

# CESMA NEWS L E T T E R

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## ABOUT HUMAN RIGHTS

**M**entioning the rights of seafarers can often seem like a contradiction in terms, as it is sometimes implied that people who choose to earn their living at sea, are expected to relinquish some of their human rights that nearly everyone else enjoys.

Apart from the widely voiced problems faced by seafarers who are criminalised by their involvement in incidents such as pollution, there is a growing concern about the intrusive searches of ships. There is also concern about whether shipboard cabins, which are in effect seafarer's homes, have the same protection as their homes ashore.

The legal position seems unclear, but authorities in many countries appear to believe that they have free rein to search private quarters of crew members. In a democratic nation such as the United States, a recent court decision ruled that boarding officers do not need a warrant or reasonable suspicion to search crew cabins on ships in US ports. This is in contrast with regulations for searching passenger cabins on cruiseships. Recent reports of searches on board ships in other countries have prompted seafarer's organisations to raise concern about these infringements into the privacy of colleagues.

On the other hand, when seafarers are victims of crime, whether committed by someone else on board or from external sources such as piracy, they are not accorded the same priority and protection which they could expect ashore. It is hard to imagine any other situation in which violent attackers, caught in the act, would simply be released back to where they came from.

Even from a purely business perspective, this apparent discrimination makes it harder for the industry to recruit people. This is why many responsible shipowners and their organisations, as well as seafarers' organisations such as unions and associations, are stepping up their efforts to support the basic rights of seafarers. Shipowners are well aware that seafarers are vital for their business. This fair treatment ideology is put on the agenda also by CESMA at any occasion when applicable and relevant for humane reasons but also to promote the seafaring profession as the shortage of seafarers is also an important action point in many nations in the European Union.

However no one in the shipping industry wants to excuse those seafarers who commit criminal offences by possessing drugs or other illegal material, but the more than vast majority who do not, are surely entitled to the same protection as any other citizen. It is time that the rights of seafarers, whether as suspects or victims of crime, are taken more seriously. **(based on Lloyds List 18-08-2010)**

**The Europe Union has a Convention on Human Rights. It stipulates in article 8 that:**

- 1. Everyone has the right for his private and family life, his home and his correspondence.**
- 2. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.**

## PLACES OF REFUGE

The shipping disasters involving the loss of the tankers "Erika" (1999) and "Prestige" (2002) attracted the attention of amongst others the International Maritime Organisation (IMO), the European Union and national maritime authorities around the globe and the entire maritime industry.



It did not only concern the disasters themselves but also the immediate causes which led to the disastrous consequences for the marine environment in vast coastal areas in the European Union. For the first time it became clear that the coastal regions from, in this case, Europe were not at all prepared to deal with these kinds of disasters. The measures taken directly after the proportion of the accidents had become clear, were influenced by wrong communication and/or misunderstanding ("Erika") and political interference ("Prestige"). In both cases indications by salvage experts were not followed up and there was clear lack of authority to follow the correct procedures.

**The ultimate consequences were disastrous. Immediately after the accident with the "Prestige", international experts came to the conclusion that something had to be done in the regulatory sphere and the discussion to develop a proper and relevant legislation began.**

On 13<sup>th</sup> October 2010, PORTIUS, the recently initiated academic centre which specializes in law studies concerning ports and maritime subjects, organised an international seminar on Places of Refuge for ships in need of assistance in the beautiful city of Ghent, Belgium.



"Het Pand" (Ghent University)

Place of venue was the impressive historic "Het Pand" building of the Ghent University. CESMA was among the 60 delegates from 10 different countries. In fact, it was the first event to focus on two major developments in this field. Firstly the issuing of the draft of the International Convention on Places of Refuge adopted by the Comité Maritime International (CMI) in 2008 and secondly the 2009 amendments to the EU Vessel Traffic Monitoring Directive. This directive contains an elaborate framework for the accommodation of ships in need of assistance in European waters and is in the process of being implemented by the EU Member States. However this is a directive and not a legislation. The legal seminar was the first to comment on and critically analyze these new instruments of law on this subject.

In 2008 (6 years after the "Prestige" disaster), the CMI came with the first attempt in history to codify international law on places of refuge for ships in need of assistance. This convention contains i.a. clear cut rules on the right of access and also on liability in case of refusal of access. Issued by the world's leading association of maritime lawyers, this draft convention may serve as an authoritative codification of existing law, regardless of how IMO member states respond to it.

A year later the EU completed the Traffic Monitoring Directive with detailed rules on the accommodation of ships in distress navigating in European waters. This includes also the right of access, intervention plans and financial guarantees. These new provisions are currently being implemented by national authorities. They however to some extent conflict with the interpretation of international law provided by the CMI. In accordance with the new EU Directive, the European Commission must also formulate proposals for a just financial compensation of eventual economic loss, suffered by a relevant EU Port Authority. Apart from two further studies on this subject, an ongoing research project looks into the interrelation between the places of refuge issue and the transportation of illegal immigrants and stowaways. A solution in this field would be heartedly welcomed by CESMA.



