and concepts developed nearly 90 years ago, and are some of the most restrictive in history.

The insufficiency is highlighted by the situation off the coast of Somalia, which has radically deteriorated in 2005 and continued to do so throughout 2009, despite significant international attention paid to the region. Over thirty countries contribute to the navies tasked to protect the sea lanes around the Horn of Africa. From 2008 to 2009 these navies did reduce the *rate* of hijackings, but the pirates doubled their attacks and increased their area of operation, so the *actual number* of successful hijackings increased. In 2009 alone, Somali pirates launched 217 attacks (53% of attacks worldwide), hijacked 47 vessels, and held 867 seafarers hostage.¹

Somali pirates have captured international attention because their skiff-mounted attacks on state-of-the-art supertankers repeatedly yield multi-million dollar ransoms. While there is some debate about what led these men to piracy in the first place, the reasons for their success are clear. Piracy is no riskier than numerous other occupation possibilities in Somalia, but it does offer the rare opportunity for extremely attractive rewards: in 2009 alone over \$100 million in ransoms were paid. In addition to these very strong incentives, if successful in the initial hijacking and ransom collection, pirates can generally count on getting away with their crime. They have little to fear in terms of governmental punishment, from international or national authorities.

Oceans Beyond Piracy

By the end of 2009, the threat to the global economy and the merchant ships and crews traversing the region had grown increasingly serious. This led to increasing calls throughout the West for engaging pirates on land. One Earth Future (OEF), certain that such an invasion would lead to a wider conflict with no good exit strategy, rapidly accelerated its *Oceans Beyond Piracy* project to prevent such a policy error. OEF believes that an approach based on rule of law and non-violent alternative solutions are the best way to protect seafarers.

Because of the high risk to seafarers from Somalia, OEF currently maintain a strong focus on

¹ This data is taken from the IMB Piracy Reporting Center. Worldwide, these figures are 406 total attacks, 49 hijackings, and 1052 hostages.

resolving the Somalia problem. However, we recognize piracy as a global problem so our project is globally oriented. The main goal of the *Oceans Beyond Piracy* project is to establish viable global mechanisms for effectively dealing with maritime piracy wherever it may occur. We define 'effectively' to be any method that is efficient, amenable to all stakeholders, respectful of human rights, and includes prevention, suppression, and prosecution. We do not aim to eliminate piracy entirely, as we believe that to be nearly impossible, but we do strive to create, through a Working Group, a system that handles the issue so effectively that piracy incidents are eventually reduced to a few rare and easily handled anomalies.

Needless to say, a crime with as long a history and which is as complex as piracy cannot be defeated in one quick step. It requires a multi-level, multistep process, and OEF is committed to seeing all parts of the solution develop. We will be working on *Oceans Beyond Piracy* for years, and we intend to create systems that last decades beyond that.

Current Systems and Solutions

The international attention paid to this problem over the last several years has been occasionally productive. In addition to the efforts of the navies, merchant mariners established Best Management Practices (BMP), which include travelling in the Internationally Recommended Transit Corridor (IRTC) patrolled by navies and aircraft on the lookout for pirates. The UN Security Council has also taken an interest in the issue, passing numerous Resolutions condemning the situation and urging states to do what they can to help.

Various nations have responded to that call. In Somalia itself, the semi-autonomous region of Puntland (which is where many of the pirates originate) is holding over 200 pirates for trial, and Somaliland is also holding trials. Kenya is in the international spotlight for its work so far, since it has tried 18 pirates and is holding 123 more. Tanzania, the Seychelles, the US, France, Yemen, Germany, the Netherlands, and India have also begun to hold and try pirates.

The difficulty these countries are now encountering, however, is how to best try the 540+ pirates in custody. They face evidentiary problems (presenting evidence in court), witness problems (keeping seafarers from work for months on end in order to testify), and problems of what to do with suspects found innocent or convicts finished with their sentence. The international legal framework cannot address all of these issues on its own.

