

Nikolai Sukhanov

**WHAT ARE THE RIGHTS OF THE SEAFARERS'  
WORKING ON SHIPS UNDER THE FLAGS  
OF CONVENIENCE?**

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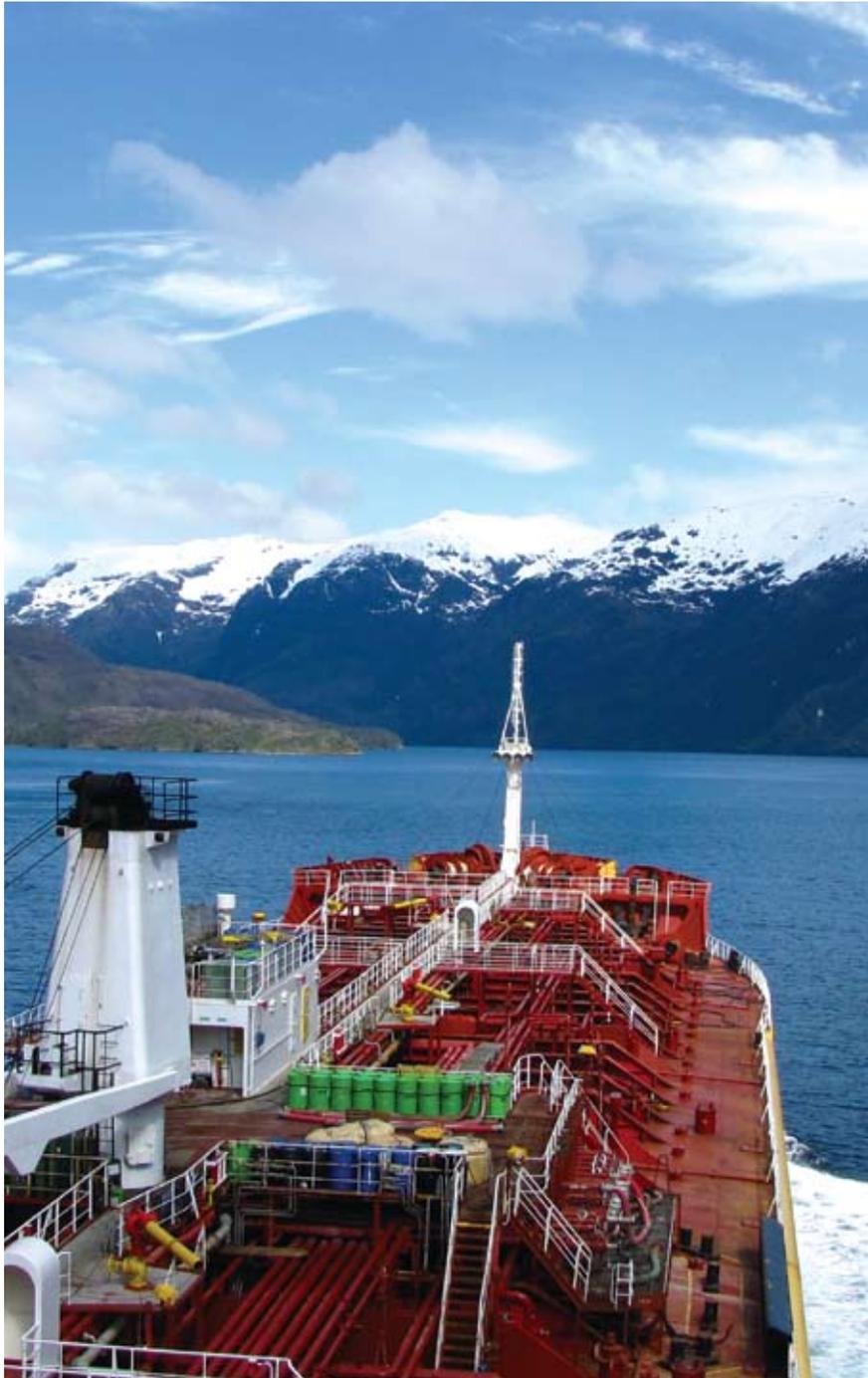
**Nikolai Sukhanov**

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working on ships under the flags of convenience?  
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## WHAT HAS SEAFARERS' UNION OF RUSSIA TO DO WITH EVERYTHING?

During prolonged voyages, seafarers working on ships under foreign and Russian flags often talk about the Union, its functions, and how it relates to their needs. There are times when their discussion in this regard gets heated to the point of them holding a meeting that would answer the questions they have about the Union. These meetings sometimes result in the decision of the seafarers to leave the Union and to stop paying their Union dues. Next they notify their employer, the shipping company, of their decision to quit the Union. However, to the seafarers' surprise, their employer explains to them that it has a Collective Bargaining Agreement with the Seafarers' Union of Russia that requires payment of their Union dues to the Union as the employer's responsibility. Moreover, it becomes known that according to the text of the Collective Bargaining Agreement, the employer will not hire seafarers who are not members of the Union and are not covered by the Collective Bargaining Agreement. The individual Contract of the seafarer also states that seafarers are covered by the terms and conditions of the

Collective Bargaining Agreement of International Transport Workers' Federation (ITF) and the employer will deduct Union dues from seafarers' wages to remit them to the Union which they signed the above agreement with.

So why then the situation arises that once the seafarer is hired onboard of the ship, he completely forgets about his responsibilities to follow the Collective Bargaining Agreement and has no idea what the Union is all about? First and foremost, seafarers, being hired by the crewing company, most likely do not read their Individual Contract when they sign it or they do not make an effort to understand what it says. The Crewing company, on their part, should present the seafarer with the Collective Bargaining Agreement that it has with the Seafarers' Union of Russia. Having read the Agreement, the seafarer has a choice to refuse to be hired by this crewing company if he does not agree with the terms and conditions of the Agreement. If this does not take place then the seafarer gets hired by the crewing company, gets placed on board of a ship, and begins his work. The employer (shipping company) explains to the seafarer that the seafarer has been hired on board voluntarily and was introduced to all of the terms and conditions of his work prior to being hired onboard of the ship. Usually, the situation is resolved as a result of this explanation. Some seafarers, who disagree with employer's explanation, sue their employer for their withheld Union dues after they have finished their work onboard and returned home. The office of Public Transport prosecutor asks the seafarer to present them with his Individual Contract. When the Transport prosecutor reads to the seafarer the contract he signed, it becomes clear that seafarer has been presented with the terms and conditions when he was hired to work for this company since he put his name and signature on his Contract. The Seafarer, once again, is warned to read his Individual Contract carefully before signing it and beginning to work for the company.

Following multiple questions and concerns of Russian seafarers regarding their membership in the Union, Seafarers' Union of Russia asked Mr. Stephen Cotton, General Secretary of the International Transport Workers' Federation, to clarify the terms and conditions of the Collective Bargaining Agreement. Answering this question, Mr. Cotton explained that according to the national legislature, seafarers must be members of their homeland's Union to be covered by the Collective Bargaining Agreement when hired to work on board of ships under the flags of convenience.

Seafarers' Union of Russia is a national union of Russia and has been affiliated with the ITF since 1993. Therefore, all Russian seafarers, when

hired to work for the shipping company which has a Collective Bargaining Agreement with the ITF, must be members of the Union. This is a requirement by the ITF. In the United States, for example, there is a federal law that does not allow seafarers to work on board of ships if they are not members of the national Union.

The Union of Soviet Socialist Republics (USSR) had a number of large shipping companies like Baltic, Black Sea, Far Eastern, Kamchatka and others till the middle of 1990. Each of these shipping companies had union committees of onshore and offshore personnel which had collective agreements with employers regarding the work of seafarers. All seafarers, without exception, were members of the union and paid union dues. Not one of the seafarers ever wondered why they needed a union. When hired to work for the shipping company, the seafarer would become a member of the union committee and would be acquainted with the terms and conditions of the collective agreement within that company. If the seafarer did not agree with the terms and conditions of the shipping company's collective agreement, he would not be hired. When the Soviet Union collapsed, certain shipping companies ceased to exist or split into many private shipping companies where there were no union committees. The labor market was filled with a large number of Russian seafarers looking for work on board of vessels of foreign shipping companies. Russian seafarers, working on board of these vessels without the Collective Bargaining Agreement, did not receive proper wages and were not covered by the insurance in case of any accidents. Seafarers had no idea what laws are in effect on board of a ship under the flag of Mongolia or Honduras and where to go when something happens. Catastrophes that often occurred with the ships under the flags of convenience proved that seafarers, working on these vessels, had no rights at all.

In the beginning of 1994, Seafarers' Union of Russia (SUR) has already become affiliated with the International Transport Workers' Federation and had a right to sign Collective Bargaining Agreements on behalf of ITF. The delegation of Seafarers' Union of Russia for the first time took part in the 37th Congress of ITF that was held in Geneva in August of same year. It was in the same year when over two thousand of Russian seafarers, working for Adriatic Tankers Shipping Company in Greece, found themselves abandoned in the foreign ports as a result of the bankruptcy of the Greek shipping company. This situation led Russian seafarers to realize for the first time how much they need to be united into the strong and mighty union in order to protect their rights. Seafarers in distress kept contacting Seafarers Union of Russia

asking for help from many ports all over the world. SUR, being empowered by International Transport Workers' Federation, had immediately taken actions to help Russian seafarers in need. For the period of 1994 to 1995, Seafarers Union of Russia was able to recover and pay seafarers their outstanding wages in the total amount of more than five million United States dollars. Due to effective measures taken by SUR in July and August of 1995, more than 300 Russian seafarers were repatriated from Budapest to Russia, where they were waiting for their wages and to return home for the period over six months.

In the beginning of 1995, Russian ship owners, seeing the strong position of the Seafarers Union of Russia and its independence from employers, have made an attempt to create their own “pocket” unions. The ship owners financed the establishment of a number of «pocket» unions in the Baltic, Black Sea and Far Eastern regions of Russia. The seafarers were threatened to be fired by the ship owners if they didn't switch their membership to become members of “pocket” unions. Attempts by the shipowners of Russia, representing themselves as Union of Russian shipowners, to unite these unions and sign a Collective Bargaining Agreement with them, all failed. The International Transport Workers' Federation did not recognize these unions and did not approve of the Collective Bargaining Agreement signed by them. This has resulted in the arrest and detention of ships under the flags of convenience, operated by Russian ship owners with Russian seafarers on board in foreign ports. International freight companies refused to collaborate with ship owners who did not have a Collective Bargaining Agreement with the ITF. As an example, leadership of the PRISCO shipping company declined to sign a Collective Bargaining Agreement with the Seafarers Union of Russia for more than three years while cooperating with a “pocket” union “Zaschita”. Finally, they did sign a much needed Collective Bargaining Agreement with the ITF after the ITF declared a boycott of them.

We often hear seafarers ask questions about the purpose of the Union, its functions and aims. The main aims of the Union are:

1. To ensure good working conditions from the very beginning of the seafarer's employment.
2. To provide consultation and information services at the start of the seafarer's employment.
3. To represent the rights of a seafarer and provide support in case of a labor related dispute during his work or vacation time.
4. To solve any issues that might arise between the seafarer and the crewing agent.

5. To offer political representation, for example, the lobbying of governments with a purpose of a better recognition of international maritime conventions and the liquidation of “black lists”.

**The main goal of the union is to sign a Collective Bargaining Agreement with the employer of the shipping company to ensure proper wages for a seafarer on a regular basis, insurance from all kinds of accidents, and opportunity for a seafarer or his/her child to spend time in a health resort or vacation camp accordingly.**

Many seafarers continue to believe that the union must distribute and pay for packages for children's vacation camps, sanatoriums, organize children's New Year parties, buy and distribute holiday presents and pay for seafarers' medical services. The union simply does not have this kind of means. It is important to note that union dues, paid by seafarers, have never been used to pay for vacation packages and any medical treatment of seafarers to cover their sick time. These expenses were covered by a social security fund of the organization which created it and transferred 5.7 percent of the organization's amount of earnings of all of its employees to this Fund. Money from this fund was only allowed upon the obtaining of signatures of the organization's head and chairman of the union. The organization's union committees were entrusted with the distribution of paid vacation camp packages. It was also the responsibility of the organization to cover all of the expenses to maintain the union committee and its employees. The union committee was given space that was free of charge with paid communication services and free transportation.