**MSC Napoli in distress**

Prof. dr Eddy Somers, Chairman of the Maritime Institute of Ghent welcomed the participants in this important seminar. The first speaker, Dr. Inken von Gadow-Stephani, judge in Hamburg, reported on the existing international law on ports of refuge. It stipulates that any ship in distress has in principle the right to seek and obtain shelter in a foreign port or territorial water and is entitled to further assistance to overcome the distress situation. This right of access in the event of maritime distress, overrides in fact the territorial sovereignty of the coastal

state. This customary right is however very restricted. It deals with general principles of law. The burden of proof concerning the rate of distress and the necessity of entering a port of refuge lies with the ship and can be rebutted by coastal authorities. There is still a major difference between absolute right of access and a qualified right of access. This article of international law can also be called something of an empty shell with little use for finding a solution for the problems we are facing. Dr. Inken von Gadow-Stephani has written a book about it.

As keynote speaker, Prof. dr. Eric van Hooydonk, the organiser of the seminar, elaborated further on the Places of Refuge issue. He quoted recent cases where vessels in distress were denied access into a safe haven.



The result of these unfortunate decisions are well known, as oil lost by the two vessels polluted French, Spanish and even Portuguese coastlines. Prof van Hooydonk gave a detailed overview of the policy and regulatory response to the disasters at national, European and international level. There are existing international conventions in this respect but in the mentioned cases they had very little effect. A new initiative for European waters is the new VTMS (Vessel Traffic, Monitoring and Information System) Directive 2009/17/EC, which deals in Art. 20b with the "Decision on the accommodation of ships" and in Art. 20c with the "Financial security and compensation for EU Member States".

He concluded to declare that there is an absolute need for a workable and effective global international convention for Places of Refuge. The already mentioned EU Directive paved the way but it is not global, nor conclusive and leaves the debate open.



Next, Member of European Parliament Mr. Dirk Sterkx, rapporteur on the "Erika" and "Prestige" cases, related his personal experiences.

He stressed that the decision by the Spanish authorities to deny the "Prestige" entry was not in line with the Directives which had resulted from the "Erika" disaster. It was in fact the outcome of a political debate between the Spanish government and the opposition. Mr. Sterkx also gave attention to the criminalization of seafarers, in this case Captain Mangouras of the "Prestige", who was detained by the Spanish authorities after the accident for obscure reasons and has still not come to justice. Mr. Sterkx has paid a visit to our colleague in captivity and narrated about the ordeal Captain Mangouras has gone through. From the debates in the European Commission it became clear that an independent authority is needed to assess the facts of a maritime emergency and take the appropriate decisions in order to contain the emergency situation. This was unacceptable to several Member States, reason that the wording was amended into the "need for an independent decision".

The afternoon session was opened by Dr. Isabelle Corbier, a Paris lawyer, who was involved in the "Erika" case in her function as defender of an NGO environmental organisation. She explained that French criminal law is applicable to offences committed beyond territorial waters when international conventions and laws are in line. She was rather critical on the decisions taken by Captain Mathur of the "Erika", which caused a strong reaction from the representatives of Master Mariners organisations, supported by a majority of the audience, She had omitted to mention that Captain Mathur was fully acquitted by the Court of Justice in Paris last year.

The next and important speaker on the subject was Mr. Hugh Shaw, the current Secretary of State Representative (SOSREP) in the United Kingdom. He is responsible for all decisions in removing or reducing the risk for persons, property and the environment as far as the UK is concerned. They might arise from accidents involving ships, oilplatforms and other subsea infrastructure. In accordance with the European VTMS directive, he is also the UK's "competent authority" to designate Places of Refuge in case of a maritime emergency. Mr. Shaw mentioned his involvement in over 300 maritime accidents and incidents since taking up his position as acting SOSREP since 1 January 2008.

Mrs Jasmine Coppens, Master in Law & Maritime Science at Ghent University, elaborated on the issue of "stowaways, migrants and persons rescued at sea". She emphasised on the universal duty to render assistance to persons in distress while at sea, even when there is a risk of epidemic diseases and when the vessel is unable to cope with a large number of people, outnumbering the crew of the vessel (as with the "Tampa" incident). When the safety or the lives of the rescued people are no longer in danger, there is no legally binding duty for port authorities to allow disembarkation. This may result in prolonged stay on board. A ship with rescued people on board is not considered a ship in distress. Mrs Coppens concluded that the issue of Places of Refuge should be linked to problems with rescued people on board as this could lead to unacceptable conditions. Disembarkation should be tackled in an organised way with the necessary guarantees for the rescued people. CESMA has already urged for action on this issue during regular meetings in Brussels, aiming for a European solution for vessels which have refugees or stowaways on board, often without any culpable negligence from the side of the vessel as saving of lives at sea is internationally mandatory.

Mr. Daniel Warin of the European Commission DG Move a.o. maritime transport policy and maritime safety, talked about the forthcoming European initiatives on the Places of Refuge issue and the EU Directive 2009/17/EC which imposes EU Member States to accommodate vessels in need of assistance on the condition that such accommodation is the best course of action for the protection of human life and the environment. However Places of Refuge should not suffer from potential damages as a consequence of allowing such vessels to enter. This liability issue should be clarified first before any binding legislation can be applied.

Next, a panel discussion asked the question "what do shipowners, ports, salvors and environmental NGO's expect from lawmakers?". Various questions from the audience were answered by a panel of experts from the various players but an important issue was not properly clarified. What is vessel in distress and who decides whether a vessel is in need

of assistance and should be directed towards a Place of Refuge. Is this the nearest coastal state, the shipowner, the salvor, the environmental representative or the master of the vessel?