The key international legal documents governing piracy are the UN Convention on the Law of the Sea (UNCLOS) and the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation Protocol (SUA Convention). UNCLOS deals with piracy most directly, defining it clearly and making both piracy and the intent to commit piracy international crimes. It also establishes universal jurisdiction for these crimes, giving any state the right to prosecute and convict pirates.

The SUA Convention does not touch on piracy as such but it does define a broad series of crimes that interfere with safe navigation, which often include most piratical acts. While it gives jurisdiction only to those states that have a connection to the crime, the very broadness of the crimes it covers eliminates certain requirements restricting piracy as covered by UNCLOS.

These two treaties provide the main legal frameworks for addressing piracy, but they have debilitating gaps. UNCLOS, for example, does not provide a prosecutable definition of intent. Also, both treaties give states the right to prosecute these crimes, but that does not automatically give states the national authority to do so – most states must write the treaty provisions into their own national criminal codes first. Finally, having the national authority to prosecute does not automatically give states the capacity to prosecute. Tremendous disparities exist between states' capacities to prosecute, standards of legal conduct, the security and impartiality of local judges, consistency of penalties, disparate rules of evidence, the costs of prosecution, and even the

disposition of convicted pirates during their sentence and after their release. UNCLOS and SUA touch on none of these issues, leaving nation states to find solutions themselves.

While current best efforts of the international legal community, merchant mariners, and states are helpful, they are manifestly not enough. *Oceans Beyond Piracy* will eventually address all of these issues in its efforts to create a comprehensive solution.

Addressing the *Intent* Gap

Under UNCLOS, we know that *intent* to commit piracy is an international crime (Art. 101 UNCLOS). But, because there is no universal, prosecutable definition of intent, navies find themselves in a frustrating ‘catch and release’ situation. They catch a pirate vessel, dump all the equipment pirates might use to hijack a vessel overboard, and then release the pirates, because they are worried these pirates will present too large a problem to the states if brought back for prosecution. Unless pirates are caught in the act of hijacking a ship, it is very difficult, legally speaking, to prove they are not innocent fishermen and convict them of the crime of piracy. Since the average hijacking attack takes 10-15 minutes, after which the pirates have the very formidable advantage of holding both ship and crew hostage, restricting the success of the navies and prosecutions to such a small time window is incredibly debilitating to suppression efforts.

Therefore, if states could agree on a means to *define intent* – this would be a crucial development in the prosecution of piracy. The most effective way states could do this is through using the *equipment* pirates have on board as an evidentiary standard to prove the vessel and its crew intended to commit piracy. That is, states could employ equipment laws in their domestic codes criminalizing piracy, so that pirates could be tried and convicted with less difficulty.

Under equipment laws, the possession of certain equipment or a combination of certain equipment in specified areas of the seas – such as ladders, grappling hooks, excessive fuel, and heavy armaments – would be sufficient evidence to establish intent to commit piracy. This concept has an international legal precedent in the 19th century struggle against the slave trade. In that situation, international treaties made the presence of certain equipment used in slavery as sufficient proof that the ship and crew were slave traders and could therefore be condemned.

Equipment laws have garnered unprecedented respect amongst the world’s leading experts in international and maritime law. The concept is now a continuing agenda item of Working Group 2 (Legal Issues) of the UN Security Council Contact Group on Piracy off the Coast of Somalia, and U.S. Assistant Secretary of State, Andrew Shapiro mentioned it in a recent speech as a viable way forward to prosecute pirates.

Equipment laws can help bolster any solution based on the rule of law. They are relatively easy to incorporate because they do not require re-writing UNCLOS to be effective; rather, their implementation in conjunction with the implementation of current UNCLOS laws makes the treaty laws more operational in practice. This in turn can significantly reduce the prosecutorial burden of a conviction, particularly for the merchant mariners whose ships are in danger, as it allows for prosecution of pirates caught before they have a chance to attack. Like any method to make prosecutions easier, it will also help current efforts to establish numerous robust prosecutorial venues in the region, which is a very pressing issue.