Shipping Companies who use flags of convenience do not create such funds, that is to say they do not pay anything into the social security fund. They also do not pay anything to maintain the union committee. The union committee has to use part of the union dues to buy premises, pay for communication services, and for transportation. Another important issue is to pay the salary of union employees (which also gets taken out of union dues). Any union, whether it be in Russia or in any other country, is highly regarded if it is strong and independent from the employer and is able to solve problems of its union members by not just talking the talk but by walking the walk. The seafarer must realize that having returned home after working on a ship under the flag of convenience and having not received any wages, the only help he can get is from national union and no one else. When seafarers file a complaint to the office of the Public Transport prosecutor or Russian courts, they are told to appeal to the government of the country of the flag of

convenience their ship was under. It is essential for a seafarer to come to the union before he/she applies for a job with an unknown crewing company and gets hired on board to one of the ships under the flags of convenience. The Seafarers' Union of Russia does research crewing companies and has a list of the ones that have been licensed and approved to pursue this kind of business. The seafarer must ask the crewing company whether the ship owner has a Collective Bargaining Agreement with the Seafarers' Union of Russia or not. It is a Collective Bargaining Agreement that ensures that all terms and conditions of the seafarer's work on board of a ship under the flag of convenience, will be fulfilled. Always carry with you the contact information of the Seafarers' Union of Russia and ITF Inspectors in case of unforeseen circumstances.

Every seafarer must clearly understand what the flags of convenience are before he/she gets hired on board of the ships flying one of these flags.

## Introduction

This book was written to explain the purpose and functions of International Transport Workers' Federation and Seafarers' Union of Russia. The main aim of the union is to defend the legal interests and rights of the seafarers' working on board of ships under the flags of convenience including Russian flags. To achieve this aim, we need to, first of all, state what are the rights of the seafarers working on board of the above mentioned ships and how they can be protected.

International legal rights of the seafarers, working on board of ships under the flags of convenience, have been a subject of public concern for over 50 years. The International Transport Workers' Federation, International Labor Organization, and International Maritime Organization have been working for many years to improve the labor conditions of the seafarers working on ships under the flags of convenience.

The matter of international legal rights of seafarers working on ships under the flags of convenience is of great importance due to the fact that the number of ships being registered under the flags of convenience is steadily increasing while the working conditions of seafarers have not been improved but are getting worse.

The main purpose of this book is to analyze the legal framework regarding issues pertaining to the protection of the rights of seafarers working on board of ships under the flags of convenience to identify possible gaps in the Maritime Law of Russia and to develop, clarify, and make suggestions to eliminate these gaps.

To achieve this goal, efforts were made to solve the following problems:

- to conduct analysis to determine the origin of flags of convenience;
- to examine the international legal situation of the seafarers working on ships under the flags of convenience;
- to study and understand the international and Russian legislature where it pertains to seafarers working on ships under the flags of convenience.

This book offers information regarding the existing Conventions of International Labour Organization (there are more than 60 Conventions regarding seafarers), including the recently adopted Maritime Labor Convention. Seafarers were awaiting the adoption of the Maritime Labour Convention of 2006 with great anticipation. It was finally established by the International Labour Organization in Geneva's headquarters in February of 2006. The Maritime Labour Convention contains over one hundred pages on maritime law and labor. It embodies all up to date standards of the existing 31 international Maritime Labour Conventions regarding



seafarers' work on vessels at sea. Representatives of the Seafarers' Union of Russia, along with Russian government officials and ship-owners took an active part in the development and establishment of this Convention. The Maritime Labour Convention entered into force on August 20, 2013 in the Russian Federation.

The author of this book believes that it is necessary to look at all documents pertaining to work of seafarers on ships under the flags of convenience. Here you will find passages of the Collective Bargaining Agreement approved by the International Transport Workers' Federation, as well as texts from Conventions and excerpts of legislation from the countries where seafarers work on ships under the flags of convenience.

## Chapter 1

### FLAGS OF CONVENIENCE

Most of the seafarers these days work on ships flying so called "flags of convenience". In order to know the international legal rights of seafarers working on these ships, one must understand what these ships are and what laws they use to defend the rights of seafarers, as well as how seafarers can protect themselves from dishonest ship owners.

To understand the purpose and meaning of flags of convenience, it is important to use the correct terminology in the framework of maritime law. The most basic component of maritime law is the definition of a vessel.

Under Maritime Law a vessel has been described as a watercraft or other artificial contrivance used, or capable of being used, as a means of transportation by water or under water (in the depth of water). A watercraft can only be identified as a vessel if it has a number of legal characteristics and attributes present. They are the name of the ship and its registration number.

Ship registration is the process by which a ship is documented and given the nationality of the country to which the ship has been documented. The country of registration is a ship's flag state and it determines its nationality, as well as which country's laws govern its operation and rights of sailing. A ship is subject to the laws of its flag state which differ from country to country. The flag state must establish a registry of ships flying its flag that includes the ship's name, port of registration, its former name and registration number, international code of signals, place and year where the ship was built, name of the company that constructed it, and a description of administrative, technical and social matters of the ship. A ship is allowed to sail only under one flag, therefore the flag state must ensure that the ship's previous registration number has been annulled and the current information about the ship has been entered in the ship's log and bareboat registration.

A flag of convenience ship is one that flies the flag of a country other than the country of ownership. The number of ships that have been registered under the flags of convenience have reached record number, that is half of all of the world's merchant ships.

The International Transport Workers' Federation (ITF) maintains a list of registries it considers to be flags of convenience (FOC) registries. In developing the list, the ITF considers "ability and willingness of the flag

state to enforce international minimum social standards on its vessels,” (including basic human rights, unions’ rights and freedoms of association and ITF affiliated unions’ right to sign Collective Bargaining Agreements), as well as the “degree of ratification and enforcement of ILO Conventions and Recommendations” and “the safety and environmental record” (which are determined by evidence of ratification and implementation of the Conventions of International Maritime Organization (IMO), identified defects, ships detentions and outcome of port inspections).

The ITF believes that there must be a “genuine link” between the real ship owner and the flag of the ship in accordance with the Convention on Maritime Law of the United Nations Organization. This so called “genuine link” is missing when it comes to the ships flying the flags of convenience. The reasons ship owners choose to use open register are varied and include low registration fees, low taxes to no taxes at all, and the ability to hire crews from lower-wage countries. Open registries have hardly any standards for safety and training and have no regulations regarding hiring multiple nationalities. Seafarers speak different languages and are not able to communicate effectively with each other. The vast majority of the collisions that occur at sea annually may lead to a complete loss of a vessel due to the inability of seafarers to overcome the language barrier. At times these registries are governed by an outside country, for example Liberia.

All paperwork is done by one private company in the United States, but officials of the Cambodian register are located in Singapore. As soon

as the ship gets registered under the flag of convenience, the ship owner hires the cheapest labor he can find, pays minimum wages, and saves his expenditures by providing seafarers with the lowest standards of living and working onboard of the ship.

Seafarers, working on ships under the flags of convenience are denied basic human rights and even unions since flag of convenience registries do not guarantee minimum social standards. If these standards would have been followed, these ship owners would have lost their interest to pursue open registries.

The International Transport Workers’ Federation has been campaigning against flags of convenience over the last fifty years and has established a network of ITF Inspectors to investigate matters pertaining to ships under the flags of convenience. ITF Inspectors’ reports show a number of issues with seafarers being taken advantage of and being used as a cheap labor, living in a poor conditions, and working long hours without proper rest which result in stress and fatigue. They also say that these ships have low safety standards and no construction requirements and that no proper training is given to seafarers who have to rely on themselves and charity.

Since flags of convenience ships do not enforce safety standards, these vessels are much older than the average age of the world’s fleet. Thousands of seafarers suffer poor working conditions that threaten their lives on these vessels. Many flags of convenience ships, detained by port authorities, are so old and in such conditions that they should not have been operating at sea in the first place. It is of no coincidence that seafarers call these vessels “sailing coffins”.

Accidents that occur among the flags of convenience ships happen more often than on regular ships. Just eight flags of convenience registries mount to a total of 46% of all losses in terms of deadweight tonnage. The top ten ship registries where losses of deadweight tonnage are the highest in percentage relative to all the world’s fleet are five registries of flags of convenience ships: Cambodia (#1), Saint Vincent (#5), Antigua (#8), Cyprus (#9) and Belize (#10). However, it is not only the condition of the vessels that leads to such a high percentage of loss. The representatives of shipping companies admit that 80% of accidents at sea are the result of human error. It is in no way surprising due to the fact that crews receive low wages, work overtime and do not get adequate rest. Ship owners may choose not to provide their hires with safety training and employ people who are not able to communicate with each other due to a language barrier. Check-ups of ships done by ITF Inspectors and Port Authorities reveal that many seafarers do not get adequate nutrition and clean drinking water. Many times there is not enough food supply or it is expired. Poor safety



conditions and untrustworthy vessels make the maritime profession one of the most dangerous. Reports show over two thousand deaths that occur at sea. Accidents happen too often. The system of flags of convenience aids ship owners to avoid their responsibilities.

The United Nations Convention on the Law of the Sea (UNCLOS) of 1982 requires a genuine link between a State and ships flying its flag. A genuine link between a ship and country where this ship is registered means that such registration is not only formal, but the ship operates under the laws of its flag state, follows its jurisdiction and oversees control over the ship. Based on the United Nations Convention on Conditions for Registration of Ships of 1986, there is certain criteria of genuine link. Firstly, its participation by the State or its nationals as owners of ships flying its flag or in the ownership of such ships. Secondly, a State of registration shall observe the principle that a satisfactory part of the complement consisting of officers and crew of ships flying its flag be nationals or persons domiciled or lawfully in permanent residence in that State. Thirdly, the flag State will exercise effectively its jurisdiction and control over ships flying its flag. According to article 10 of the UN Convention on Conditions for Registration of Ships, "The State of registration, before entering a ship in its register of ships, shall ensure that the shipowning company or a subsidiary shipowning company is established and/or has its principal place of business within its territory in accordance with its laws and regulations." Fourthly, such register will include the name, address, and the nationality of the owner or of each of the owners which is mandatory, as per article 11 of the above mentioned Convention.

A list of main countries offering flags of convenience include Panama, Liberia, Bahamas, Malta, Cyprus, Marshall Islands, St. Vincent, Antigua & Barbuda, Cayman Islands, Mongolia and many others.

The phenomenon of Flags of Convenience goes back to the time of World War I when Panama and later Honduras adopted laws on the registration of foreign merchant ships under the flags of convenience that allowed shipowners to avoid competition with shipowners operating the State's flag ships. By registering the ships under the Flags of convenience, shipowners were able to simplify and often intentionally lower the standards on labor and taxation.

Thus, the first edition of the Maritime Law of Liberia, which draft was brought from Monrovia to the United States of America, lacked all safety regulations on inspection and technical control of its flag state ships by the Liberian authorities. There was nothing mentioned in regard to the duration of working hours, yearly paid vacation, minimum wages or other

working conditions of seafarers on board of these vessels. These among other conveniences became the main reasons for shipping companies to adopt the policies of open registries (Flags of Convenience) rather than to follow the State's flags laws and regulations, especially in the post World War era. Active campaigning of unions and shipowners of developed countries against the policies of open registries (Flags of Convenience) were unsuccessful. Despite its firm position, the 1958 United Nations Geneva Conference on the Law of the Sea was only able to establish the principle that there must be a "genuine link" between the ship's owners and its flag state. Requirements and criteria for establishing the "genuine link" were left for the consideration by its flag state.

The flag state has certain duties in regard to operation of its ships. This is common law practice since the flag state is responsible for its own vessels. Based on flag state sovereignty, the flag state of a merchant vessel is the jurisdiction under whose laws the vessel is registered or licensed and is deemed the nationality of the vessel.

The main reasons for choosing to use flags of convenience in merchant marine practice are the following:

Each flag state is free to determine conditions that offer nationality to the merchant vessels.

The increase of offers of tonnage by the flags of convenience ships leads to a decrease of freight rates on world's market.

The sales of national registry is one of the most important sources to increase the flag state budget. For example, Panama's annual income from their open registry averages around 40 million US dollars, Cyprus – 22 million US dollars, Bahamas – 15 million US dollars, Malta – 6 million US dollars.

For shipowners in the countries with high taxes, registration of ships under the flag of convenience helps to avoid the paying of taxes since many countries with open registries do not have a tax system in place or their taxes are very low. They also hardly have any safety requirements for ships. For example, St. Vincent and the Grenadines is called a "garbage dump" of the world's largest merchant fleet since many of the shipowners transfer their ships under this state's flag before their sale in order to be demolished.

As it has already been mentioned, these ships have minimum social standards. These and many other reasons are the result of a "real war" launched by the International Transport Workers' Federation against the flags of convenience. Shipowners of different sea harboring countries often prefer one over the other open registries. Thus, the Greek shipping companies highly favor the flag of Cyprus: 13% of all Greek tonnage is

registered under this flag. The vast majority of the Cyprus fleet, around 60%, belongs to Greece. Japanese shipping companies choose the Panama flag, while American companies choose the flag of Liberia.

The main reason why Russian shipowners choose to use flags of convenience is a lack of a well established financial-credit system in the country, along with unreasonably high interest rates.



*Meeting with Japanese ITF Coordinator Fusao Ohori in Jakarta*

Shipowners are forced to renovate the existing fleet with the help of western creditors by mortgaging their current vessels along with the ones they purchase.

