

# Seafarers' Welfare Forum

## 9 September 2010 – Workshop Summary

On 9 September, AMSA ran a Seafarers' Welfare Forum at the Melbourne Convention Centre. Held in conjunction with the *SEA 2010 Conference*, the forum provided an ideal opportunity to educate members of the shipping industry on the importance of seafarers' welfare and the Maritime Labour Convention 2006.

The panel discussion and workshop provided delegates with an opportunity to apply the Maritime Labour Convention (MLC) 2006 to a series of case studies on incidents involving vessel groundings, fires, and explosions and deaths onboard. All vessels (ten) used in the case studies initially had an actual official Australian Transport Safety Bureau (ATSB) incident / accident report investigation.

The idea behind using real ATSB incident/accident reports was to personalise the crew of each vessel, what they had just experienced, and to consider the impact on their well being and continuing welfare support. The ongoing scenarios (six chosen) provided issues that have affected seafarers welfare in the past and will also affect them in the future. The aim of the workshop was for delegates to work together to find practical solutions, at a localised level, to the various issues including consular access, illness and hospitalisation and repatriation of seafarers, that impact on seafarers welfare.

### Seafarers Forum – Workshop Scenarios

**Your team (Port Welfare Committee) is to solve the following scenario,**

Your vessel is alongside and or at anchorage within port limits for 12 weeks.  
For this scenario there are NO Immigration issues with the crew, however they are not to leave the vessel (i.e. return home).

Media pressure is increasing initially locally, hence from a state issue due to the nature of the accident / incident, the condition of the seafarers, and the lack of action by the Flag State (i.e. vessel registry).

The owner/operators are unable to be contacted. The vessel Flag state shows little interest. The multiple nationalities of the seafarers are different to the Flag State. Jointly the shipping community will endeavour to work together to assist the seafarers.

1. There are multiple nationalities onboard, as listed for your vessel (refer to your vessel details), you are required to provide Embassy/Consular access.
2. You are requested to provide communication methods for your seafarers to contact Embassy/Consular services for their nationality.
3. There are ongoing health issues due to the time of the year (i.e. Flu season), as such you are required to provide medical care, with an interpreter, as well as transport to and from the vessel.
4. Whilst continuing with day work on the vessel, two crew members are seriously injured, and require immediate hospital treatment.
5. The vessel has been placed under arrest, power and supplies to the vessel have been cut off and or shut down, the vessel is literally a "dead ship" alongside.

You are required to provide basic living conditions i.e. food, water, cooking appliances, lighting and bedding / clothing for an extended period of time to the seafarers. Note: you are taking into account events as stated in items 1 through to 4 as well as those listed in item 5.

6. Port State inspections have been contacted by a third party, having grave concerns for the welfare of the seafarers, the vessel is inspected, and the following issues need to be resolved.

- time spent onboard with no shore leave
- lack of communication with family members
- dietary concerns from the lack of nutritionist meals available
- fresh drinking water
- lack of recreational supplies, i.e. books, papers, movies, etc
- lack of adequate bedding for the climate experienced
- Improper record keeping for wages, i.e. back wages still own
- Some crew members were due to be repatriated home some three months previously, they will be required to return home

### **MLC 2006 – Selected Regulations, Guidelines and Standards, to be used as reference for the vessel scenarios.**

The workshop participants were then given information related to the Maritime Labour Convention 2006, for guidance for the above given scenarios. This was to provide an overview only, not a complete MLC 2006 package, to be used as reference material for the vessel scenarios.

#### **Maritime Labour Certificate ceases to be valid if:**

- *Inspections are not carried out within the specified period of time*
- *Certificate not endorsed by the Flag State or by its recognised organisation*
- *Vessel changes flag*
- *Vessel changes owner*
- *Substantial changes have been made to the structure or equipment of the vessel*
  
- Flag State is responsible for ensuring that vessels flying its flag comply with the convention
- Port State inspections provide an ongoing mechanism for checking compliance
- Detailed inspections for :
  - *Documentation not produced*
  - *Onboard working and living conditions are sub standard*
  - *Vessel changed flag to avoid compliance with the convention*
  - *Specific complaint reported by seafarer, trade union, or any person with an interest in the health and safety of seafarers and their ship*
  
- Results of inspections, including deficiencies and actions taken to resolve non conformity must be recorded and kept on board
- The DMLC, the Maritime Labour Certificate and documentation relating to maritime labour inspections must be available and accessible
  - For scrutiny by the Seafarers, Flag and Port State Officials, Shipowners' and Seafarers' Representatives

#### **Reg 2.5/ Std A2.5 Repatriation – No cost to the Seafarer**

- *Seafarers employment agreement expires they are abroad*
- *The shipowner terminates the seafarers agreement*
- *The seafarer terminates the agreement for reasons that are justified*
- *The seafarer is unable to carry out his/her duties under the agreement for reasons such as illness, injury, shipwreck, trading in a war zone*
- *The shipowner fails to fulfil their legal obligations to the seafarer*