Addressing other gaps

It is worth stating here again that equipment laws (and indeed, even prosecutions) are not *the* solution to piracy. While the concept is helpful, equipment laws are only a part of what needs to be done to ease the crisis off the coast of Somalia, and only a small part of the more comprehensive suppression program that is needed to tackle the larger global piracy issue. For we must remember

that piracy is not just a ‘Somali’ problem – it is a global problem. In the past five years, only 15% of pirate attacks have been committed by Somali pirates.

Bolstering current piracy laws and prosecution structures around Somalia cannot be the world’s only course of action. Instead, *Oceans Beyond Piracy* is building on the momentum generated by the Somali crisis to create a sustainable and comprehensive method for dealing with piracy around Somalia and worldwide.

Oceans Beyond Piracy is establishing a multisectoral Working Group with members from commercial, civil, and political societies. The Working Group will bring together leaders from all the major stakeholders impacted by this issue, including key industries (shippers and owners associations), crew associations, flag states, human rights NGOs, international law experts, fishing communities, naval powers, IGOs, and seafarer’s unions. Working together, these stakeholders will formulate responses to piracy that are applicable wherever piracy occurs, not just around Somalia.

Oceans Beyond Piracy does not have all the answers now, but we do believe the Working Group will be the body capable of coming up with the solutions. We imagine the group will create a governance system that closes the gaps in international law, clearly defines intent and equipment laws, takes into account relevant human rights issues, and defines best practices for everything from setting legal conduct standards to determining fair penalties.

It will not seek to duplicate the efforts of the Contact Group on Piracy off the Coast of Somalia nor other efforts such as those undertaken by the International Maritime Organization. Instead, the Working Group will look to connect all the various and disparate voices discussing the issue and to contribute to those areas that are currently under-addressed. It will especially seek insight from non-governmental groups such as civil society groups and industry workers associations, which have played a smaller role in other government-oriented working groups.

We welcome your feedback on our plan and request the assistance of your international association and national organizations in developing our *Oceans Beyond Piracy* project at the national level. In particular we believe it would be beneficial if IFSMA could:

- Call attention to the increasing threat to seafarers from piracy, particularly off the coast of Somalia.
- Call upon nations to criminalize piracy in their domestic jurisdictions.
- Encourage states to include in a prosecutable definition of *intent* to commit piracy in their jurisdictions.
- Recommend this be done including equipment laws as an evidentiary standard.
- Encourage a UN Security Council Resolution that calls for equipment laws to define intent to commit piracy both in the UN Contact Group and in the Security Council.
- Continue to actively engage in discussions regarding piracy, particularly in forums that represent non-governmental voices, such as the *Oceans Beyond Piracy* Working Group

We would also be more than willing to discuss other strategies with you and incorporate your experience in our project.

One Earth Future is an independent, well-funded foundation dedicating significant resources to *Oceans Beyond Piracy*, and we are ready to assist with this issue wherever possible.

Please do not hesitate to contact us at: +1.303.533.1702 or

maritimepiracy@oneearthfuture.org.

Further details may also be viewed at: www.oneearthfuture.org.

ANNEX 3

STCW REVISIONS – MISSED OPPORTUNITIES

by Sudhir Subhedar, Individual Member

International Maritime Organization's subcommittee on Standards of Training and Watchkeeping (STW 36th. Session in 2006) recommended a comprehensive revision of STCW 95 in the light of the experience gained. A final draft is put up to the Diplomatic conference here in Manila next week.

MISSED OPPORTUNITIES

WHAT IS THE DEFINITION OF A SEAFARER?

IMO COULD NOT AGREE ON THE TEXT OF THIS DEFINITION!