Flags of convenience – are, in essence, cheap flags which attract shipowners with more favorable conditions than their flag state offers which results in avoidance of their local law codes and regulations. This is especially true for shipowners from developed countries with high social standards and cost of living. Change of flag immediately results in an increase of income from ship's operations and the use of fleet provides great advantage in tough competition in world's freight markets. In South Korea, for example, when using the flag state registry, shipping companies are forced to pay 50 times more taxes and spend double the amount of money to maintain the expenses for the crew versus offshore ship registries. The number of open registries willing to register ships for any shipowner all over the world has drastically increased. There were four of them half a century ago, but now there are around 40 countries and territories that have been comprised as a list of countries using flags of convenience by the International Transport Workers' Federation. Among these are tiny isles deprived of natural resources, but desiring to have a prosperous offshore business (some of them do not even have access to the sea). At the end of the 1980s, the list of flags of convenience countries comprised about 35% of world's merchant fleet. During the period of 1990-2015, the world's merchant fleet of flags of convenience grew from 225 to 442 millions of tons.

In 2015, the number of ships registered under the flags of convenience grew to 70% of all the world's merchant fleet, including vessels up to 1000 registered tons or more. The percentage is especially high for bulkers (69%), tankers (62%), container carriers (64%) and less for passenger and other types of vessels. Russia, together with other maritime countries, has become a large consumer of open registries. According to Western polls, about 350 ships that belong to Russian ship owners fly the flags of convenience of Liberia, Malta and Cyprus. Over 60% of deadweight tonnage is registered in Liberia. Russian ship owners take fifth place in using the Liberian registry, fourth place in Maltese registry and third place in Cypriot registry. As of today, approximately 53% – 58% of the merchant fleet owned by Russian ship owners is under foreign flags. The flag of convenience system is not consistent. Only some of them offer more or less adequate standards for safety and requirements. Research completed by Great Britain in 2003 regarding the current state of affairs of ship registries was turned into 600 pages of Flag State Audit report. In the result of this massive project, with the help of International Transport Workers' Federation, all registries were classified by 4 categories based on the effectiveness of standards and requirements by their flag state. Cambodia and St. Vincent were placed in the lowest category. There are about 40 Russian owned vessels that fly the Cambodian flag. Most of them are not covered by the ITF Collective Bargaining Agreement. Cambodian registry is based in Singapore and has been especially popular since 1995 as an open registry which is included in the "black list" of Paris MOU as a high risk flag. The International Transport Workers' Federation calls the Cambodia register a "dump of rusted boats".

Flags of convenience produced a number of serious problems, including a large number of substandard vessels at sea (these are the ships that do not meet safety requirements as per international conventions) which jeopardize maritime and environmental safety. Over 18,000 of the flags of convenience ships transport hundreds of millions of tons of dangerous goods annually all over the world. The International Transport Workers' Federation has been tirelessly exposing social disasters and consequences of the flags of convenience system. "As soon as the ship gets registered under the flag of convenience, the owner hires the cheapest labor he can find, pays minimum wages, and reduces his expenses by decreasing and worsening the quality of life of the crew members", as concluded by the ITF. The flag of convenience system helps to escape responsibility, hides amounts of real income and investments, avoids paying taxes, and avoids following the law.



There are many known cases when ships are registered in open register with fake documentation and false certificates. Lack of transparency in the flags of convenience system leaves room for international criminal activity and terrorism. There is no genuine link between the state and ship owner representing it in FOC.

In the beginning of January 2015, official data was received from the administration of Federal migration service on Primorsky region. The number of seafarers from Primorsky region, working onboard of foreign flagged ships in 2014, has dropped by 10% compared to data from 2013. This data shows that there were 9,300 of Primorsky region citizens who left for work abroad in 2014, which is 10% less than in 2013. Most of these citizens (98.8%) worked onboard of foreign flagged vessels and one out of six was hired to work in the capacity of sailor, skipper, boatswain, engineer; and of those 58% had contracts for up to six months. Almost half of these (49%) who left to work abroad had a higher professional education and only 39% had any vocational training. The large percentage of this group was made by males ages 40 to 49 years old. Based on information from Primorskstat, most popular flags are as follows: Cyprus (20%), Marshall Islands (13%), Netherlands (11%), Cambodia (9%), Japan, Greece, Panama, Cayman Islands (4% to 6%). The Netherlands attracted a total workforce of 1,100 though there were only six people from Primorsky region in 2013, Greece – 574 (4 from Primorsky region in 2013), Japan – 522 (64), Korea -159 (27), Germany – 139 (18). There were 497 citizens of Primorsky region working onboard of ships under the Cayman Islands flag in 2013, though there were none of them at the

same place in the previous two years. The Marshall Islands flag of convenience attracted 1,200 of workers (810 in 2013). As noted by Primorskstat, such countries as Vietnam, Butan, Mongolia and Serbia did not have anyone from Primorsky region working for them. Previously, the numbers fluctuated between 100 to 200 people. The number of seafarers working onboard Maltese flag of convenience ships has greatly gone down – 205 persons versus 3,000 in 2013; Cyprus – 1,800 versus 2,300 people.

## FLAGS OF CONVENIENCE COUNTRIES

The following countries have been declared FOCs by the ITF's fair practices committee (a joint committee of ITF seafarers' and dockers' unions), which runs the ITF campaign against FOCs:

- Antigua and Barbuda
- Bahamas
- Barbados
- Belize
- Bermuda (UK)
- Bolivia
- Cambodia
- Cayman Islands
- Comoros
- Cyprus
- Equatorial Guinea
- Faroe Islands (FAS)
- French International Ship Register (FIS)
- German International Ship Register (GIS)
- Georgia
- Gibraltar (UK)
- Honduras
- Togo
- Jamaica
- Lebanon
- Liberia
- Malta
- Madeira
- Marshall Islands (USA)
- Mauritius
- Moldova
- Mongolia
- Myanmar
- Netherlands Antilles
- North Korea
- Panama
- Sao Tome and Principe
- St Vincent
- Sri Lanka
- Tonga
- Vanuatu

# LIST OF ITF INSPECTORS

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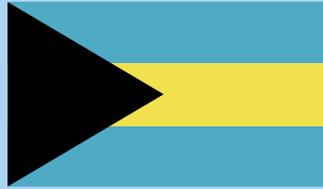
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PICTURES OF FLAGS OF CONVENIENCE ON DISPLAY AS NATIONAL FLAGS



Antigua and Barbuda



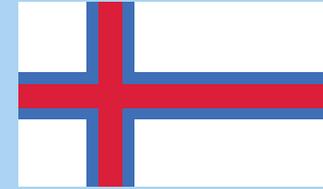
Bahamas



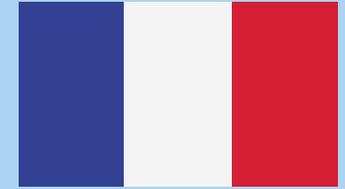
Barbados



Equatorial Guinea



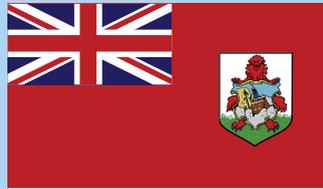
Faeroe islands



French international ship registry



Belize



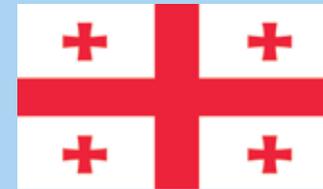
Bermuda (Britain)



Bolivia



German international ship registry



Georgia



Gibraltar (United Kingdom)



Cambodia



Cayman islands



Comoros



Honduras



Jamaica



Lebanon



Cyprus



Malta



Marshall Islands (USA)



Liberia



Madeira



Panama



Mauritius



Moldova



Mongolia



Sao Tome and Principe



St. Vincent



Sri Lanka



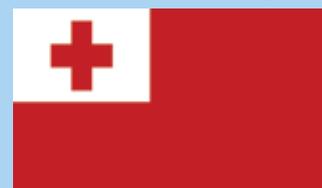
Myanmar



Dutch Antilles



North Korea



Tonga



Vanuatu



Togo

# Helping seafarers around the world



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## Chapter 2

### “SECOND” SHIP REGISTRIES

In the first chapter of this book, we looked at the definition of flags of convenience and described the conditions of seafarers, working onboard of these vessels. Seafarers of different nationalities work onboard of many flags of convenience ships. There are times when it is very difficult to define the rights of a seafarer onboard of these ships. The peculiarity of “second” ship registries is that they get to keep their national flag and offer significant tax relief to the shipowners. The rights of seafarers on these ships are defined by the laws of the flag’s state. Legally speaking, it is much easier to defend the rights of seafarers on such ships. This statement brings us to the necessity of knowing what are the “second” international registries, how they are created, and what advantages seafarers have to protect their legal rights.

In recent years, many sea countries have been actively involved in creating international ship registries in addition to regular national registries as an alternative to the flags of convenience. This is an attempt to find compromise to keep national shipowners from transferring their ships to more economically attractive open registers of flags’ of convenience countries. Second registries allow to get back or keep more or less of a significant part of the national shipowners’ fleet in local jurisdiction, offering them operating costs that are competitive on the world’s market, especially in regard to taxation and manning of the crew. Transfer of ships to the international register usually means avoidance of income and corporate taxes, not paying fees to the Social Security Fund, as well as simplified standards of registration and the ability to hire an international crew.

The initiative to establish new registers, also known as “second” or “parallel” registers, came as a result of quite massive transfers of merchant fleets in traditional sea countries in the 1980s to the flags of convenience. This was especially the case for Western Europe. In the light of the world economic crisis and continued flagging-out of ships, Norway became one of the first countries to establish an international ship registry in 1987. As a result of this action, most of the ships stayed under the national flag and the deadweight of the Norwegian fleet doubled in four years reaching 55 million tons. This consequently led to an increase of the Norwegian budget. The main reason to establish “second” registries was to offset the global effect and preeminence of flags of convenience in the world’s shipping industry.



Today there are 177 different registries all over the world that govern around eighty thousand ships. Ship registries can be divided into three categories: national, second, and open. Each of these categories has its own advantages and disadvantages. “Second” registers were founded with the purpose of keeping the merchant fleet from being transferred overseas. By being registered in the “second” registry, the ship flies its own national flag and follows the jurisdiction of its country, but its laws and taxation requirements are compatible with those that are offered by open or flags of convenience registries. All of these measures are meant to even out the competition on the world’s freight market, along with solving strategic goals of the country, and offering legal protection over shipping companies and seafarers. The systems of second registries have been adopted by the following countries: Norway, Denmark, Great Britain, Germany, France, Netherlands, Italy, Spain, Portugal, Japan and Turkey. Belgium has been using Luxembourg as a “second” registry for Belgium ships which were established at the end of 1990s, while China uses Hong Kong registry. Establishment of new types of ship’s registries was a result of a compromise between the flag state and the private shipping company. Most of the countries which have the “second” international register highly esteem their capabilities. Among the most effective “second” international registers: Norwegian International Shipping Register, Danish International Shipping register and others. In Norway, the percentage of the total merchant fleet under the national flag comprises 89% of tonnage registered in the “second” international register NIS. Moreover, the conditions offered by NIS have attracted around 60 large vessels of foreign shipowners.

International crew members onboard of ships registered in the “second” register are allowed to be paid different amounts of wages, depending on the cost of living in the country of a crew member. Pay rates are usually negotiated with the International Transport Workers’ Federation. Norwegian and other ships’ registers follow the text of Collective Bargaining Agreements between seafarers’ unions of the flag state and the foreign state-supplier of seamen (Philippines, India, Poland, Russia, Indonesia, Pakistan etc.) regarding hiring conditions. The latter allows the shipowner to save money on manning his ship with seamen from countries with a low cost of living.

In Portugal, the creation of the international “second” register in 1989 was not only designed to prevent transfer of national ships overseas, but also to make its “second” register attractive for the European Union.

Portuguese authorities aimed to make the International Shipping Register of Madeira (MAR) united with the European ship register and they were successful in their pursuit. Besides national Portuguese ships, there are around 120 vessels registered in MAR owned by shipowners of other countries within the European Union.

The creation of the international “second” register in the Canary Islands in Spain allowed for a slow down to the loss of its national fleet to overseas registers. Moreover, because of amendments made into this register in 1997, most of the vessels were returned under the Spanish flag. Nowadays, 90% of ships flying the Spanish flag are registered in the international register and only 10% in the national one.