To conclude the seminar Mr Etienne Schouppe, Belgian Secretary of State for Transport, gave his view on the actual situation in Belgium in relation to Places of Refuge. Not less than 11 Ministers and/or Secretaries of State can presently be involved in a relevant decision making process. It is obvious that a solution, as with the SOSREP in the UK, would be welcomed. A competent authority should take autonomous and independent decisions based on an objective analysis of the situation without any political interference.

This instructive and interesting seminar was concluded with a true and delicious Belgian "Pint of Refuge".

**(text with appreciation to "Nautilus" (KBZ) and Captain J, Cuyt)**



## SAFETY PROCEDURES ON PASSENGER VESSELS



**Mr. Siim Kallas**

In our previous Newsletter we reported on a fatal accident on board of a roro passenger vessel "Moby Otta" in the port of Genoa in Italy. Our concerns were directed at safety procedures which could have been caused by increasing pressure of competition and poor skills of crewmembers. We considered it appropriate to inform the European Commissioner and Vice President of the Commission, responsible for maritime safety in European Ports, Mr. Siim Kallas, about our concerns.

Mr. Kallas commented that the Commission certainly regrets the dreadful loss of two young lives in the incident. Further comments however will have to wait until the official investigation by the Port State (Italy) into the accident has been concluded. However the accident does indeed put the spotlight on relevant safety procedures. The fact that we have raised the issue is appreciated by the Commission. He assures CESMA that the Commission has been actively engaged in a safety culture within the shipping sector and that it is currently reviewing all European passenger ship safety legislation with a view of making improvements.



## CUNARD APPOINTS FIRST FEMALE CAPTAIN



Danish-born Mrs Inger Klein Olsen made history December 1 when she assumed command of Cunard Line's "**Queen Victoria**", becoming Cunard's first woman Captain. Captain Olsen's first task in her new role was to take the ship, without passengers, to the Blohm + Voss Elbe 17 dry dock in Hamburg for its planned refit. Next Wednesday, December 15, she will be on the bridge as the ship sets sail with a full complement of guests.

Forty-three-year-old Captain Olsen was raised in the Faroe Islands and joined Cunard in 1997 as First Officer on board "**Caronia**". In 2001 she transferred to the Seabourn fleet, which at that time was part of Cunard. She sailed on "**Seabourn Sun**" and "**Seabourn Spirit**" before being promoted to the rank of Staff Captain on "**Seabourn Pride**" in 2003.

Following some years with other companies within the Carnival Corporation group, Captain Olsen returned to Cunard in August this year as Deputy Captain of "**Queen Victoria**". "While we are far from being the first shipping company to have a female captain, it is nonetheless noteworthy when such a long-established British institution as Cunard makes a break with its captaincy tradition," said Peter Shanks, president of Cunard.



'Queen Victoria' ( Cunard)

Captain Olsen will helm "**Queen Victoria**" during the ship's first Americas season, commencing from New York to Los Angeles on January 13. During the first 17-day voyage, the ship will call on Ft. Lauderdale and Bonaire, transit the Panama Canal, and visit three ports in Mexico - Huatulco, Acapulco and Manzanillo - before arriving into Los Angeles on 30 January. Captain Olsen will take her leave on 13 February. Captain Olsen lives in Denmark.

Source : MarineLog



## A WRONG TUNE

News reached us recently of Mr. Ioannis Mylonakis, the former Chief Engineer of the tanker "Georgios M" who was wrongly accused of masterminding a 'magic pipe' pollution scheme despite having only served on board for a couple of months. After arrest and being detained for more than fourteen (14) months at a roadside motel in Houston (which we suspect is as bad as it sounds) where his health suffered, Mr. Mylonakis eventually stood trial and was completely exonerated of all wrong doing. **Mr Mylonakis' 14-month ordeal was prompted by one of the infamous "whistleblowers" – a seemingly disgruntled Filipino "shipmate" who peeped to the coastguard.**

There is something hugely troubling about seafarers blowing the whistle for a potential share of the criminal fine dollars, and this has even prompted concerns of a "Philipino's versus European" tension developing... at the very least the lure of cash is bound to have an influence and can potentially corrupt the motives for blowing that whistle. Our man in Manila commented that sometimes there are indeed tensions at sea and that in the past the perceived 'bullying' by senior officers has led some crew to "cry wolf" over pollution. The heady cocktail of revenge and hard cash is pretty potent and this can lead to very ugly legal disputes. The whistleblowers and the rather too easy assumptions which underpin their very existence, mean that criminalisation isn't a loose concept anymore, it is almost a mantra for law enforcement. It seems that there is an ongoing belief of guilt, and that it's just a case of getting informants to rat them out. Sadly even where the environment suffers damage, the whistleblowers can cause even more harm to a man's life and to a very profession.



## MODIFICATION OF THE TSS OFF USHANT

**Having questioned several captains of coasters, two ferry captains of BAI and a harbor pilot of Brest, I have to notice that this proposition is unanimously wished. With regard to the problem, the argument which returns every time corresponds to the very detailed argument of the letter of Captain J. Loiseau of AFCAN by specifying that interviewed people agree that the surveillance of the zone is successful and that AIS is an element of additional safety today.**

The elements of solution which return every time retain:

- To take out of an exceptional form of regulations which makes the unpredictable authorization thus difficult to manage in ETA and which anyway, maintains the confusion on bridges;
- Not to lean on criteria the appreciations of which can be delicate in certain limits, such as a minimum of visibility, a maximum of wind, in a more general way weather conditions;
- To hold only formal criteria, such as the size of the ship, the absence of hazardous cargos, no limitation of ship's ability to manoeuvre or restriction in the integrity of the ship;
- If to keep the exclusive access of these new regulations to the only ships with destination or from the ports of Brest or Douarnenez, represents a very simple solution with regard to the low number of ships concerned. This one does not make the unanimity by the captains of coasters. They ask to think about its extension to all ships performing the reserved criteria previously.