AND THEREFORE WHO IS TO BE TRAINED BEFORE GOING TO SEA AND WHAT TRAINING CONFUSION STILL CONTINUES ON DEFINITION OF PARTY, ADMINISTRATION

UNLIKE ICAO SISTER ORGANIZATION IMO CONVENTIONS LACK 'THOU SHALL' – ARTICLES

NEW DEFINITIONS OF COC, COP CANNOT WISH AWAY CERTIFICATE DEFINED IN STCW ARTICLES PRESENTLY

The said recommendation was endorsed by the Maritime Safety Committee with target completion date of 2008 but due to complexities in the exercise the date was extended to 2010. IMO Assembly and Council gave terms of reference for such a comprehensive revision so that the amendments are:

- Relevant to shipping of today and tomorrow;
- Timely and harmonized;
- Not de-skilling seafarer;
- Take into account decisions of other bodies – MEPC, ILO; and
- Not to touch Articles so as to bring forward the amendments by early consensus.

NO FEED BACK IS TAKEN FROM SEAFARERS. THERE SHOULD BE SOME MECHANISM IN ICS / ITF / UNIONS / PROFESSIONAL BODIES TO ENSURE STCW FEED BACK IS COLLECTED YEAR ON YEAR

However, delegates of all member States actively participated unlike in STCW 1995, in six STW meetings to bring about essential changes of mutual interest to global shipping. The largest manpower suppliers, India and Philippines hardly contributed anything to the STCW 95 content and China was just getting ready to participate in such deliberations. It may be recalled that the then Secretary General of IMO Shri. C.P. Srivastava way back during his long tenure from 1966 at IMO, London made for the first time STCW 1978 happen as common minimum Standards for training certification and watch keeping. This was indeed a great achievement. But, for global consensus it had to be general, broad based and mediocre in content.

MOST SEAFARERS AND THEIR MANAGERS THAT HAVE BEEN APPROACHED BY ME SHOW THEY HAVE VERY LITTLE KNOWLEDGE OF STCW REVISION!

THERE IS AN URGENT NEED FOR ACTIVE SEAFARERS BEING GIVEN AN OPPORTUNITY TO EXPRESS THEIR OPINION IN ALL MATTERS AFFECTING THEM, MOST IMPORTANTLY IN STCW CONVENTION e.g. historical thresholds of 500, 750, 1600, 3000 IN THE LIGHT OF MODERN DAY SHIPPING

STCW 1995 improved on the original Convention by clarifying mainly the vague term 'satisfaction to administration' and tabulating competence based on a functional approach to ship board operations. It also for the first time brought on board all persons going to sea for basic safety training. Furthermore, provision was made in detailed regulations for submitting 'communication of information' to IMO by a party (marine administration) giving full and complete effect to the provisions of the Convention. This led to the creation of the 'white list' of compliant countries duly evaluated by independent competent persons selected by IMO. The Author was part of such a panel.

THE FUNCTIONAL APPROACH TO COMPETENCE MAPPING NEEDS TO BE REVIEWED, ASSESS INDIRECT IMPACT OF DUAL CERTIFICATION, COMBINED MATES AND MASTERS' SYLLABUS AND

***NO CONTRIBUTION OF STCW TO SAFE MANNING
PERHAPS BRING THE MASTER AND CHIEF ENGINEER UP FROM MANAGEMENT TO TOP
MANAGEMENT LEVEL***

The Secretary General in January 2010 at the concluding session of STW 41 dealing with comprehensive revision congratulated the Sub-Committee for completing the task by preparing the final draft of the Convention to be placed before the Diplomatic conference in Manila in June 2010. The delegation from the Philippines stealing a march on others, offered to host the Conference. .