For international ship registries to function effectively, there has to be a cheap labor force available on a global market. An excess of shipboard personnel allows hundreds of management and crewing companies to supply the needs of manning of multinational crews in the interests of all world’s market registration services. Active involvement of these companies resulted in the creation and successful operation of a worldwide network of professional training of ship personnel. Despite significant differences in the regulations of existing international ship registries, there are some commonalities. These are the following: the opportunity to hire cheap foreign labor to man the ships; to decrease the number of crews, which is considered one of the most important factors in increasing the competition among the ship owners; there is none or little contribution made by shipowners to the Social Security funds on behalf of international crew members (retirement funds) and low rates of annual registration and tonnage fees. Shipowners of second ship register follow the requirements of Conventions of the International Labour Organization for the most part, however these are usually not being met by the flags of convenience ships.

Second ship register usually requires that a few crew members of officers’ personnel (from 2 to 4) be citizens of a flag state. However, there are exceptions: the captain can be of a foreign origin in the Netherlands, while a captain in Luxembourg must be a citizen of one of the countries in the European Union.

In most cases, there are limitations regarding the right of ownership which mean that ships must belong to the citizens of particular country. In “second” registries of the European Union countries, the owner of the ship can be a citizen of one of the countries within the European Union. There are no restrictions whatsoever (except for the Luxembourg register) regarding the age of the ships.

To secure competition on the world’s market of registration services, international “second” registers offer low taxes and declare no income for their services. Unlike flags of convenience, “second” registers are not set to achieve commercial goals but to sustain its self-sufficiency. Registration fees are determined by the amount needed to cover administrative operation costs of ships’ registration and staff’s maintenance.

The most significant difference between international “second” registers and flags of convenience is that “second” register ships are not on the “black” list of countries which are under continuous surveillance by various maritime agencies.

International “second” registers were created as a result of long negotiations with many officials, including representatives of shipping companies, banks, insurance agencies, freight carriers, trade unions, lobbyists, independent experts, maritime community and media. As a matter of fact, professional seafarers’ unions tried to stop passing legislature regarding “second” registries. This was done in an attempt to prevent inevitable growth of unemployment among national seafarers, as shipowners gained unlimited opportunities to hire foreign labor. Trade unions in France were able to obtain victory in this matter, while German efforts failed and Brazilian trade unions did not have much resistance. Due to a conflict of interests of the many parties who were engaged in this process and an inability to find a common solution to each unique situation in every country, “second” registers were often ineffective in comparison with flags of convenience. Such examples can be found with “second” registers of France, Germany, and Japan. In particular, Japanese “second” register only had 39 ships in 1998 that belonged to Japanese shipowners. A possibility of fast growth and retention of the Japanese fleet appeared when the Parliament of Japan passed legislation in May 1998 that offered support to Japanese shipowners in cutting their ships’ operational costs.

Out of all existing “second” registers, Norway and Denmark are considered to be the most effective international registers in the world.

## RUSSIAN INTERNATIONAL REGISTER

Russia followed examples of Norway, Denmark and other countries, when it adopted a Law regarding a “second” register to keep the Russian fleet from being transferred under the flags of convenience.

Recent years’ survey showed that the number of merchant ships in large shipping companies flying the Russian flag has been reduced by double, as well as the amount of income and currency which both dropped twice or thrice, thus leading to a significant loss of tax income on all budget levels.

Russian shipowners choose to register their vessels in offshore zones for the following reasons:

1. Equal conditions while competing on the world’s freight market.
2. The chance to mortgage a ship in order to receive a loan from the foreign bank to build new ships.
3. The best tax treatment (same as flags of convenience), which gives opportunity to operate ships in the most cost-effective way and have the means for ships’ maintenance and repair. It is much more challenging to do the same for shipowners under the national flag. Let’s take customs clearance of five Arctic tankers as an example. These tankers were built after the same pattern like “Volgograd” in 1998-1999 for the joint stock company “Lukoil-Arctic-Tanker” in Germany for Russia. When registering a ship in a Russian port, the shipowner has to pay 10.7 million dollars in customs and tax payments for each ship. In Germany this would cost one and a half times cheaper.

One of the main reasons why Russian Shipping companies are in crisis is because of the extremely high taxes with a greater added-value.

Current tax rates show that shipping companies in Russia cannot function cost effectively under these circumstances, thus forcing shipowners to register their fleet in the countries of flags of convenience where taxes are lower than in Eastern Europe.

The purpose of establishing the international “second” register in Russia is to create economic, legal, organizational and other necessary conditions to ensure that Russian and foreign ships will receive the same advantages that flags of convenience have. Russian “second” register will allow its national fleet to compete on the international world’s market which will result in more investments that will help it to grow. Moreover, it will create an environment favorable in meeting the following objectives:

– establish sustainable average economic conditions comparable to the international freight market to should be to attract a newly built fleet under the Russian ship register;

– draw foreign vessels, operation of which requires the Russian flag (Arctic and fleet of countries that do not have access to the sea), to be registered in the Russian register;

– generate additional revenues to the state budget as a result of the ships’ registration fees and income taxes collected from crew members;

– use of a modern international financial mortgage system when building ships under the Russian flag;

– retain qualified maritime personnel and have additional vacancies available on ships.

In case of emergencies which present a real threat to the national security of the Russian Federation, ships registered in the Russian registry will be delivered by Russian shipowners to certain federal authorities of executive power within the country.

The work of “second” register is being governed by basic principles which can be defined as requirements for ships’ registration. These are the following:

– ships, constructed either in Russian or foreign shipyards and owned by Russian citizens and legal persons, operating their business in accordance with Russian Federation Law on primary registration;

– foreign vessels.

A ship can be registered in a “second” international register if there is a written consent from the mortgagee who has financial claims and other encumbrance of a ship.

According to existing tax base’s guidelines, a ship must not be re-registered in the Ships’ Registry if it has already been registered in other ship registries of the Russian Federation as per national Merchant Marine Code.

Positions of Captain, Chief Mate, and Radio Specialist on board of ships registered in the “second” register can only be filled by citizens of the Russian Federation. All of the rest of the positions can be taken by both Russian and foreign citizens, as well as persons without citizenship.

The economic efficiency of the “second” international register is achieved by a reasonable level of registration and annual fees.

In consideration of rates of registration fees in the Russian “second” international register, the following information was taken into account:

– the register must be able to compete with registries of flags of convenience countries and “second” registers;

– economic conditions must be equal or the same to the conditions of the countries where ships, owned by Russian shipowners, have been registered;

– a flag state should not bear the cost on creation and work of the Register, but receive additional income as a result of the Register.

After determining ships' registration fee rates, an estimate was made regarding the number of vessels that might be registered in the Russian "second" international register in the near future, potential amount of all registration fees, and income taxes paid by crew members of these ships.

Estimates show that the amount of annual revenue just from ships' registration, owned by the Russian Federation, can be no less than 1.5-2.0 million US dollars while the cost of creation and operating expenses to maintain the Register will comprise 35-50 thousand US dollars per year. It is expected that in five years after adopting federal law regarding income taxes, paid by crew members of ships, which may be registered in this Register, the amount will come to no less than 20 million US dollars. This shows that anticipated revenues from ships, registered in Russian international register, fully justify its economic usefulness and profitability of its creation and operation. Experts predict that Russian shipowners won't change their ships' registration from offshore to Russian "second" register overnight. Officials at the Ministry of Transportation believe that "river-sea" navigation vessels, which are often used as bareboat charters because of the low amount of taxes, will be the first ones to be registered in the Russian "second" register along with newly constructed ships. One thing to keep in mind is that many vessels are being mortgaged and can only be returned after they have been paid off.

Now to the subject of legal rights of the seafarer who will be working on board of ships of Russian international register.

At present there are about 70 thousand Russian seafarers working on board of flags of convenience ships. There are 65 thousand of them that are covered by the International Transport Workers' Federation (ITF) Collective Bargaining Agreements. These agreements guarantee wages to a Seaman First Class in the amount of 1750 US dollars and to a Captain in the amount of 6500 US dollars. According to the agreement, the seafarer is covered by the articles of all International Conventions and may resolve any of his problems with help of a national trade union that signed a Collective Bargaining Agreement. This agreement covers all situations that can arise on board of ship and solutions to resolve them. Thus, 65 thousand of our Russian seafarers, working on-board of flags of convenience ships, have very good international legal protection. Conditions and terms of this collective agreement will be described in this book later. There are 5 thousand Russian seafarers currently working on ships under the flags of convenience that do not have any legal protection. It will be a good thing for them to be transferred to ships flying a national flag and registered in the Russian international register. However, this is very unlikely to happen since vessels that Rus-

sian seafarers have been employed on are of old age (about 25-30 years old). Besides, in passing the law regarding Russian "second" register, the Russian government did not take into consideration proposals that were put forth by the Seafarers Union of Russia. These proposals were submitted to the Ministry of Transportation and the State Duma at the time when this law was being drafted, but were declined. It is still unclear what the relationships will be like between a shipowner and a seafarer. One thing is clear, the Russian employer will have complete freedom to use the Russian wage scale which is many times lower than international standards.

Therefore, there won't be any seafarers, who are currently working on ships covered by ITF Collective Agreement willing to transfer to ships registered in the Russian international register. As a result of this, the Russian fleet will not be able to compete with either ships from highly developed countries or flags of convenience. The reason is because the shipowner has signed an agreement with the ITF which offers internationally recognized wage scale, safety, and competitiveness. Ships, registered in Russian international register, won't be able to offer any of the above.

Law regarding Russian international register has removed the requirement on property tax payment. This tax was the main reason why all of the Russian merchant fleet got transferred to the flags of convenience countries in the beginning of the 1990s. For example, having built the ship overseas for 60 million US dollars flying the Russian flag, the shipowner had to pay around 18 million US dollars in property tax to customs in Russia. The shipowner can transfer his ship now to the Russian flag without such enormous expenses.

With a large amount of the fleet being constructed these days and a demand for highly qualified maritime personnel, there is a need for commanding officers. Russian seafarers, working onboard of flags of convenience ships, receive good wages, gain the experience of working on foreign vessels, and improve their English language skills. The truth is that the vast majority of highly qualified and experienced seafarers have found work elsewhere in the world. They will not go back to be employed on ships flying the Russian flag unless shipowners increase their wages as per international standards. Most importantly, shipowners won't be able to construct any new ships once they are flying the Russian flag. That is because none of foreign banks has ever given a loan to build new ships by mortgaging Russian vessels. This was yet another reason of flagging out ships which allowed the opportunity to build new vessels.

Unfortunately, the Russian bank system is way behind the one that is recognized and used in the world. It is not ready or capable of being used in the shipping industry. There is a lot of work and changes to be done to the bank system for it to function properly.

The Ministry of Transportation asked for the advice of executive officers of large and small shipping companies before passing a law. Finally, it received confirmation to transfer a large number of ships under the Russian flag. At that point, the bank system was being considered for transformation. The latter never happened, thus shipowners turned down the Russian international register.

Former large Russian Shipping Companies, such as Baltic, Kamchatka, Sakhalin, and others, split into many small companies or ceased their existence all together.

The situation has grown complicated as a result of a number of financial reforms. The Russian Fleet has experienced hard times in such economic chaos. The transfer of ships under the flags of convenience was meant to keep employment and the fleet. That was at the time when it was necessary to create free economic (offshore) zones for the Russian Fleet. Russia lost its chance or it was too late to create the Russian international register. An idea to create a Russian “second” register appeared in the beginning of the 1990s. The USSR had 17 Shipping companies before the 1990s with 1500 ships with a gross deadweight of 18 million



tons. Russia was in fourth place in the number of ships and deadweight worldwide. It is no longer in the place of leadership when it comes to the shipping industry today. Russia is responsible for only five percent of the world's total transport of goods at sea.

The Russian government did well by removing a property tax. Right before passing this law into effect, shipowners were granted permission to insure their vessels with foreign banks. All of this will aid in legal situations that arise from time to time. However, it is not enough to attract a large number of shipowners to register their vessels in the Russian international register. The disadvantages of it still outweigh any real benefits.

All in all, adoption of the law on the Russian international register, did not do much, if anything to improve the legal situation of seafarers and it is unlikely that it will.

## Chapter 3

# INTERNATIONAL LEGAL POSITION OF SEAFARERS, WORKING ON BOARD OF FLAGS OF CONVENIENCE SHIPS

The wide spread practice of flags of convenience which began in the late 1970s has affected all aspects of maritime profession without any exceptions. Changes (to the worse, for the most part) were made in careers and the approach to hire labor, nationality of the crew, working conditions, social life onboard, instruction, training, and political actions concerning professional occupation. One of the main characteristics of countries of flags of convenience is that there is no law regarding the manning of ships or regulatory control over the vessels. These countries do not have organizational structure or a system to establish and maintain standards for hiring and working conditions of seafarers like in more developed countries. The rights and wellbeing of crewmembers are not their priority due to expenses involved.