#### **Reg 2.5/ Std A2.5 Repatriation – No cost to the Seafarer**

- *The maximum period the seafarer can be expected to serve on board before being entitled to repatriation at the shipowners expense is 12 months*
- *If shipowner fails to cover the repatriation, the Flag State is then responsible*
- *If the Flag State fails to cover repatriation, the Seafarers Consulate or Diplomatic Mission will arrange, with costs recovered back to the Flag State*
- *The Port State are another means of assistance*

**Reg 2.6/ Std A2.6 Seafarer compensation in the event of a ship's loss or foundering**

- *The Seafarer is entitled to adequate compensation from the shipowner in the case of injury, loss or unemployment due to the ship's loss or foundering*
- *For the period that the seafarer is unemployed, wages should be equal to that of the contract of agreement, but may be limited to two months wages*

**Reg 3.1 / Std A3.1 Accommodation and Recreational facilities**

- (a) the size of rooms and other accommodation spaces;
- (b) heating and ventilation;
- (c) noise and vibration and other ambient factors;
- (d) sanitary facilities;
- (e) lighting; and
- (f) Hospital accommodation.

**Reg 3.1 / Std A3.1 Accommodation and Recreational facilities**

- (a) a smoking room;
- (b) television viewing and the reception of radio broadcasts;
- (c) showing of films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;
- (d) sports equipment including exercise equipment, table games and deck games;
- (e) where possible, facilities for swimming;
- (f) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
- (g) facilities for recreational handicrafts;
- (h) electronic equipment such as a radio, television, video recorders, DVD/CD player, personal computer and software and cassette recorder/player;
- (i) where appropriate, the provision of bars on board for seafarers unless these are contrary to national, religious or social customs; and
- (j) Reasonable access to ship-to-shore telephone communications, and email and Internet facilities, where available, with any charges for the use of these services being reasonable in amount.

**Reg 3.2 / Std A3.2 Food and Catering**

- (a) food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage, shall be suitable in respect of quantity, nutritional value, quality and variety;
- (b) the organization and equipment of the catering department shall be such as to permit the provision to the seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions; and
- (c) Catering staff shall be properly trained or instructed for their positions.

**Reg 4.1 Medical care on board ship and ashore**

- *All states that have signed the convention must give the seafarer access to medical care if they are in urgent need of it whilst in their territory*
- *When in port the seafarer should be able to visit a doctor or dentist without delay*
- *Medical care and health protection provided free of charge (may vary according to national law)*

**Guideline B4.1.3 Medical care ashore**

- The seafarer must have access to:
  - *Outpatient treatment for sickness and injury*
  - *Hospitalisation if necessary*
  - *Facilities for dental treatment, especially in cases of emergency*
  - *Hospitals and clinic for the treatment of disease*
  - *Admission promptly regardless of nationality or religious beliefs, and receive continuing treatment*

#### **Guideline B4 1.4 – Medical assistance to other ships and international co operation**

- *Developing and coordinating search and rescue efforts and arranging prompt medical help and evacuation at sea for the seriously ill or injured on board a ship through such means as periodic ship position reporting systems, rescue coordination centres and emergency helicopter services, in conformity with the International Convention on Maritime Search and Rescue, 1979, as amended, and the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual*
- *Landing seafarers ashore for emergency treatment*

#### **Standard 4.1 Medical care on board ship and ashore**

- *The competent authority shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea, including specialist advice, is available 24 hours a day; medical advice, including the onward transmission of medical messages by radio or satellite communication between a ship and those ashore giving the advice, shall be available free of charge to all ships irrespective of the flag that they fly.*
- **AMSA - RCC Australia** *utilising Satellite communications systems and the services of HF Radio Station VIC, and Telemedical advice 24/7 with the Royal Flying Doctor Service Cairns (Specialists in remote care, and Maritime medicine)*

#### **Guideline B4.4.2 Access to shore based welfare facilities**

- *Welfare facilities and services should be provided, in accordance with national conditions and practice, by one or more of the following:*
  - *Public authorities;*
  - *Shipowners' and seafarers' organizations concerned under collective agreements or other agreed arrangements; and*
  - *Voluntary organizations.*

#### **Guideline B4.4.1 Responsibilities of Members**

- *Arrangements for the supervision of welfare facilities and services should include participation by representative shipowners' and seafarers' organizations concerned.*
- *Each Member should take measures designed to expedite the free circulation among ships, central supply agencies and welfare establishments of welfare materials such as films, books, newspapers and sports equipment for use by seafarers on board their ships and in welfare centres ashore.*

#### **Guideline B4.4.1 Responsibilities of Members**

- *Members should cooperate with one another in promoting the welfare of seafarers at sea and in port. Such cooperation should include the following:*
  - *Consultations among competent authorities aimed at the provision and improvement of seafarers' welfare facilities and services, both in port and on board ships;*
  - *Agreements on the pooling of resources and the joint provision of welfare facilities in major ports so as to avoid unnecessary duplication;*
  - *Organization of international sports competitions and encouragement of the participation of seafarers in sports activities; and*