***PHILIPPINES WILL DEMONSTRATE ITS ABILITY TO SUPPLY MAXIMUM NUMBER OF SEAFARERS AND QUALITY SEAFARERS TO WORLD OF SHIPPING
BECAUSE QUALITY INPUTS INTO NEW STCW 2010 HAVE BEEN INCREASED. BUT BASIC MINIMUM SCIENCE EDUCATION IS NOT YET AGREED
NOR THE USE OF IMO CODE OF INVESTIGATION IN NATIONAL PROVISIONS Reg. I/ 5 TO ENSURE SEAFARERS ARE TREATED FAIRLY DURING INVESTIGATION OF AN ACCIDENT WHERE HUMAN ERROR, INCOMPETENCE IS A CONTRIBUTORY CAUSE***

The Secretary General observed that the STCW comprehensive revision is apt and timely for the theme of the year chosen i.e. '2010- Year of the Seafarer' and the IMO campaign titled – 'GO TO SEA'. He hoped that the revised STCW 2010 endorsed in Manila will help attract new blood into seafaring and help improve standards overall by use of the voluntary audit scheme now in progress.

Some of the most important features of the revision are stated below. No doubt, more detailed presentations and analysis will follow in the run up to the Conference in Manila and thereafter. Most importantly, definitions in Reg.1 have been streamlined and arranged alphabetically. The introduction of new definitions for certificate of competency; certificate of proficiency, documentary evidence should help alleviate the problems by using the term certificate. Due to security concerns ISPS has entered into definition. But not ISM! Nor the definition of ship safety representative.

***TWIN INITIATIVES OF HUMAN ERROR EMPHASIS – STCW and ISM HAVE NOT BEEN LINKED NOR MASTER/CHIEF ENGINEER COMPETENCE ENHANCED FOR SHIPPING OF TOMORROW
A FRESH LOOK AT Ch. II and III COMPETENCE TABLES IS REQUIRED TO ENSURE SHIP RUN FROM SHIP NOT SHORE – incentivize going to sea***

Some other new terms that have entered STCW are AB – able bodied seaman hereto before defined in ILO. A long felt need to give recognition to Electrical officer and Wireman commonly used on board ships has also been addressed. Although, there is no mandate to carry these persons, if carried they would have to hold appropriate certificate of competency. Unfortunately, as the Articles are not to be touched and stem from before 1978, essential clarity in defining 'Party' and 'Administration' has not been achieved. The Indian proposal to clearly define 'marine administration' as one responsible for training and issue of certificates did not find favour with

delegates to the Sub-Committee.

THERE IS A NEED TO INTRODUCE A WAY TO UNIFORMLY INTERPRET WHAT WE ALL MEAN BY PRESENTLY USED VAGUE TERMS e.g. training, education, certificate, assessor, exceptional circumstances, company responsibility, assigned duties, SSTP, ISM, Risk assessment, situational awareness, underpinning knowledge, reducing NCV content, BRM, ERM, medical fitness, identity document etc.

A good new provision in Reg. 2 is a mandate for exchange of certificate information for validating authenticity, prevention of fraud etc. However, a new provision in Reg.3 that could affect coastal shipping manning is that a person in one NCV area could now work in another NCV area with agreement of the administrations concerned. In Reg. 4 and 5 as expected under port state control procedures compromise in security due to incompetence has been highlighted. National provisions have been strengthened to include investigation and penalty for compromising security as and when detected.

ASSESSMENT ALMOST EQUAL TO THAT OF FOREIGN GOING OR EFFECTIVELY DOWNGRADE NCV COMPETENCE BECAUSE NCV CERTIFICATE HOLDER IN TROPICS MAY REALLY NOT BE READY FOR COLD CLIMATE CONDITIONS

NCV IS VERY IMPORTANT TO GIVE A BOOST TO COASTAL SHIPPING TO COMBAT CLIMATE CHANGE. NEW STCW SHOULD HAVE ADDRESSED NCV PROVISION WILL NOW HAVE THE EFFECT OF MAKING THE EXAMINATION AND THE CONCERNS IN MORE DETAIL AND PROVIDED FOR LOCAL ADMINISTRATION CERTIFICATES

There is no substantial change in Reg. 6 on training and assessment. However, reference has been made to e – learning, modern methods of training delivery and obligation to maintain register of approved training institutions. The provision on communication of information to IMO Reg. 7 has been strengthened to make the process of ‘white list’ and its updating more meaningful. Seafarer medical examination process has been brought under purview of quality system besides laying down criterion of medical fitness and quality report submitted to IMO as per Reg. 8. The Diplomatic conference will need to ponder over the [] left for further consideration.