The Consular Corps of flags of convenience countries does not express concern or care towards crewmembers onboard of ships flying their flags. Due to the lack of control by the flag state, shipowners are at complete liberty of establishing their own rules and regulations. As a result of this, the life and wellbeing of seafarers onboard is regulated by a “sovereign” shipowner rather than a sovereign flag state. Flags of convenience countries are states or quasi-states which do not have their own maritime industry and thus are unable to supply crewmen onboard of ships flying their flags. During the period of 2010-2015, 1,005 vessels were inspected with a total number of 18,500 crewmembers. None of the 898 seafarers, working onboard of ships flying the flag of Bahamas is from the Bahamas, none of 1,346 seafarers working onboard of ships flying the flag of Panama is from Panama and none of 1,004 seafarers onboard of ships flying the flag of Liberia is from Liberia. When it comes to the Norwegian “second” register, only 13% of seafarers turned out to be the citizens of Norway.

The complete absence of a system and appropriate resources to support maritime industry in the flags of convenience countries have resulted in two major situations:

Firstly, there are no professional unions or organizations that would protect the rights of the seafarers. Secondly, crewmembers are all citizens of other countries who do not have a residency permit to ask for political

and legal representation and protection. Therefore, seafarers, working onboard of flags of convenience ships cannot rely on the law of these countries, but only on the honesty and decency of the shipowner.

Seafarers, working in the global market, especially in the countries of flags of convenience, do not have any legal protection since their names are not registered or officially recorded in any of the legal documents. They are not aware of procedures and do not have access to any governmental agency which can offer guidance and help in time of need or trouble.

For the most part, flags of convenience countries lack standards and conditions regarding hiring, labor regulation, proper systems, and authorities to exercise effective jurisdiction and control over their ships. This has a lot to do with instability of political and economic situations in these countries.

The terms and conditions of labor agreements of flags of convenience ships that are not governed by flag states, may be misrepresented. Seafarers are often deceived regarding wages and get hired on conditions that are contrary to any labor agreements as well as International Conventions, signed by the flag state.

In the absence of state control and government regulations and proper systems to establish standards and procedures regarding hiring and manning flags of convenience ships, volunteer organizations remain the only source of power to protect the rights of the seafarers. The two organizations that come to mind that represent and defend the rights of seafarers are the International Transport Workers’ Federation, which is one of the oldest international trade union organizations, and the International Christian Maritime Association, which effectively works as a welfare agency. **The fact remains that international trade union organizations are the best to represent the rights of seafarers when it comes to the terms and conditions of them being hired to work onboard of flags of convenience ships.**

It was back in 1978 when the International Maritime Organization (IMO) drafted their first Convention on Standards of Training, Certification and Watchkeeping (STCW) for Seafarers due to the lack of standards and regulations onboard of flags of convenience ships which kept increasing in their number. It was expected that the flag state which issued the license to operate the ship will exercise regulatory control over the ship to meet the proposed standards or, at least, follow them. Since flag states failed to enforce these standards, the International Maritime Organization adopted a comprehensive revision of STCW in 1995 adding that flag states are responsible to provide training to their hires and to meet competency standards of the new amendments. These measures

were necessary, taking into consideration the growing number of flags of convenience, however, they still do not guarantee that the flag state and its citizens will carry out their responsibilities.



*Meeting with ITF Coordinator Jacqueline Smith*

There is a steady increase of political pressure on flags of convenience countries to make them effectively exercise regulatory control over their ships. The individual or collective attempts of the flag state with its alliances to inspect the conditions of ships calling into their ports is a good thing, but mostly it is done to meet the environmental requirements and not to check on the wellbeing of seafarers. There are way too many seafarers who have been deceived and abused as a result of them signing basic labor agreements to work on these vessels. There is a small percentage of those who are able to draw attention to their situation and be helped while most of the seafarers remain unnoticed and unknown. Governmental authorities of flags of convenience countries are more concerned about falsifying their way through paperwork for the ship to operate under their flag with complete disregard to social and working conditions for seafarers onboard.

The mandatory Collective Bargaining Agreements and Employment Contracts between shipowners and seafarers' unions were put in effect in 1992. For the ship to be approved by the International Transport Workers' Federation (ITF), seafarers onboard must be covered by the ITF affiliated Collective Bargaining Agreement. ITF Collective Bargaining Agreements can only apply to flags of convenience ships. These agreements are not applicable for ships working under genuine national flags. ITF believes that the latter should have their own national agreements between the shipowner and local unions. Ships of "second" register must be covered by agreements approved by the flag state's union in compliance with the ITF Total Crew Cost Agreement.

In order for a ship to avoid being arrested by an ITF Inspector in one of the ports, it must be covered by an ITF approved Agreement.

Prior to a seafarer's starting work on any vessel, he signs an Employment Contract with the Crewing company that lists terms and conditions of his employment. The following is a list of some of them:

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1) Duration of Employment. It is common practice for the duration of employment to be six to eight months long. There are some cases of employment that last ten months (these do not offer paid vacation time). Employment of longer duration usually has vacation time included.

2) Hours of duty. A normal work day usually consists of eight working hours completed sometime between 0600 and 1800. The rest of the time, worked over the previously mentioned period, is considered overtime. Overtime is paid on the basis of the type of overtime work performed which can be actual/open or agreed upon/private overtime.

Additional jobs, pertaining to the rescue of the ship and lives of crewmembers or any rescue operations are not considered overtime.

3) Wages. These are paid in full or in part depending on the wage system established onboard.

4) Repatriation.

Since the agreement between Crewing Company and Shipping Company is large and generally covers all terms and conditions for seafarers' hiring and employment, most of the Employment Contracts do not list them all. The Employment Contract often refers to the main agreement for more details and information. Therefore, it is important that a seafarer thoroughly reads not only through his Employment Contract, but the general Agreement between the Crewing Company, the Shipping Company, and the Collective Bargaining Agreement signed by the Company and seafarers' union that he has membership in.

If a seafarer was signed off the ship owing to sickness or injury occurred during her/his work onboard, a seafarer will continue to receive basic wages until her/his return home or to the place of her/his original engagement.

All expenses for seafarer's repatriation will be paid by the Company. The seafarer will continue to receive basic wages until she/he fully recovers or in worst case, her/his disability has been established.

A seafarer who was signed off the ship due to injury has the right to receive medical treatment, including hospitalization. All expenses for her/his treatment and hospitalization will be covered by the Company until her/his full recovery or in worst case, until his disability has been established. Sick leave will be paid in full if the following requirements are met:

The seafarer must follow Company's or Company's agent instructions in the port where a seafarer was signed off the ship due to sickness or injury.

The seafarer must notify her/his Company or Company's agent immediately upon her/his arrival home or place of her/his original engagement after she/he has been repatriated.

The company may request a medical examination of the seafarer by the Physician appointed by the Company and Union.

In case of the death of a seafarer (except for suicide, confirmed by forensic experts, or if a seafarer was terminally ill before she/he signed her/his Employment Contract) during his employment, including death from natural causes or death occurring while travelling to or from the vessel or as a result of any marine or other similar peril, the Company shall pay the compensation in the amount of 95,000 US dollars to the widow and 18,000 US dollars to each dependent child up to a maximum of four under the age of 21.

A seafarer shall not be entitled to any compensation by the Company if his injury or disability arises as a result of an automobile accident that was borrowed or used by a seafarer for his personal needs.

The Company shall conclude appropriate insurance to cover themselves fully against the possible contingencies and liabilities listed above.

A Seafarer who suffers injury as a result of an accident from any cause whatsoever whilst in the employment of the Company or arising from her/his employment with the Company (except for intentional self-harm), including accidents occurring while travelling to or from the Ship and whose ability to work as a Seafarer is reduced as a result thereof shall, in addition to sick pay, be entitled to compensation according to the provisions of the Agreement.

The amount of compensation will be determined and paid on the basis of a medical examination which should be accepted by the Company and a seafarer (or one of the parties). As an example, we can consider a number of provisions which are included in the Employment Contract between the Greek Shipping Companies and the Russian Crewing Companies. It is often established that the Russian Crewing Company carries an obligation as an Employer, while the Greek Shipping Company does not have liabilities to-

wards hired seafarers. Therefore, according to the above listed provisions, any claims a seafarer might have must be submitted to the Russian Employer.

Prior to signing an Employment Contract with seafarers, the Russian party should present the foreign shipping company with a crew list detailing the professional qualifications of each crew member. The shipping company has a right to accept or deny employment of any crew member. The Russian party shall guarantee to provide qualified specialists who have passed a medical examination, including drug tests, and possess appropriate qualifications, certificates, and other required documents. Master, Chief Officer, 1st Engineer and 2nd Engineer must have a good command of both the spoken and written English language. The rest of the crew members must speak and write in English as per their job description requirements. As per the Agreement between the Russian Crewing Company and the Shipping Company, the Russian party will replace crew members every six months. The six month period can be extended to eight months to supply the most qualified crew. The Employment Contract shall be extended over an eight month period only with the consent of crewmembers. It is important to note that there have been cases when a shipping company denied crewmembers their replacement after six months of work onboard on the basis of the Employment Contract which stated: "A Seafarer will be employed with the shipping company for the period of eight months." Therefore, it is crucial that a seafarer reads his Employment Contract and requests any changes or additions before signing it to avoid any misunderstanding.

There have been cases when the text of an Employment Contract was contrary to the terms and conditions of the Agreement signed between the Crewing Company and the Shipping Company. In this case, the Employment Contract will have preeminence over the Agreement because of a Seafarer's signature.

The Employment Contract should list a number of conditions regarding the seafarer's future employment in case of total loss of the ship, sale of the ship, repair, or the inability to continue the voyage due to other circumstances. In these cases, a Seafarer should be transferred to work on another ship to continue his period of employment as per his Contract. If a Seafarer's Contract is cancelled due to the Company's inability to provide his continued employment, he is entitled to receive compensation in the amount of his basic monthly pay.

The Employment Contract often includes the clause regarding a seafarer's responsibilities towards the Company which are in accordance with the international labor and maritime law. This clause becomes of great significance when the Company asks a seafarer to perform responsibilities that contradict standards of international labor and maritime law.

The ordinary hours of duty of all Seafarers shall be eight per day, Monday to Friday inclusive. Hours of duty on Saturday and Public Holidays before 0600 and after 1800 will be paid as overtime.

Any additional hours worked during an emergency directly affecting the immediate safety of the Ship, its passengers and crew, of which the Master shall be the sole judge or for a safety boat drill or work required to give assistance to other ships or persons in immediate peril shall not count for overtime payment.

The Employment Contract must state the amount of fixed overtime if such is used when calculating the wages. Usually one hour per day is agreed to be a fixed overtime for each crew member. When repatriated, the Company will pay for the Seafarer's luggage up to forty kilograms per person.

The daily food allowance, based on the world's market shall be no less than six US dollars per crew member.

A Seafarer shall be entitled to medical insurance at the expense of the Company. In the case of sickness or injury, a Seafarer will be entitled to receive compensation at the rate equivalent to his/her basic wage while they remain sick up to six months.

A Seafarer who is discharged abroad owing to sickness or injury shall be entitled to medical attention at the Company's expense. The Company will not be responsible for any medical expenses after a seafarer has been repatriated home. In case of a Seafarer's hospitalization abroad, he is entitled for all his medical expenses to be paid by the Company up to ninety days since the day he/she was admitted to the hospital. The Company shall not cover any expenses, including hospitalization, that resulted in the Seafarer's violating the safety regulations and rules established by the Company or his/her complete negligence.

In the case of disability, a Seafarer will be entitled to receive compensation in accordance with the percentage appropriate to his/her disability. For example, in the case of 100% disability, Senior officers will receive 174,775 US dollars, Junior officers will receive 139,820 US dollars, Ratings – 104,866 US dollars. In the case of 75% disability - 131,081 & 104,866 & 78,649 US dollars accordingly; with 60% disability - 104,866 & 83,892 & 62,919 US dollars. In the case of 50% disability - 87,388 & 69,911 & 52,433 US dollars; with 40% - 69,911 & 55,929 & 41,946 US dollars accordingly; with 30% - 52,433 & 41,946 & 31,460 US dollars accordingly and with 10% - 17,478 & 13,983 & 10,487 US dollars accordingly.

When any Seafarer suffers total or partial loss of, or damage to, her/his personal effects, due to the loss of a ship, fire or collision, he will be entitled to the compensation. The Company will pay a seafarer a compensation in the amount of 3,000 (three thousand) US dollars.

A Seafarer should be aware of the information about paying taxes, as per the text of his Employment Contract. A Seafarer, working onboard of a flag of convenience ship, will pay the remainder of taxes to Russia based on the amount of taxes he already paid abroad. It is crucial that the Employment Contract clearly states tax laws and seafarer's responsibility in regard to taxes. Therefore, prior to signing an Employment Contract, a Seafarer should ensure that all of the above mentioned terms and conditions have been included. It is advisable to have two copies of the Employment Contract upon arrival onboard of ship to give one copy to the captain and keep one for himself/herself.