(Capt. F. Vanoosten (ACOMM 95))



# THE EUROPEAN NAVIGATION CONFERENCE ENC-GNSS 2010

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## 1. Introduction



The European Navigation Conference was organized this year by the German Institute of Navigation (DGON). It was held in the period 19 – 21 October in Braunschweig, a city in the centre of the German Republic. Some 300 participants (of which 60% from outside Germany) from 28 nations attended the Conference. As usual, the afternoon before the conference was used for meetings of the Directors and Editors of the European Journal of Navigation (EJN), the Officers of the International Association of IONs (IAIN) and the Council of the European Group of IONs (EUGIN).

EUGIN Council discussed the letter which was sent by Chairman Rein van Gooswilligen to the European Commission to express his concern about the non-progress of the European Radio Navigation Plan (ERNP). Apparently there is “no budget available” for this project within the Commission. EUGIN will continue to put pressure on this issue. The Secretary General of the Confederation of European Shipmasters’ Associations (CESMA), Capt. Fred van Wijnen, attended the meeting and brought forward a request from CESMA to EUGIN to participate in the **European Nautical Platform** for its knowledge of modern navigation systems and applications. EUGIN agreed to the proposal.

## 2. The opening sessions

In the Opening session Dr. Edgar Thielmann of the EC gave an overview of the European satellite navigation programs. The EGNOS open service is available now and can be used by the maritime community. Safety of Life (SoL) Service is at the edge of being certified. The commercial ADAS service over internet will be available through the provider ESSP at the end of 2011. Accuracies of all services are around 1 meter or better. Extensions of EGNOS to North Africa, Middle East and Eastern Europe are under study, but development will depend on available finances. Four Galileo initial satellites are under development, the first one to be launched in 2011. The Work Packages of part of the full project (FOC-1) are assigned or in a final stage of negotiations. The time scale for 18 operational satellites and accompanying infrastructure is end 2014 / begin 2015. Expected accuracies for the full system are in the order of 4 meter horizontal and 8 meter vertical. However, there is no budget available yet after 2014 for the completion of the system to the intended 27 + 3 satellites. After a question from the audience whether the constellation of 18 will be optimized for EU coverage, Mr Thielmann was vague and told that this was under discussion. A representative from DLR stated that 18 satellites is absolutely not enough, 24 satellites is a minimum but 30 is necessary for Galileo to be an independent system. Mr. Thielmann said: “we want it too, but there is only 3.4 B€ available, there is no money yet for the rest”.

On behalf of the US-ION, Mr. James Doherty gave a presentation on the status and developments of GPS. The constellation now contains 31 operational satellites (11 IIA, 12 IIR, 7 IIRM (with L2C and LM) and 1 IIF (additional L5)); 11 more IIFs are planned of which 4 are under construction.

The development of GPS IIIA with the additional Galileo interoperable L1C on board is proceeding according to plan and so is the development of the new ground system OCX. A question from the floor referred to a recent report of the US General Accounting Office, see <http://www.gao.gov/new.items/d10636.pdf>, where it is stated that **“the Air Force continues to face challenges to launching its satellites as scheduled, which could affect the availability of the baseline GPS constellation”**.

Further in the report it can be found: **that a 2-year delay in the production and launch of the GPS III satellites would lead to a drop in the guaranteed size of the constellation (at the 95 percent confidence level) to about 18 satellites by fiscal year 2018.**

Mr. Doherty replied that the GAO makes risk analysis on the basis of worst case (for instance the 2 year delay in GPS III launch). Further he said that, first of all it is not likely that these events will occur and secondly the outcomes of the GOA study are considered by all involved in GPS development as information where the risks lie and as an impetus not to let this happen. The presentation of the Russian GLONASS system was cancelled.

### 3. The panel discussion

After lunch a panel discussion took place under chairmanship of Prof. Vidal Ashkenazi with the title: **GNSS for business, the citizens and government**. Three representatives from EU industry and one from the European Space Agency (ESA) and EC each participated in the panel. The discussion focused to possible applications with an 18 satellites Galileo configuration. Especially the audience of the conference showed their displeasure with the apparent **fait accompli** of a provisional constellation of 18 in 2014/2015. The development of downstream applications (PRS!!) will be seriously hampered. The question will be: which system will be second after GPS in the near future, especially since GLONASS performance has increased considerably in the last years. It was clear that the credibility of the Galileo system is seriously at stake. Mr. Oosterlinck of ESA however remained rather stoical; a configuration of 18 gives us time and opportunity to optimize the system, he said.



### 4. The technical sessions

The most interesting session for most of the audience was the session on **Galileo development and test results**. So over 200 delegates gathered in the main room to be informed on these studies. However, the chairman of the session informed the audience that the 5 papers were all withdrawn. The chairman could not give any further information. The audience was perplexed and asked for explanation. Later it was communicated that the papers were withdrawn by ESA **“because they contained too detailed information that could have led to knowledge transfer to other nations.....”**.