IFSMA SHOULD HAVE GOT ITSELF INTO COMPETENT PERSON MODE FOR STCW AND IMO AUDIT SCHEME TO MAKE THE MOST OF INDEPENDENCE IN ASSESSMENT

SEAFARERS ARE LOOKING FOR MORE PRACTICAL ASSESSMENT METHODS AND USE OF LEARNING AIDS BEING ADOPTED IN STCW REVISION AT LEAST AS RECOMMENDATIONS AND MADE PART OF COMMUNICATION OF INFORMATION

Reg. 9 is now made to stand alone dealing with medical (physical fitness) standards only in line with the joint work of IMO / ILO / WHO which is ongoing. More changes can be expected in this area soon. Amended Reg. 10 on recognition of certificates of competency now mandates up-to-date evaluation of training, certification and quality standards duly supported by an electronic national database eventually capable of being made available on line to the interested party. Regrettably, the modern practice of continuing professional development CPD (vide NI programme) could not replace present revalidation provision in Reg. 11. Other than basic safety training save for those items that cannot be practiced on board during sailing have to be revalidated for continuing professional competence. A long felt need of clearly identifying what is to be revalidated has been achieved by inserting tabulated requirements. Timing and sea service requirement remains the same but more clearly defined for revalidation so that the seaman is not at a loss.

SIMILARLY REVALIDATION NEEDED TO BE RE-EXAMINED AS CPD;

OPPORTUNITY TO INTEGRATE STCW CERTIFICATION TO GENERAL EDUCATION

WHAT IS THE USE OF A REVALIDATION COURSE EVERY FIVE YEARS CONDUCTED BY EX SEAFARERS***IN CIVIL AVIATION THIS IS DONE BY THE MASTER PILOT***

There is no change in the text of Reg. 12 on simulators, and one man bridge operation trials. Under the provision of Reg. 14 – company responsibility delegates were able on this occasion to explain the vague term ‘assignment of seafarers’ by stating requirement of refresher, updating and reference to SOLAS Ch. V. on clear communication responsibility. Transition provision / grandfather clause Reg. 15 will only be finalized at the Diplomatic conference when dates are decided for implementing the new Convention. I am personally looking for a tightly controlled grandfather clause so that there is a level playing field basis past experience since STCW 1978.

Ch. II on the deck side there is substantially the same with some minor competence modifications; reducing little celestial navigation elements and adding modern navigation aids such as ECDIS. There was a lively debate for four years on the use of celestial navigation vis-a-vis GPS, signalling by flags, morse, semaphore etc. At the end, not much changed. For example, even to take simple amplitude to correct compass one needs to know the whole thing – PZX triangle! But, an attempt has been made to develop off shore vessel operational competencies with the possibility of stand-alone endorsement.

PRACTICAL SHIP HANDLING EXPERIENCE, ASSESSMENT, USE OF SIMULATORS, TRAINING SHIPS ETC., HAS NOT BEEN MANDATED***NOR MODERN METHODS OF TRAINING DELIVERY, DYNAMICS OF TRAINING MISSED.******CELESTIAL NAVIGATION CONTENT IN DETAIL SHOULD HAVE MOVED TO HIGHER GRADES CERTIFICATE IF AT ALL IN LIEU OF MODERN BRIDGE NAVIGATION< CARGO HANDLING SYSTEMS< SHIPPING PRACTICES AND PERSONAL CARE******ELEMENTS OF DPA COMPETENCE AS PER MSC CIRC ADDED AT MASTER'S LEVEL***

Under Ch. III for engineers there has been substantial change:

- Thirty months of engineering knowledge / underpinning knowledge has been omitted. India tried hard to keep the provision but could not muster the necessary support.
- Fully revised tables of competence to reflect modern engine room with more electricity, electronics and computerized controls.
- New tables of competence included for Electrician and Wireman (operational and support level respectively).