There are ten rules that will help seafarers working onboard of flags of convenience ships:

1. Be sure to check that the crewing company hiring you and sending you to work abroad is registered in Russia and licensed to perform these duties. If a seafarer has any doubts in regard to the legitimacy of a crewing company, he/she should address his/her concerns with a lawyer or his union.

2. The Crewing company should have a Collective Bargaining Agreement with one of the Seafarers' Unions of Russia which indicates terms and conditions of employment and contains provisions in regard to the rates of pay and hours of work or other working conditions of employees. A flag of convenience ship must be covered by ITF Approved Collective Bargaining Agreement.

3. The Crewing company must sign an individual Employment Contract (4 copies) with a seafarer which should list such terms and conditions as the duration of a Contract, working hours, time off, over time, wage rates and payments. Legitimate employers have all of these terms and conditions included in the Collective Bargaining Agreement and briefly reflected on one page of the Employment Contract.

4. A Seafarer should have a copy of his Employment Contract. It's even better if a Seafarer has a copy of the Collective Bargaining Agreement between his union and the Shipping company (his employer).

5. A Seafarer should be paid regularly and on time. There should not be more than a month and a half or a maximum of two months of wages delayed. A four to five months delay of Seafarer's wages almost always means that he/she will have to go through court proceedings in order to get his/her outstanding wages.

6. Each Seafarer should have a copy of the "Message to Seafarers" issued by ITF headquarters every year in London. There you can find a current list of ITF Coordinators, Inspectors, and ITF affiliated unions.

7. A Seafarer should renew his/her membership to ensure their active status. It is best if a seafarer's union is affiliated with the ITF.

8. A Seafarer should have a good command of the written and spoken English language. This will help him/her to secure a good job with a decent foreign company and protect his/her rights abroad.

9. A Seafarer must have an account with a reliable bank. It is easier for an Employer to transfer a Seafarer's wages to his/her bank account than pay in cash.

10. A Seafarer should be active in protecting his/her rights. He/she should work with their union and collectively solve issues that arise in regard to their employment.

The flag of a ship represents the legal fact that any disputes and issues onboard will be solved under the jurisdiction of the country of the ship's flag. Since the flag of the ship is an indication of its belonging to a certain country, the national jurisdiction of a Seafarer cannot be applied to resolve labor disputes between an employer and crewmembers. Thus many Russian seafarers are not able to protect their rights onboard of flags of convenience ships. In these cases, we are dealing with a foreign (international) aspect or international labor relations. The international aspect of legal labor relations at sea may be represented by any party of labor relations: employee (seafarer) or employer (shipowner, shipping company, crewing company). The international aspect of labor relations may arise as a result of a ship changing its flag to another state during its voyage. Another aspect of international relations may involve unions that directly represent labor relations (including international union organizations), official authorities of a flag state, and the country where a seafarer is being repatriated from, the coun-



*Crewmembers of MV Glorious Jupiter*

try where a seafarer got injured, the country where the ship was arrested and others. Some international legal labor disputes may have a number of international aspects involved at the same time. None of the conventions of the International Labor Organization's (ILO), concerning any labor dispute, have a clause pertaining to the situation when a seafarer and his/her employer represent different countries with different legal systems. The absence of such a clause is a significant oversight by countries-participants of ILO, since many labor conflicts that arise at sea could be resolved with a presence of universally adopted legislature regulating the applicable law between flag state, owner, and foreign crewmembers. If such a law was in place it would have eliminated opportunities for employers to use legislative means that suit their interests at all times. To protect the interests of seafarers in the most effective way, there has to be an insurance policy to hold employers accountable for their actions. Such an insurance policy would guarantee that seafarers will be paid their outstanding wages along with compensation for moral, physical, and financial damages. To carry out this insurance policy, shipowners must have a reserve fund to meet any future costs or financial obligations towards seafarers.

## THE MARITIME LABOUR CONVENTION

On February 23, 2006 the International Labor Organization revised and adopted with a majority of votes, new standards in regard to maritime industry.

The new Maritime Labour Convention 2006 was passed by 304 votes with 4 votes abstained at the International Conference on Maritime Labor (Geneva, February 7-23, 2006). The overwhelming majority of votes show that this Convention was approved by delegates from over 100 countries of the world, represented by seafarers, ship owners and governmental officials (ILO members). The goal of those drafting the Convention was to embody "all up-to-date standards of existing international maritime labour Conventions and Recommendations, as well as the fundamental principles to be found in other international labour Conventions".

The MLC 2006 Convention comprises of three different and related parts - the Articles, the Regulations and the Code. The Articles and The Regulations cover major rights and principles, as well as responsibilities by the countries which ratified this Convention. The convention consists of the sixteen articles containing general provisions and the Code. The Code

consists of five Titles in which specific provisions are grouped by standard. For each Title, there are general Regulations, which are further specified in mandatory Standards (Part A), as well as Guidelines (Part B). For example, Title 2.4 (Leave) establishes that each country-member must provide a seafarer with paid annual leave according to the terms and conditions of the present Code. As per Standard A 2.4, each flag state-member must follow the guidelines and legal requirements defining minimum standards of annual leave for seafarers. Annual leave is pro-rated as minimum of 2.5 days per month of work. Leave time is not allowed to be refused. Guidelines B 2.4 describe how to prorate, calculate and accumulate annual leave.

According to Article IV, point 3 on the Seafarers' Employment and Social Rights, each Member that is not able to carry out rights and principles as required by mandatory standards listed in Part A, may follow national laws or regulations to generally meet these requirements. However, this proves to be a challenging task since any law, regulation, collective agreement or other implementing measure of the flag state do not always coincide with principles of this Convention.

Rights, regulating the working conditions of seafarers and ship owners' responsibilities are listed under five Titles:

Title 1: Minimum Requirements for Seafarers to Work on a Ship.

Title 2: Conditions of Employment.

Title 3: Accommodation, Recreational Facilities, Food and Catering.

Title 4: Health Protection, Medical Care, Welfare and Social Security Protection.

Title 5: Compliance and Enforcement.

Title 1 incorporates the principles and text of the following Conventions: Placing of Seamen Convention, 1920 (No. 9), Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16), Officers' Competency Certificates Convention, 1936 (No. 53), Medical Examination Seafarers' Convention, 1946 (No. 73), Minimum Age Convention, 1973 (No. 138), Recruitment and Placement of Seafarers Convention (No. 179), Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180).

Title 2 is based on the STANDARDS of the following Conventions: Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8), Seamen's Articles of Agreement Convention, 1926 (No. 22), Repatriation of Seamen, 1926 (No. 23), Seafarers' Annual Leave with Pay Convention, 1976 (No. 146), Repatriation of Seafarers Convention (Revised), 1987 (No.

166), Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180).

Title 3 reflects the requirements, listed in Convention on Food and Catering (Ships' Crews), 1946 (No. 68), Certification of Ships' Cooks Convention, 1946 (No. 69), Accommodation of Crews Convention (Revised), 1949 (No. 92), Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), Occupational Safety and Health Convention, 1981 (No. 155), Seafarers' Welfare Convention, 1987 (No. 163).

Title 4 contains principles of the following Conventions: Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), Prevention of Accidents (Seafarers') Convention, 1970 (No. 134), Occupational Safety and Health Convention, 1981 (No. 155), Seafarers' Welfare Convention, 1987 (No. 163), Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164), Social Security (Seafarers) Convention (Revised), 1987 (No. 165), Labour Inspection (Seafarers) Convention, 1996 (No. 178).

Title 5 sets standards to ensure that each Member implements its responsibilities regarding the requirements and principles listed in Titles 1, 2, 3 and 4 in this Convention with respect to ships that fly its flag.

Maritime Labour Convention (MLC) 2006 has also been called the "Seafarers' Bill of Rights" because states are endowed with their own power and independence but are in agreement to offer seafarers decent conditions of work and protection of their rights. Some key features of the Convention make it relatively easy for governments to ratify and should enable its provisions to be put into practice and fairly enforced. The intention of the Convention is to bring the shipping industry to a higher quality level, which is essential in the view of global economy. It applies to a wide range of ships operating on international and national or domestic voyages. It covers all ships other than those which navigate exclusively in inland waters or waters within, or closely adjacent, to sheltered waters or areas where port regulations apply. The Convention applies to all those ships, whether publicly or privately owned, that are ordinarily engaged in commercial activities, except ships engaged in fishing or in similar pursuits, ships of traditional build such as dhows and junks, warships or naval auxiliaries. It also requires all officers and shipowners meet the requirements and labour standards of all levels. This also includes procedures set in place to properly handle complaints from seafarers onboard and ashore regarding shipowners and captains' actions due to poor working



*Meeting with President of the World Maritime University Cleopatra Doumbia in Moscow*

conditions as well as jurisdiction to be applied to these ships.

The Convention sets minimum requirements towards seafarers working onboard, including seafarers' employment, hours of work and rest, accommodation, food and catering, health and safety protection. One thing that separates this Convention from others is its form and structure that combines both

compulsory and recommended guidelines. This peculiarity makes this Convention to stand out among other traditional ILO Conventions. The intention is to make sure that seafarers are protected without being too specific as to how it is done. The MLC provides a way of enforcing the standards through a system of certification of labour conditions of seafarers. In accordance with the new standard, ships over 500 GT (gross ton - length or English ton, 1016 kg) that are carrying out international voyages or any voyages between international ports must have the "Maritime Labour Certificate" and the "Declaration of Maritime Labour Compliance" both issued by the Flag state. The declaration outlines requirements and measures to be observed by shipowners in compliance with national legal acts and standards listed in the MLC. The officers (captains) are expected to follow guidelines set by the shipowners and carefully document all actions to show that they meet the requirements of this new Convention. Flag States must inspect measures drawn up by shipowners to ensure ongoing compliance between inspections. These standards allow for tracking down shipowners who do not comply with Maritime laws and encourage those who follow the guidelines. Among other new standards are a more effective way of making changes in technical requirements, a different method of filing complaints by seafarers onboard and ashore (designed to solve seafarers' complaints in a timely fashion), coordination between the filing of complaints and inspection times to comply with the system of control over standards and proce-

dures established and well operated by the ILO. The Flag State may authorize public institutions or entities known as "recognized organizations" that are competent and independent to carry out its inspections. Finally, there are new methods of labour law compliance based on new governing principles. The Maritime Labour Convention of 2006 embodies and brings into compliance fundamental principles of more than 68 existing conventions and ILO recommendations in the sphere of maritime labour law since 1920. Countries that did not ratify the new Convention will be required to adhere to standards and requirements of earlier signed conventions. However, some of the earliest conventions will no longer be ratified. The MLC, 2006, was adopted by government, employer and worker representatives (social partners of the International Labour Organization). Besides provisions on the improvement of working conditions for seafarers, the Convention focuses on actions to be taken against indecent shipowners who will face financial penalties for their incompliance and violations. The Convention is now in the process of ratification. Those involved in designing the Convention made efforts to combine stringent requirements with flexible approaches to make the provisions of the Convention maximum acceptable by shipping industry worldwide. The Maritime Labour Convention will become "the fourth pillar" of the international regulatory regime for quality shipping, complementing the three key Conventions of the International Maritime Organization (IMO): International Convention for the Safety of Life at Sea (SOLAS), Standards of Training, Certification and Watchkeeping Convention (STCW), and International Convention for the Prevention of Pollution from Ships (MARPOL). To enter into force, the MLC, 2006, needed to register at least 30 ratifications by countries representing at least 33 percent of the world's gross shipping tonnage.

High level representatives from government, employer and worker (that is the union) from each country-ILO member were involved in implementing this project. Seafarers' Union of Russia (SUR), being the strongest union, took part in the designing and developing of the Convention from the very start. SUR specialists in legal and social matters worked to prepare and present ideas to include in the preliminary design of the new Convention, things that pertain to the work of the union.

At last, the Convention was adopted, but to see its effect and results, countries must put in much effort to ratify the Convention and fully follow its provisions. Ratification of the new Convention by the Russian Federation

and other sea countries will greatly improve the international and legal status of seafarers working onboard of convenience and national flags ships.

The Port State Control (PSC) is responsible for ensuring that ships are in compliance with the requirements of the MLC, 2006, notwithstanding the fact of the Flag State. For the first time, there are provisions set and approved by decent shipowners who have earned the respect from both their flag state and most of the seafarers. Operators, engaged in maritime activities, who are not interested in following the worldwide accepted maritime laws and standards (and there are a few of those, especially in the Russian Federation), will eventually be completely eliminated from the shipping industry.

The MLC, 2006, became a unified document, covering up to date standards of conventions and ILO recommendations regarding work in the maritime industry. Being ratified, this Convention has preeminence over all previous conventions. However, it does not mean that earlier adopted conventions are no longer in force. Therefore, Flag States, must follow standards and requirements of the earlier adopted conventions.

However, one thing is clear, once the MLC has been ratified, the Russian Merchant fleet will face a number of problems. First and foremost, all countries which will ratify this Convention will expect Russian shipowners to meet the requirements of MLC, 2006, in full, and will introduce, if necessary, certain restrictions in their ports towards ships from the Russian Federation.