The General Lighthouse Authorities of the UK and Ireland (GLA) did a study on the performance of Radar Beacons for ships equipped with New Technology Radar (NT Radar) which are solid state, CW, low power in contrary to the magnetron based pulse radars in X- and S-band. Most beacons are activated at much lower distances with NT-Radar, although with modifications this can be increased. In another study the GLA looked at the business case of a back-up system for GNSS for e-navigation ships' bridges. LF-navigation systems (the name eLoran is not sexy anymore) came out as the most favorable solution in the long run. Tests by the GLA have shown accuracies in the order of 10 m with differential eLoran in the archipelago of the Orkneys, a most difficult area for LF propagation. During the discussion of this paper, it was mentioned that the IALA (with USA as a member) has stated in its World Wide Radio Navigation Plan, see:

[http://www.ialathree.org/chapo/publications/documentspdf/doc\\_258\\_eng.pdf](http://www.ialathree.org/chapo/publications/documentspdf/doc_258_eng.pdf)

Members of IALA with Loran/Chayka facilities within their jurisdiction are encouraged to retain them in operation and make plans to upgrade them to eLoran capability, so that they can form part of the WWRNP. IALA also encourages its Members to give full support to the development and standardization of eLoran, so that the system can be recognized as a component of e-Navigation.

Discussions within IALA are continued on this issue.

In another GLA paper it was mentioned that reduced availability of GNSS during solar maximum with possible reduced GPS poses a distinct threat to maritime navigation.

A presentation was given on the passage of the 133 m new built yacht "Al Mirqab" through a lock where only 15 cm free space was available on each side. The lock was pre-surveyed for its measurements; the operation was successfully done with RTK-GPS with real time accuracies in the order of 2 cm.

## 5. Finally



Good to excellent presentations were given on GNSS receiver technology (software receivers!), Intelligent Transport systems (ITS), railway and maritime applications and augmentation systems. Notably many young engineers and PhD students gave interesting presentations. All in all it may be concluded that the annual ENC-GNSS conference is the major event in Europe for information on scientific developments and their applications in (satellite) navigation technology. A USB stick with the presentations will be sent to all ENC2010 participants, in addition it can be ordered through DGON at [dgon.bonn@t-online.de](mailto:dgon.bonn@t-online.de)

ENC2011 will be held next year 22 – 24 November 2011 in St. Paul's Hotel in London, organized by the Royal Institute of Navigation.

Prof. Jac. Spaans



## MARITIME PIRACY – A HUMANITARIAN RESPONSE PROGRAMME

Since the beginning of 2010 there has been an increase in piracy activity and it is thought that in 2009 around 1.000 seafarers were taken hostage by pirates and many more were subject to attacks. In dealing with such incidents the humanitarian needs of Seafarers must be recognized and support provided as an integral part of any Emergency Response Procedure. This theme was also discussed during the seminar in Brussels on 3<sup>rd</sup> March of this year: "Piracy and Robbery at Sea, how best protect seafarers". The general opinion was then that something had to be done, not only to free hostages, but also look after them when they returned home after their ordeal. Up to now, especially those seafarers who are employed by obscure manning agencies, are left completely on their own.

It is normal for individuals involved in traumatic incidents, such as acts of piracy, to experience some degree of stress as a reaction. Such reactions have the potential to damage the wellbeing of the Seafarers if not handled sensitively at the most appropriate time for the seafarer and could affect their future employability.



### Hostages freed after months in captivity

They need to be made aware of what can be expected in terms of the normal pattern of a stress reaction and encouraged to seek further support if their reaction continues to interrupt their ability to function at work or at home. They need information on how to access support with their reactions in the immediate or longer-term aftermath. Some stress reactions can be delayed and may have a negative affect on their general health and wellbeing. While such stress reactions are normal given the stressful situation they have experienced, there is a risk that a small proportion of those affected may develop Post Traumatic Stress Reaction (PTSR) or Post Traumatic Stress Disorder (PTSD), which will require professional help.

The provision of a humanitarian response to Seafarers also needs to support the families throughout the duration of the incident and in the aftermath. The provision of accurate information on where further support can be accessed if required should be made available to the Seafarer and to family members where appropriate.

Personnel involved in all aspects of proving support to seafarers should have an awareness of possible stress reactions, which may be experienced by those involved. This can guide what actions need to be taken to minimize the risk of further distress being experienced. The provision of trained Responders, who can assist in the early humanitarian aspects of the support provided, can help to diminish the risk of longer-term negative impact of such incidents. Access to medical care and assessment may also be needed in the aftermath of some incidents.

In offering a response all involved should respect the dignity of the individual Seafarer. The Seafarer and their families should dictate the response and there can be no hidden motives. The support is offered on a voluntary basis with religious and cultural sensitivity and always within the acceptable bounds of confidentiality.

On 13 October 2010 the Programme has been officially launched with a meeting attended by all interested parties. The following aim has been established:

**"To implement a model for assisting seafarers and their families with the humanitarian aspects of a traumatic incident caused by a piracy attack or being taken hostage, to be offered as an integral part of the Emergency Response Procedures of shipping companies and manning agencies in cooperation with partners involved in seafarer's welfare (maritime, union, faith or secular based agencies), company representatives and other bodies as appropriate".** (Source: Mr. Toon van de Sande)



## DROWNING IN PAPERWORK

**It is hard to pin down how fatigue affects safety, because of the accumulative effect that weariness has on alertness and judgment.**

Who is to say that an error in navigation is definitively incompetence or fatigue? In our world of quantified management, any condition without a number becomes suspect to land-based bean counters. Fatigue then becomes a grey area connected with the unforgiving economics of modern crewing. At what minimum level will a crew be able to function effectively before errors begin to threaten a voyage?