In both Ch. II and III tables of competence for good old AB and oiler have been added to be obtained after watch rating certificate. And, resource management has been introduced including leadership skills, communication skills, team work and such basic management principles. However, I believe, an opportunity to introduce new tables of competence for Master and CE has been lost leading to a vacuum in competence on board being witnessed today. Both chapters have been revised with due regard to avoid duplication of work, terms in use in Ch. V, VI.

ALTHOUGH CH III COMPETENCE TABLES HAVE BEEN COMPLETELY REVISED FOR MODERN DAY ENGINEERING, HARMONIZATION, THERE IS A WIDE GAP IN UNDERSTANDING HOW THIS WOULD

BE ACHIEVED TO MAKE A COMPETENT ENGINEER OF TOMORROW AT SEA/ SHORE IN THE GIVEN APPROVED SEA TIME

CLEARLY KNEE JERK REACTION TO CURRENT SAFE MANNING CRISIS

THERE IS ALREADY A CYCLICAL INDICATION OF EXCESS OF JUNIOR ENGINEERS!

BUT NOT NECESSARILY COMPETENT ENOUGH

IN SPITE OF MORE TRAINING SHIP BOARD MANAGEMENT AND MAINTENANCE OF SHIP IS FAR LESS THAN MY PRE STCW ISM DAYS AT SEA

With respect to changes in historical thresholds of tonnage and kW for coastal / NCV shipping the Sub-Committee rejected India's proposal to increase this to 10,000 gt and 6000 kW so that coastal shipping as a source of fuel saving environment friendly transport in the proximity of shore is facilitated. It was argued that this would mean deskilling and that there is already scope for administrations to use limited certificates of competence by making suitable national provisions.

No opportunity was taken to clearly state responsibility for GMDSS operator in line with Radio Communication Rules of a Party or for specifying another layer of competence – restricted or lower level for vessels carrying less than full GMDSS equipment. In connection with special ship type training in Ch. V such as tankers, passenger ships, the Diplomatic conference will need to deal with the important aspect of additional training for entry into enclosed spaces. More importantly, persons assigned tanker duties are required to obtain [COC or COP] to be decided by the Diplomatic conference. It essentially means a certificate (DCE) is to be issued by the administration only. For existing persons it also means doing a fire fighting training programme again which includes training in tanker fires. Liquefied gas tanker training has now been made a stand alone provision due to its importance to today's trading pattern. All the tables of competence in Ch. V have been reviewed and revised reflecting the importance of tanker and passenger ship specific training. Some delegates were trying to push in a more endorsement regime such as for bulk carriers, barge tug system and passenger ships. The Sub-Committee was not able to agree on it. The Conference is expected to approve a little more easier way to obtain DCE for oil, chemical, gas tanker although there is stiff opposition from some quarters.

RESTRICTED GMDSS OPERATOR FOR COASTAL WATERS; MEASURES TO ENHANCE COMPETENCE IN OFF SHORE ACTIVITIES; DYNAMIC POSITIONING, etc, TUG BARGE SYSTEMS, TRAINING FOR DEEP SEA PILOTS SHOULD HAVE BEEN A WELCOME CHANGE IN STCW REVISION

Basic safety training – Ch. VI - continues to feature in prominence but there is no substantial change except for the clarity that certain items need to be included in revalidation because they cannot be practiced at sea e.g. entry into smoke filled room. Documentary evidence of such updating will need to be produced when revalidating COC. Also, included in PSSR is management of fatigue, environment awareness, communications effectiveness and its importance on board. With respect to current attention on security training and piracy training; four levels of security training have been introduced (a major task for existing seafarers). Security training duly documented is required for all - familiarization; those not designated security duties, those having designated security duties and ship security officer. The latter is to be from the administration not at the end of CBT or on board course.