Taking this all into consideration, it is important to look at the current Labour Code of the Russian Federation and compare it to the newly adopted Maritime Labour Convention regarding labour at sea. This project should actively involve both shipowners and trade unions organizations. Each Member shall effectively exercise its jurisdiction and control over ships that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention, including labour and social rights of seafarers in accordance with the standards of present Convention.

Each seafarer has a right to:

- a safe and secure work environment that meets the safety standards;
- fair job competition;
- decent working conditions and living accommodations onboard of ship;
- health protection, medical treatment onboard, welfare and social security protection.

The Maritime Labour Convention, 2006, on work conditions at sea is a breakthrough in an area of protection of seafarers rights. In spite of the fact that it has been three years since the Convention was adopted on August 20, 2013, representatives of the shipping industry are able to adequately estimate its effect. Most of maritime community and organizations find the Maritime Labour Convention to have a positive effect. But the truth be told, there are advantages and disadvantages to be found in this Convention just like in any other document.

Seafarers speak of many more inspections onboard by various port control authorities during short periods of stay in ports which interferes with periods of rest for seafarers after long voyages. There is a lot more paperwork and reports to do, which takes away time from hours of rest.

The MLC, 2006, gives a detailed description on seafarers' wages. According to the opinions of seafarers, working onboard of ships flying Russian flags in port Nakhodka, the text of the Convention does not include concrete numbers to be used to determine minimum wages. It would have been better if the Convention included minimum wages based on rates established by the International Labour Organization. It is common practice that wages of seafarers, working onboard the ships, flying Russian flags, are much lower than those who work onboard of foreign flags ships. However, this does not violate the standards of the Convention. Russian seafarers find this situation unfair and want the Seafarers' Union of Russia to work tirelessly to negotiate minimum basic monthly wages for Able Seaman to be no less than the amount set and periodically reviewed by PAR Maritime Commission or another organization authorized by the International Labour Organization Administrative Tribunal. The ILO Director-General notifies the ILO state-member of any changes of the employee's basic minimum wages upon the decision reached by the Administrative Tribunal.

**On the other hand, the role of trade unions has increased since the adoption of the Maritime Labour Convention in 2006.** Many issues of the seafarers are revealed during port State control inspections on the basis of the requirements of the Convention. These problems are resolved in close cooperation of all parties involved: trade union activists, port control authorities, etc.

In recent times, during the ships' inspection, there have been cases when the Declaration of Maritime Labour Certificate is present onboard, but

seafarers do not have Employment Contracts and have not been paid for many months. In such cases, representatives of the trade union notify the Port Director and the ship gets detained by port authorities until issues onboard have been resolved.

Three years later, after the adoption of MLC, it is easier to evaluate requirements and standards that work effectively to protect the rights of seafarers onboard and dismiss the ones that do not. Seafarers' Rights International (SRI) will be doing such research in hopes to find answers to existing questions of seafarers' protection.

Adoption of MLC, 2006, is a result of much work, carried out by many representatives and organizations who should be proud of their effort. It includes the Seafarers' Union of Russia. However, there is still much work to be done to improve the effectiveness of the Convention.

In the beginning of 2016, ILO state-members accepted amendments to the Maritime Labour Convention concerning provisions on occupational accidents, injuries and diseases, and abandonment by his/her shipowner. The amendments of 2014 to the MLC, 2006 became effective on January 18, 2017. ILO state-members were given a deadline of July 18, 2016 to file any disagreements. However, all ILO state-members approved of these amendments, except two until further notice.

As the result of the new amendments, international standards cannot be changed upon the inquiry of those who oppose them. These amendments will guarantee protection of seafarers' rights in getting compensation in case of abandonment, death or disability of the seafarer.

These amendments aim to provide security for the seafarers to receive compensation in the result of an injury, along with repatriation costs paid by the shipowner. State flag ships must have a certificate or other documentary evidence of financial security to be issued by the financial security provider of the shipowner. This certificate has to be carried on board the ship. All countries which ratified the Maritime Labour Convention, 2006, must adhere to this requirement.



*Meeting with ITF General Secretary Stephen Cotton in Manila*

## **Chapter 4**

# **ROLE OF INTERNATIONAL ORGANISATIONS IN PROTECTING THE RIGHTS OF THE SEAFARERS' WORKING ONBOARD FLAGS OF CONVENIENCE SHIPS**

## **INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF)**

The International Transport Workers' Federation (ITF) plays an important role in protecting the rights of seafarers working onboard flags of convenience ships. It is one of the sixteen International Secretariats unions - global federations which combines membership of national unions in all industrial transport sectors. The ITF represents the interests of transport workers' unions in civil aviation, dockers, inland navigation,

seafarers, road transport, railways, fisheries, urban transport, and tourism. The International Transport Workers' Federation was founded in 1896 by the seafarers' and dockers' unions of Europe.

The ITF is governed by its Constitution. The Constitution states that its membership is open to any organization in transport and allied services, which supports democratic principles and is a free trade union body. The International Transport Workers' Federation holds a congress every five years. Delegates and participants from trade unions all over the world attend the ITF Congress with the purpose of electing Governing Bodies, Auditors, General Secretary, President, and Vice-President.

The ITF is run by an elected executive board meeting twice a year where its members are presented with reports and financial statements by the General Secretary.

The main functions of the ITF may be summarized as following:

- to promote solidarity among transport unions and workers in different countries;
- to represent the interests of transport workers' unions in many international and regional organizations responsible for standards and policies regarding the transport industry and social issues;
- to offer support, connection, and information to its affiliated unions worldwide.

The ITF is an international trade union federation composed of transport workers' unions and not of individual transport sector employees. There is a special department, the ITF Seafarers', that deals specifically with seafarers' pay and working conditions. It has a number of subdivisions.

- ITF Agreements processes ITF Agreements, signed by an ITF maritime affiliate union and shipping company, either the beneficial owner, the operator, manning agent, or the manager of the ship. The ITF encourages shipowners to enter into an agreement with their crew to pay what the ITF considers are "fair wages". If the shipowner agrees to do this he is said to have made an "ITF Standard Agreement" with his crew. When he does this he is issued by the ITF a certificate of compliance with the ITF requirements. This is called an "ITF Blue Certificate" or "ITF Blue Card".
- ITF Claims deals with complaints and issues of seafarers.
- ITF Actions coordinates and takes actions to resolve seafarers' claims.

ITF Agreements are only those that are approved by the ITF and only apply to ships flying a Flag of Convenience (FOC).

The ITF gets involved when a national ITF affiliated union asks for assistance to help their non-member seafarers out of troubles they find themselves in while working onboard FOC ships. The ITF defines FOC ships as

ones that have no genuine link between the real owner of the vessel and the flag the vessel flies. The FOC campaign has two elements:

- A political campaign aimed at eliminating the flag of convenience system by achieving global acceptance of a genuine link between the flag a ship flies and the nationality or residence of its owners, managers and seafarers.
- An industrial campaign designed to ensure that seafarers who serve on flag of convenience ships, whatever their nationality, are protected from exploitation by shipowners.

It is the ITF Fair Practices Committee (or the FPC sub-committee) which decides what is and what isn't an FOC. The FPC maintains a list of countries offering FOC facilities and from time to time adds or deletes countries from the list. The basis for membership in this select club is the so-called "Rochdale Criteria" laid down by a British Committee of Inquiry in 1970.

These were:

- the country allows non-citizens to own and control vessels.
- access to and transfer from the register is easy.
- taxes on shipping income are low or non-existent.
- the country of registration doesn't need the shipping tonnage for its own purposes, but is keen to earn the tonnage fees.
- manning by non-nationals is freely permitted.
- the country lacks the power (or the willingness) to impose national or international regulations on its ship-owners.

The ITF main objective and tireless efforts are directed to defeat the Flags' of Convenience system. ITF Agreements fall into three main categories:

- Standard Agreement
- Total Crew Cost (TCC) Agreement. ITF has approved over 30 of these type of agreements. They may slightly differ (mainly due to the requirements of their national legislation), but there are a few clauses that are mandatory in these agreements, such as the following:
  - a) Total monthly crew cost, depending on a size of a vessel and position at sea, must comprise the amounts from 13,200 USD to 33,600 USD.
  - b) Monthly wages for Able Seaman must be no less than 750 USD, while a Seaman 1st is no less than 1750 USD. Monthly wages consist of basic pay rate, overtime (not exceeding more than 103 hours during a 40-hour work week and no more than 85 hours during a 44-hour work week), paid leave, holidays etc.
  - c) Number of crew members, depending on a size of a vessel and position at sea, must be from 9 to 23 persons.
- National Agreement.

Non-FOC or national flag ships may be covered by National Agreements, but these are a matter for the local union in the flag country.

Seafarers who encounter difficulties in getting paid on time, endure poor work conditions or need compensation as a result of their injury or mistreatment onboard, may contact the ITF in many different ways.

ITF Inspectors are union officials who help to solve problems arising onboard of flags of convenience ships and to inspect working and living conditions on these ships. They are official representatives of an ITF affiliated union in their country who spend all or part of their time conducting campaigns' against Flags of convenience. ITF Inspectors' can help with the following issues:

- Inspect Flags of convenience ships that are not covered by ITF approved Collective Agreements and act as a liaison between the ITF and a shipowner or a captain to facilitate the signing of such Agreements.
- Collaborate with Dockers' unions, if possible, to join in a mutual campaign against Flags of Convenience ships which are not covered by ITF approved Agreements.
- Police ITF Agreements on board to ensure compliance.
- Provide support and guidance in cases where the crew wish to take legal or industrial action in getting their back pay.
- Provide advice and assistance to seafarers regarding their issues.
- Meet with crewmembers ashore.
- Provide advice and support to seafarers on strike or abandoned by a shipowner.
- Liaise with the Port State Control on safety matters.
- Act as a representative for the crew (power of attorney) in contractual disputes.

The ITF Seafarers' department works closely with the ITF Inspectors to assist them to process issues that arise and provide them with advice and information regarding difficult matters. ITF Seafarers' is a special department set up in accordance with the ITF Constitution. It functions both as an administrative office in organizing and conducting campaigns against Flags of Convenience and a trade union which unites seafarers who are not members of ITF affiliated unions for one reason or another. The ITF Seafarers' department is made up of two groups: administrative and executive. ITF Agreements processes applications to issue ITF approved agreements (so called "ITF Blue Certificates"), the FOC campaign group oversees the work of the ITF Inspectors and provides advice and assistance regarding legal and industrial actions directed towards Flags of Convenience ships.

Main goals of the ITF's FOC Campaign include:

- To eliminate the FOC system worldwide, and establish a regulatory framework for the shipping industry based on a genuine link between the flag a ship flies and the nationality or residence of its owners, managers, and seafarers.
- To effect the maximum amount of FOC ships to be covered with ITF approved collective bargaining agreements, using political, industrial and legal resources available within the International Transport Workers' Federation.
- To protect and improve hiring and working conditions of all seafarers, irrespective of their color, nationality, gender, race or religion, from unfair treatment and exploitation by their employers or those acting on their behalf.
- To strengthen the bond between the ITF and its affiliated unions in all of the organizational aspects to achieve a higher degree of solidarity and commitment against the Flags of Convenience system.

## INTERNATIONAL LABOUR ORGANIZATION

The International Labour Organization (ILO) was created in 1919, as part of the Treaty of Versailles as an affiliated agency of the League of Nations to reflect the belief that universal and lasting peace can be accomplished only if it is based on social justice. Government delegates, employers and union representatives came together in joint effort to establish standards for social justice and higher living.

These standards covered key issues, including:

- Hours of work.
- Unemployment.
- Social security.
- Maternity protection.
- Conditions of work for women and young persons.

In 1944, the International Labour Conference meeting in Philadelphia, USA, adopted the "Declaration of Philadelphia", which further articulated the aims and purpose of the Organization and is an annex to the ILO Constitution. The Declaration sets out the key principles for the ILO's work after the end of World War II. These include that "labour is not a commodity" and that "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity".

In 1946, the ILO became the first specialized agency of the United Nations (UN) dedicated to improving labour conditions and living standards throughout the world.

The ILO main objectives are the following:

- To promote tools and programs that will work globally to achieve improvement of living and working conditions, including opportunities for decent work and dignity of each human being.
- To create a set of international labour standards to be followed by national governments as a template of a decent living and working environment for all.
- To collaborate with governments all over the world to effectively implement these standards.
- To research, educate and publish activities to help advance all of these efforts.

The principal organs of the ILO are the International Labour Conference, the Governing Body, and the International Labour Office headed by a Director General.