Reminding us that this issue is far more than a matter of fine-tuning operating costs, a Hong Kong-based director of quality and assurance and training at Anglo-Eastern, the ship manager, has called for minimum crewing scales to be revised upward. "Seafarers have been burdened with many new tasks over the last two decades", he said, speaking at a recent conference. "Manning scales have not looked deeply enough into the consequences of watch-keeping and safety standards on board."

He should know because he runs assurance for one of the world's largest ship managers. During his speech he featured slide of a hapless master juggling an impossible array of small, distracting, but necessary tasks, including paperwork regarding everything from SOx and NOx compliance, port state control ballast water compliance schemes, and the owner's cost cutting initiatives. These distractions collude to keep senior officers from their key operational roles. It was suggested to reintroduce pursers and administrative officers on ships to tackle some of this mountain of paperwork.

The strain on seafarers has reached an unacceptable level. Any upward revision of crewing scales should take into account that the crewing shortage is probably worse than the current numbers indicate. The Japan International Transport Institute estimates that there will be a 3.5% shortage of officers and ratings by 2015 equalling 15,796 officers and 671,946 ratings. By 2020 the figures will more than double in each case to a 7.2% shortage. These numbers, starting from what appears to be a shortage today, could well be underestimated, depending on how the recovery and the industry's demand profile proceeds. **All of this makes this call powerful, timely advice.**

(From Lloyd's List)

## SATELLITES ARE WATCHING YOU

Growing use of satellite surveillance is putting ships at increasing risk of investigation and legal action for marine pollution. The use of satellite imagery for tracking and measuring oil spills is becoming increasingly sophisticated. It can assist in the detection and prosecution of vessels that pollute the sea, whether accidentally or deliberately. The European Maritime Safety Agency (EMSA) and some coastal states are using the CleanSeaNet satellite surveillance service to identify oil slicks. This practise is likely to become more widespread with an increasing focus on oil transfer operations, including bunkering. Following a resulting oil spill will alert, a spotter aircraft is sent to confirm the slick and all ships in the vicinity are potentially subject to investigation. If the samples taken match or there are no ships in the vicinity, the evidence against the vessel is very strong and the usual outcome include claims, vessel's arrest, fines for the owner or officers and custodial sentences. ( North P&I club)

# 16th COURSE OF LECTURES AT WARNEMUENDE (1)



Capt. v. Pressentin

During the two days 17<sup>th</sup>/18<sup>th</sup> of November various speakers reported about different themes under the main topic:

**“Harbours, Coasts and Shipping in the change of innovation and education”**

One part of this Course of Lectures dealt with the new Maritime Labour Convention. I will show and explain some important points of the above mentioned convention. It is clear that this can be a very short extract only. If there is an interest, anybody will find this Convention complete on the Internet.

It will show us that on board of ships the master has to store two more certificates and what is far more important, he has to make sure that the articles of this convention will be carried through. This convention was unanimously adopted on the 23<sup>rd</sup> of February 2006 in Geneva, Switzerland.

After the preamble, 16 articles show us the entrance in the convention.

## GENERAL OBLIGATIONS

### Article 1

1. Each member which ratifies this Convention undertakes to give complete effect to its provision in the manner set out in Article VI in order to secure the right of all seafarers to decent employment.
2. Members shall cooperate with each other for the purpose of ensuring the effective implementation and enforcement of this Convention.

## DEFINITIONS AND SCOPE OF APPLICATION

Under this topic we will find some important definitions as follows.

Here I will give a selection of the definitions only.

### Article 2

1.

- (a) **competent authority** means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
- (b) **declaration of maritime labour compliance** means the declaration referred to in Regulation 5.1.3;
- (d) **maritime labour certificate** means the certificate referred to in Regulation 5.1.3;
- (e) **seafarer** means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies;
- (f) **seafarers' employment agreement** includes both a contract of employment and articles of agreement;
- (i) **ship** means a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;

## FUNDAMENTAL RIGHTS AND PRINCIPLES

Article III is very important and shows us the rights of all seafarers and for this reason I will quote it completely:

Each member state shall comply with the provisions of its law and regulations with regard to the context of this Convention and respect the fundamental rights to:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

## SEAFARERS' EMPLOYMENT AND SOCIAL RIGHTS

Also article IV is very important and I will quote some points.

1. Every seafarer has the right to a safe and secure workplace that complies with safety standards.
2. Every seafarer has a right to fair terms of employment.
3. Every seafarer has a right to decent working and living conditions on board ship.
4. Every seafarer has a right to health protection, medical care, welfare measures and other forms of social protection.

## IMPLEMENTATION AND ENFORCEMENT RESPONSIBILITIES

### Article V

3. Each member shall ensure that ships that fly its flag, carry a maritime labour certificate and a declaration of maritime compliance as required by this Convention.
7. Each member shall implement its responsibilities under this convention in such a way as to ensure that the ships that fly the flag of any State that has not ratified this Convention, do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.

This point 7 shows that in case a flag state has not ratified the Convention, ships of that state are protected against penalties.

## REGULATIONS AND PARTS A AND B OF THE CODE

### Article VI

1. The regulations and the provisions of part A of the Code are mandatory.  
The provisions of part B of the Code are not mandatory.