INTRODUCTION OF FOUR LEVEL SECURITY TRAINING IS A LARGE BURDEN ON TRAINEES, COMPANY AND ADMINISTRATION, PARTLY WITHOUT HAVING EXAMINED CRITICALLY ISPS CODE EXPERIENCE IN PREVENTING SHIP PORT SECURITY BREACHES

Finally, Ch. VII addresses in some more new detail dual / polyvalent certification mode but fails

short of describing alternative way of training and certification. There is no change in watch keeping principles in Ch. VIII except that rest hours, record keeping and rationalization between various requirements of IMO, ILO and others have not yet been achieved. Administrations are to bring to the Manila Conference suitable proposals. While principles of safe manning have been fully revised keeping in mind importance of fatigue and human element, there is no agreement on safe manning numbers against trade / tonnage / size. However, a draft proposal has been made to amend the SOLAS Ch. V. regulation on safe manning document to take into account the safe manning principles internationally agreed. There was no consensus on standardized application or safe manning assessment format. However, watch keeping management has been linked to resource management and guidance on drug alcohol abuse has been redone.

ALTERNATE MEANS OF CERTIFICATION UNDER STCW NOT DUAL CERTIFICATION NOT EXAMINED WHEN REVISING STCW IN 2010 SO AS TO IMPROVE MANPOWER SUPPLY

The Manila Conference is also expected to approve 13 conference resolutions (good to do) on a host of subjects from ILO to WHO, women at sea. One resolution has been proposed by India and accepted in principle is on providing berths at sea for trainees, attracting young persons to go to sea, promotion of technical cooperation, setting manning levels, future periodic review of STCW and model courses..

REST HOURS, RECORD KEEPING AND ITS IMPLEMENTATION IN LETTER AND SPIRIT IS STILL UP IN THE AIR, ITS LINK TO SOLAS CH. V Reg. 14 ON SAFE MANNING IS ALSO NOT AGREED

NOR A CONFERENCE RESOLUTION ON SAFE MANNING THAT COULD HAVE DEMONSTRATED THE WILL OF THE DELEGATES TOWARDS SEAFARERS, INDEED THE DIPLOMATIC CONFERENCE SHOULD URGE IMO TO EMBARK ON SOLAS FOR COASTAL SHIPPING TO PROMOTE ECO FRIENDLY UNIFORM STANDARDS IN COASTAL SHIPPING

The comprehensive review could not add excellence to the content in quality, depth, knowledge, criterion for starting a sea going career, basic minimum education required, determination of improving on board training, clarifying for uniformity what is - 'pre sea training'; 'Structured' ship training (onboard) programme; identity document; 'immediate responsibility'; designated duties, company responsibility with respect to checking duly qualified (by party, administration), risk assessment etc.

THERE IS NO CONFERENCE RESOLUTION ON URGING CONCESSION IN TONNAGE MEASUREMENT SO THAT THERE IS QUALITY AND QUANTITY IN SHIP BOARD ACCOMMODATION THAT AFFECTS FATIGUE AND PREVENTS NEW ENTRANTS GETTING ATTRACTED AS WE DID IN 1965

THE CRUCIAL QUESTION OF A MASTER'S REST STILL HANGS

HE NEEDS TO GET THE REAL POWER DEFINED IN IMO RESOLUTION ON OVERRIDING AUTHORITY

FOR SAFER CLEANER SECURE SHIPPING

In conclusion, it has been a long journey from the early days of developing STCW 1978, to revision in 1995 and now comprehensive revision. I hope the next revision will make the competence more appropriate in itself, meaningful and sufficiently advanced for shipping of tomorrow; good for seafarers at sea and later wishing to come ashore for other related responsibilities bearing in mind multi-cultural crewing, technology status, and problems being faced by seafarers on a daily basis as a result of criminalization, piracy attacks, and unlawful detentions. This is all in the scope of IFSMA putting in more papers at IMO deliberations.

THE NEXT REVISION MUST BE RE-WRITTEN.