#### **Regulation 4.4 Access to shore based welfare facilities**

- *The convention encourages the establishment of port based welfare facilities*
- *Easily accessible, regardless of nationality, race, colour, sex, religion, political opinion, social class and the flag of the seafarers ship*
- *Include meeting and recreational rooms*
- *Facilities for sport, education, religious needs and personal counselling*
- *Shore leave should be made available as soon as possible after arrival in port*

#### **Guideline B4.4.6 Seafarers in a foreign port**

- *Informed of local laws or customs, if disobeyed how that could endanger the seafarers freedom (arrested)*
- *Access to consular services*
- *Relationship developed between consulate and local authorities*
- *Seafarer if detained, dealt with promptly and lawfully*
- *Seafarer can seek assistance and or protection from the consul or flag state of the vessel*

#### **Guidelines B4.4.3 Welfare Boards**

- *Welfare boards should be established, at the port, regional and national levels, as appropriate: Their functions should include:*
- *Keeping under review the adequacy of existing welfare facilities and monitoring the need for the provision of additional facilities or the withdrawal of underutilized facilities; and*
- *Assisting and advising those responsible for providing welfare facilities and ensuring coordination between them.*
- *Welfare boards should include among their members representatives of shipowners' and seafarers' organizations, the competent authorities and, where appropriate, voluntary organizations and social bodies.*

#### **Reg 5.1 Flag State responsibilities**

- *Every Flag State that has ratified the convention is responsible for ensuring that the MLC's requirements are implemented on board ships flying its flag*

#### **Reg 5.2 Port State responsibilities**

- *To enable each Member to implement its responsibilities under this Convention regarding international cooperation in the implementation and enforcement of the Convention standards on foreign ships*

#### **Reg 5.2.1 Inspections in Port**

- *Every foreign ship calling, in the normal course of its business or for operational reasons, in the port of a Member may be the subject of inspection in accordance with paragraph 4 of Article V for the purpose of reviewing compliance with the requirements of this Convention (including seafarers' rights) relating to the working and living conditions of seafarers on the ship.*

## Forum Participants Workshop Summary

Overall the responses indicated the same solutions, summarised by the following three good points, from a ***Port Welfare Committee*** point of view.

### 1. COMMUNICATION

- All stakeholders at a ***Local Level***, such as Customs, Immigration, Port & Terminal Operators, Shipping Agents, Australian Maritime Safety Authority, Seafarers Welfare Organisations, and International Transport Federation (ITF).
- Continuous and updated regularly, whether they are on the Port Welfare Committee or not, add as "CC" to the email trail.

### 2. CO-OPERATION

- The emphasis being on the ***Seafarers Welfare***, it was recognised for co-operation of all stakeholders and community support groups sourced locally utilising their expertise, speciality, and authority to have the seafarers and or vessels easily accessible, regardless of nationality, race, colour, sex, religion, political opinion, social class and flag state of the vessel. A non discriminatory, non denominational approach.

### 3. CO-ORDINATION OF RESPONSE

- It was suggest that for a ***Port Welfare Committee (PWC)*** to function effectively, on receiving information from either a committee member or a local contact that a point of contact, i.e. Incident Officer be nominated whilst the initial welfare issue is unfolding.
- To offer guidance to the Incident Officer, the utilisation of the Port Welfare Committees (PWC) "Emergency Plan" would enable access to the appropriate network contacts in a systematic response as deemed appropriate for the individual welfare incident.
- The "Emergency Plan" could contain information related to contact details at a local, regional and national level. The scenarios listed would relate to goods and services supplied, who to call, business and out of hours details, emergency contacts, embassies, interpreters and community support groups. The PWC could then be activated in a "Committee" approach if and when required.
- The basis of the plan, know your local contacts, begin networking, involve the community and know your seafarer – their wants and needs. Understand the importance of communication, regular updates, and post incident evaluation regardless of whether the issue was your response, suppliers and or contacts. People move on, new relationships will need to be nurtured and contact details updated.
- An understanding of the Maritime Labour Convention 2006, who, what and where it applies to. Do not underestimate regional experience with other PWC and the issues they have dealt with.

## Australia - MLC 2006 Compliance – Update as of September 2010

An inter Government approach, in collaboration with State and Territory counterparts by the Australian Maritime Safety Authority (AMSA), Department of Education, Employment and Workplace Relations (DEWR).

- Australia now has a formal position in favour of ratification.
- Any and all legislative changes (such as changes to the Navigation Act) must be made this year for the ratification process to commence in 2011.
- All states and the NT are developing law and practice reports on their compliance with the MLC for submission to the Commonwealth by the end of 2010.
- It is intended the MLC will be ratified by Australia no later than October 2011.
- The UN's International Labour Organisation (ILO) believes the MLC will commence late 2011 or early 2012.