## ENTRY INTO FORCE

### Article VIII

3. This Convention shall come into force 12 months after the date on which there have been registered ratifications by at least 30 members with a total share in the world gross tonnage of ships of 33 percent.

Wolf von Presentin



## IT'S THE QUALITY THAT COUNTS

Numbers are important, but will rarely provide the whole story. This is why the recently published BIMCO/ISF Manpower Update needs to be considered carefully by any responsible shipping person thinking about manpower strategies in anything other than the short term.

A quick glance at the key points of the Update might provide some reassurance for those who had rather assumed that the situation would have been a whole lot worse. After all, for the past five years there has been something of a general belief that the supply of manpower would be struggling to keep pace with the rapidly increasing size of the world fleet. But then, the economic downturn that emerged like a global whirlwind in 2008, threw everyone's calculations into the melting pot. The double-digit shortage in the officer ranks has been converted by this financial brake into something rather more manageable.



But there are certain key words that the wise shipping person will focus upon as he or she analyses this useful and important survey of the global workforce. Possibly the most significant word of all is "quality", because it is this desirable feature that must be aimed at by everyone concerned with maritime manpower. The numbers emerging from maritime colleges may be satisfactory in every way, but it is the quality of the officer corps, from Masters and Chief Engineers to cadets and ratings, that makes the real difference.

Because, while numbers may fulfil a ship's legal manning requirements and qualifications give some reassurance, the demand for competence, experience, skill and seamanship goes far beyond the counting of heads. Ships are getting more technically demanding, and while there is a lot of helpful technology aboard them, the human element becomes ever more crucial. Liabilities become ever more onerous, and it is risks that may flow freely from ship to shore management, in the case of an incident, that demands great shipside competence.

Readers should also turn their attention to the issues of recruitment and retention, paying special attention to the latter, because it does seem that there is some difficulty in retaining people who have been carefully recruited and often expensively trained. It might be easy to make assumptions about the better opportunities ashore these days, and the way in which a better paid senior officer can afford to "swallow the anchor" rather earlier than once might have been the case. But it is also necessary to keep a finger on the pulse of on-board morale, which has not been helped in recent years by overweening bureaucracy, less enjoyment, a squeeze on numbers aboard ship, and those other worrying issues of constraints on shore leave, poor treatment in many ports and the perceptions of increased criminalisation of responsible officers. It is also necessary to read the report with an intelligent knowledge that there is a difference between the general and the particular. The overall numbers may speak to us of officer shortfalls that appear manageable, but those who are manning specialised tonnage, or operate in sectors where only the creme de la creme in seagoing personnel is deemed acceptable, there may be quite critical discrete shortfalls of the quality of seafarers who can come up to their demanding standards. Source : Bimco (The Watchkeeper)

Articles written by the Watchkeeper and other outside contributors do not necessarily reflect the views or policy of BIMCO.



## CESMA HAS A NEW OFFICE



NVKK, Netherlands Association of Master Mariners, has decided to close its office space in The Hague at the premises of the Royal Association of Navy Officers as from 1 January 2011. As a consequence CESMA had to look for a new location to accommodate its secretariat. It took some time, but we have found a new office space at the Royal College "Zeemanshoop" in the centre of the ancient city of Amsterdam. It is a modern accommodation which can easily be reached via the Amsterdam main railway station which has good connections by train with other European countries. Moreover Schiphol International Airport is nearby and can be reached by frequent train services.

Royal College "Zeemanshoop" is a maritime association founded in 1822 with an interest in supplying facilities to seafarers and their families. It also renders assistance to its members whenever necessary with word and deed. At present it still supports students who aspire after a career at sea with financial assistance and has a keen interest in maritime education and training in the Netherlands.

It has a long history and counts many seafarers amongst its members. President of the association is Mr. Ed Sarton, former president of FWZ, the forerunner of the Dutch seafarers union NautilusNL which has merged with the UK union into Nautilus International. Secretary is Mr. G.J. de Boer, a wellknown writer and publisher of nautical books in the Netherlands.



### Introducing CESMA

The College maintains a well provided library with many historical and modern books about various maritime subjects, many in the English language. On Tuesday, Wednesday and Thursday, the office is "manned" by secretary Mrs Gré Greve from 10.00-13.00 hrs.

The new address is: **Muntplein 10**  
**NL-1012WR Amsterdam**  
**The Netherlands**

## CESMA ANNUAL GENERAL ASSEMBLY IN ZADAR (CROATIA)



**6 - 7 MAY 2011**



Council meeting will take place on 6<sup>th</sup> May 2011 at the Bastion Hotel, Zadar, followed by optional visit to Nautical University.  
Ladies Programme will provide for a visit to the National Krka River Park.  
A Seminar will be organised at the Croatian Institute of Maritime Science on 7<sup>th</sup> May 2011 - Title: "Places of Refuge including safety of navigation in the Adriatic Sea area", followed by the CESMA Annual General Assembly.

## FROM THE EDITOR

- The Transport Committee of the European Parliament has argued that the European Maritime Safety Agency (EMSA) should receive more funds to deal with the additional tasks that have been imposed by the legislative authority. This involves in particular the increasing work required to maintain databases such as SafeSeaNet, Thetis and Equasis.
- The Netherlands' Royal Navy has designated a submarine to NATO's anti-piracy mission "Ocean Shield". She can assist with overhearing equipment to collect important information about the movements of the pirates in the area. It has often been mentioned by police experts that intelligence is the one of the most important assets to fight crime.
- The European Commission has launched a probe into the International Group of P&I agreements. The aim is investigate whether the longstanding agreements between the protection and indemnity clubs do not put shipowners and insurers that are not members of the International groups, at a disadvantage. P&I clubs provide 93% of the world's tonnage with insurance.
- Captain Alain Pels, President of CESMA Member Association KBZ (Belgium), has been appointed Director of Shipping Management in the Port of Antwerp. His former position was Manager of the Ghent Pilot's Association.
- The United Nations Security Council has decided in November to renew the authorisations granted to states and regional organisations, co-operating with Somalia's transitional government to fight piracy off the country's coast for a further twelve months. In a resolution, adopted on 23th November, the 15-member body reiterated its condemnation of all acts of piracy and armed robbery against vessels in the waters off the Somalian coast.
- The International Maritime Organisation (IMO) has been asked to establish an international legal requirement to ensure that all loaded containers are weighed at the marine port facility before they are loaded on board a vessel. The issue of wrong container weights has become an issue of concern after reported incidents according to the World Shipping Council (WSC) and the International Chamber of Shipping (ICS). A recent report by the Netherlands research institute MARIN has also recommended action in this respect.
- The recent accidents in the Baltic Sea area where roro ferries caught fire after electric defects in trucks initiated the blaze, has prompted reactions from maritime safety experts. You can make ships safe with all kinds of regulations but if the safety of the trucks on board has not been monitored properly, there is very little one can do. Electrical defects can be caused by malfunctioning of batteries or reefer installations.
- There have been reports about an imminent order for several 18.000 TEU container ships for Maersk. This size of ship is sometimes referred to as Malacca-max as a draft of 21 m is the maximum draft possible in the Malacca Strait.
- A new research into the fatigue problem has indicated that a shortage of sleep can lead to serious heart problems. The importance of projects such as the European project HORIZON has been once more underlined.
- Spain has launched a plan to initiate an international tribunal to bring Somalian pirates to justice. This initiative is said to be supported by the governments of China, India, Russia and NAVO and will be presented to Secretary general Mr. Ban Ki-moon. Since intensifying the patrols of EU and NAVO navy units, more pirates have been captured. So far trying of these criminals has shown to be problematic mainly because of practical and economic reasons.



# CESMA LOGBOOK

(2010 – 4)

We were represented at the following occasions

30 Sep	Amsterdam	Visit Royal College Zeemanshoop
08 Oct	Amsterdam	Seminar on Maritime Education
13 Oct	Ghent	PORTIUS Seminar "Places of Refuge"
18 Oct	Braunschweig	EUGIN Annual General Assembly
20 Oct	Brussels	SAGMAS
11 Nov	Sofia	Anti Piracy Seminar
17/18 Nov	Warnemuende	16 <sup>th</sup> Course of Lectures
07 Dec	Zadar	Visit to Croatian Shipmasters' Union
14 Dec	Amsterdam	Signing contract new office space



**The Board of CESMA wishes all members and supporters and their families a prosperous and healthy year 2011 and the colleagues on board always fair winds**



mv "Egelantiersgracht" en route to Quebec (Canada) in midwinter  
By Captain A.H. van den Hurk (Councilmember NVKK)



AIMS OF THE ORGANISATION

(ABRIDGED)

- TO IMPROVE MARITIME SAFETY
- TO PROTECT THE MARINE ENVIRONMENT
- TO WORK IN THE INTEREST OF EU SHIPMASTERS IN ORDER TO PROMOTE HIGH PROFESSIONAL MARITIME STANDARDS
- TO INFORM THE PUBLIC IN THE EU ABOUT PROBLEMS IN THE EUROPEAN MARITIME INDUSTRY
- TO CO-OPERATE WITH OTHER INTERNATIONAL MARITIME ORGANISATIONS
- TO RETAIN AND DEVELOP THE HIGHEST MARITIME KNOWLEDGE AND EXPERIENCE IN EUROPE
- TO BE INVOLVED IN RESEARCH CONCERNING MARITIME MATTERS IF APPLICABLE IN CO-OPERATION WITH OTHER EUROPEAN INSTITUTIONS AND/OR ORGANISATIONS

ANNUAL SUBSCRIPTION: EURO 14,- (EXCL EURO 5,- ENTR. FEE)  
PER SEAGOING MASTER  
(WITH A MINIMUM OF 25)  
FOR FULL MEMBER ASSOCIATIONS

EURO 7,- PER SEAGOING MASTER  
(WITH A MINIMUM OF 25)  
FOR ASSOCIATED MEMBER ASSOC.



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APPLICATION FOR (ASSOCIATED) CESMA MEMBERSHIP

Association full name: .....

Full address:.....

Phone/fax/E-mail:.....

Name president: .....

Name vice president:.....

Name secretary:.....

Name Treasurer:.....

Number of:                      seagoing masters     :.....  
   shorebased masters :.....  
   retired masters        :.....

THE PRESIDENT OF THE ASSOCIATION OF SHIPMASTERS, MENTIONED ABOVE, DECLARES THE PARTICULARS TO BE CORRECT TO THE BEST OF KNOWLEDGE AND HEREWITH APPLIES FOR FULL OR ASSOCIATED MEMBERSHIP OF THE CONFEDERATION OF EUROPEAN SHIPMASTERS' ASSOCIATIONS (CESMA).

NAME AND SIGNATURE:

DATE:

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