– The International Labour Conference or the General Conference holds one session a year in June in Geneva. It consists of national delegations of four delegates. Two represent the government, one represents the country's employers, and one represents the country's workers. Alternates and advisers may be sent as well. The Conference is a forum for discussion of annual reports, budget, decisions regarding ILO's general policy, work program, introduction and application of new conventions, and recommendations. The International Labour Conference is the supreme body of the International Labour Organization. According to its Constitution, all delegates are on an equal footing with government representatives, including rights to vote in all matters, pertaining to its policy-making, standard-setting and other.

– The Governing Body is the executive council of the ILO, which oversees the work of the International Bureau of labour, commissions, and committees. It has 28 members, representing various governments with 14 employers and 14 workers who are elected by the General Conference every three years in three separate election categories. The Government officers group elects 18 members of the Council by secret ballot voting. The other 10 of the government seats are permanently held by States of chief industrial importance. The Employer and Worker members are elected in their individual capacity to form 14 Officers of Employers' group and 14 Officers of the Workers' group as part of the Governing Body. Vice chairs of the Council are elected at these sessions as well.

The Governing Body members meet three times a year. They take decisions on ILO policy, decide the agenda of the International Labour Con-

ference, adopt the draft Program if written for America but Programme is how it should be for England or Australia.

– The International Labour Office is the permanent secretariat of the International Labour Organization. It prepares ILO documents, gathers and distributes information, provides assistance to governments upon requests, oversees ILO technical program cooperation, and conducts special researches. Languages, being used within the office are English should be used within the office are English. The International Labour Office is located in Geneva, Switzerland. It has its branches in a number of capitals of the world, including Moscow.

The International Labour Organization holds tripartite meetings and special training sessions on a regular basis to prepare a number of issues to be discussed and considered at the General Conference.

The Joint Maritime Commission is the only permanent bipartite standing body of the ILO.

The ILO is the only specialized agency of the United Nations where both workers' and employers' representatives have a right to vote. Thus, making this the only international forum where employees play an active role in the process of making decisions.

The mission of the Joint Maritime Commission (JMC) is described in the special document, adopted in 1963 at the 154th session of the Governing Body. JMC is established by the Governing Body. Its functions include the following:

- Studies individual problems and questions that seafarers find of practical interest;
- Deals with issues in accordance with the decisions that have already been made by the ILO General Conference;
- Considers matters that have not been discussed at the ILO General Conference but present significant interest to the seafarers.

The Joint Maritime Commission is convened by the ILO Director General according to the decision made by the Governing Body upon necessity. Meetings of the JMC are closed and not available to public access. Anyone wishing to attend one of such meetings must be approved by the JMC.

The International Labour Organization carries out its activity in three particular areas: development of the conventions and recommendations on labour, providing technical assistance to the developing countries, education and training on matters pertaining to the ILO's mission. The development of international labour standards at the ILO is a unique legislative process involving representatives of governments, workers, and employers from throughout the world. It is the most significant in the work of this organization.

ILO Conventions become mandatory for ILO member states once they have been ratified. By ratifying the Convention, ILO member state becomes subject to the ILO regular supervisory system, which is responsible for ensuring that the instrument is applied.

Standards are not mandatory and are not ratified. They do not carry legal responsibility for the ILO state member except for the ones identified in the “flexibility clauses”. The ILO does not hold a country legally responsible to ratify its conventions. However, any country which decides to join the International Labour Organization will assume certain responsibilities as its member state. The International labour standards are universal instruments adopted by the international community and reflecting common values and principles on work-related issues. While member States can choose whether or not to ratify any conventions, the ILO considers it important to keep track of developments in all countries, whether or not they have ratified them.

## INTERNATIONAL MARITIME ORGANIZATION

The International Maritime Organization (IMO) was founded in 1958 as an Inter-governmental Maritime Consultative Organization. Its current name was adopted in 1982. The IMO is a specialized agency of the United Nations created to address technical issues of all kinds related to the shipping industry. Since the day this organization was founded, the number of countries that joined it has significantly grown and today IMO has more than 130 members. Prior to its creation, there have been a few important maritime conventions already in place. Therefore, the purposes of the International Maritime Organization are to promote and to keep up to date international treaties, pertaining to technical matters affecting shipping and to encourage and facilitate the general adoption of an all encompassing set of standards of conventions, codes, and recommendations which could be applied by all IMO state members.

The IMO's global approach is extremely important since the effectiveness of its recommendations and standards is measured through the scope of their use and implementation. The fact that IMO's main conventions have been adopted by countries with a gross tonnage of 97% of the world fleet shows the success of its mission. Two key duties of the IMO include improving the security and safety of international shipping and to keep the waterways clean by preventing marine pollution from ships. The International Maritime Organization's objectives can be best summed up by its slogan—“Safe, secure and efficient shipping on clean oceans.”

The Assembly is the highest Governing Body of the Organization which meets once in two years. Between sessions of the Assembly, the Council is responsible for supervising the work of the Organization. It consists of 32 state member representatives elected by the Assembly. IMO's technical work is carried out by a number of committees. The Maritime Safety Committee is the highest technical body of the Organization. It has several sub-committees that address navigation safety, radio communication, search and rescue, training, watchkeeping, handling of dangerous cargoes, ship design and construction, fire safety and carriage of cargoes and containers. IMO is best known for its work on developing international maritime conventions. It is now responsible for more than 50 international conventions and agreements and has adopted numerous protocols and amendments.

## Chapter 5

# HISTORY OF THE FAR EASTERN REGIONAL ORGANIZATION OF SEAFARERS' UNION OF RUSSIA

The first Congress of the Seafarers' Union of Russia was held on November 3-4, 1994 in the village of Golitsyno, Moskovsky region. It was attended by 29 delegates from primary trade union organizations with a right to vote as delegates.

There were many international attendees present at the Congress: David Cockroft, ITF General Secretary, Erik Bratvold, Chairman of Norwegian trade union, Tore Gaystrum, Norwegian Maritime Officers Association, Heli Karkainen, Executive board member of Swedish Seafarers' Union, Denis Sirvje, Executive Board member of Swedish Seafarers' Union, Neil Alioto, USA Director of the International Department of Inter-Continental Seafarers Union, Lauri Heinonnen, Secretary of Finnish Seafarers' Union, Tapio Murminen, Vice-Chair of Finnish Seafarers' Union, I. Pavlov, Chairman of Latvian Seafarers' Union of Merchant Fleet, N. Schekotin, Chairman of the Seafarers' Union of Estonian Shipping Company, Sirotyuk V. M., Chairman of Russian Union of Maritime Transport Workers, Starchenko G.G., Chairman of the Central Committee of Russian Union of Maritime Transport Workers, Grishin B.S., Chief Deputy of DMT, representatives of the mass media (weekly magazine "Maritime News" and newspaper "Business"), and the SUR Executive Council.

V. M. Shirochenkov was elected to be a Chairman of the Congress. V.I. Sharov was elected as a Secretary of the Congress.

The agenda included the organizational matters: report by the SUR Chairman V. Nekrasov, a report by the audit commission of SUR Council, the election of a new Chairman of the Seafarers' Union of Russia. The members of Congress reviewed new edition to the Constitution of Seafarers' Union of Russia, a statement regarding the audit commission of the Seafarers' Union of Russia and relationships with the International Transport Workers' Federation. The members of Congress elected Executive and Legal Councils of the Seafarers' Union of Russia.

The Congress elected Shirochenkov Vladimir Mikhailovich to be the Chairman of the Seafarers' Union of Russia. He received 23 votes with 2 "no" and 2 "abstained" votes.

The members of Congress adopted the SUR Constitution that is entrusted the newly elected SUR Council to determine the amount of union dues to

be paid by the primary seafarers' union organizations towards the Council's budget, the elected audit commission is comprised of the following members: Berezinsky V.V., Seafarers' Union of the Far Eastern Shipping Company, Eremeev L.M., Novorossiysk Seafarers' Union, Zaleev A.V., Moscow Seafarers' Union, Krivenko K.V., Murmansk Seafarers' Union, Shatalin A.N., Seafarers' Union of the Baltic Shipping Company.

The Congress also elected the following Chairmen of Regional Organizations of the Seafarers' Union of Russia: Pavlov I.N. from the Arctic Regional Organization, Bodnya A.M. from the Baltic Regional Organization, Sukhanov N.M. from the Far Eastern Regional Organization, Sharov V.I. from Moscow Regional Organization, Semyonov V.V. from the Black Sea Azov Regional Organization. Seafarers' Union of the Far Eastern Shipping Company was given a status of Regional Organization and Abonosimov V.I. was named its Chairman.

The SUR Council saw the election of 12 members: Shirochenkov V.M. as the SUR Chairman, Kantsiber V.D. as the SUR Chief Financial Inspector, Abonosimov V.I., Ageev A.E., Bodnya A.M., Mishkin G.A., Pavlov I.N., Semenov V.V., Sukhanov N.M., Sharov V.I.

The Congress approved an appeal to the President of the Russian Federation, Boris Yeltsin, to reconsider the law on a seafarer's passport, confirmed by the Statute of the Government of the Russian Federation, No. 146, dated February 24, 1994 to be in accordance with the ILO Convention, No. 108, "Seafarers' Identity Documents". Delegates of the Congress also approved an appeal to the federal agencies of the legislative and executive bodies of Russia to allow seafarers, working onboard of foreign flagged vessels, and being absent from a permanent place of home registration due to their professional occupation for over 183 days in a calendar year to not pay taxes.

The Far Eastern Regional Organization of Seafarers' Union of Russia (DVRO SUR) was created as the result of the decision made by the SUR Congress in 1994. Nikolai Mikhailovich Sukhanov has been the Chairman of this organization since the day it was formed. Nikolai Mikhailovich was born in 1951. He started his work career at the Primorsk Shipping Company after he graduated from the Admiral Nevelskoy Far Eastern State Maritime Academy with the degree "Engineer-Navigator". He began his career at sea as the third mate and worked up to the title of chief mate on foreign voyage vessels. Named as one of the best seafarers of the Primorsk Shipping Company, he was sent to work on board of an Iraqi ship as a chief mate in 1980.

In 1982, Nikolay was elected as a vice-chairman of the Seafarers' Union Committee of the Primorsk Shipping Company. In 1989 he was elected as a Chairman of the Seafarers' Union Committee of the same company.

From the very creation of the Seafarers' Union of Russia, in November 1991, Nikolay Sukhanov was elected in leadership roles, served as an Executive board member and as a member of the SUR Council. He was elected to be a Chairman of the Far Eastern Regional Organization of the Seafarers' Union of Russia in 1994 and continues to serve in that capacity to this day.

**THE FAR EASTERN MARITIME LABOURERS HAVE RECEIVED OVER 22 MILLION OF US DOLLARS OF THEIR OUTSTANDING WAGES**

During the period of 1994 to 2020, the Far Eastern Maritime labourers have received over 22 million US dollars of their outstanding wages with the help of the Far Eastern Regional Organization of Seafarers' Union of Russia (DVRO, SUR).

In a FOC campaign for the rights of the seafarers to receive their back pay, law suits were filed by the DVRO, SUR to arrest over 70 vessels flying the flags of different countries with crews of Russian citizens onboard. During these campaigns, the Union representatives discovered many shipowners, especially those flying the flags of Cambodia, Panama, Belize, Georgia, Liberia and Mongolia, withholding wages from their crew members. Having inspected 500 vessels and holding 45 weeks of FOC-Campaigning from 1994 to 2020, the warrants were issued by local authorities working with representatives of the Far Eastern Regional Organization, for shipowners to dispose of over 250 of their ships due to their old age (over 30 years old) and danger for the wellbeing and health of the crew members. Between these ships being disqualified and the Maritime Labour Convention, 2006, over 50 shipping and crewing companies who worked with these ships and did not meet requirements of the new Convention went out of business.

However, most of the outstanding wages were withheld by the Russian shipping companies. There were 30 ships arrested according to the law suits filed by the Far Eastern Regional Organization of Seafarers' Union of Russia.

Recently, SUR has taken a new approach with the shipowners regarding outstanding wages for their crew members by negotiating with them first

and leaving the detention of the ship to be the last resort. This resulted in a positive work relationship with the Norwegian shipping company "STOLT TANKERS B.V.", which employs over 500 seafarers from the Far East of Russia.

**OUTSTANDING WAGES THAT HAVE BEEN PAID TO THE SEAFARERS, INCLUDING COMPENSATION AMOUNTS, PAID TO THE FAMILY MEMBERS OF THE DECEASED SEAFARERS FOR THE PERIOD OF 1994 TO 2020 (9 month):**

1. 1994-1996	\$3,000,000.00 US Dollars
2. 1997-2001	\$1,448,013.00 US Dollars
3. 2002-2006	\$3,491,427.00 US Dollars
4. 2007	\$43,200.00 US Dollars
5. 2008	\$624,294.00 US Dollars
6. 2009	\$1,958,662.00 US Dollars
7. 2010	\$786,873.00 US Dollars
8. 2011	\$826,727.00 US Dollars
9. 2012	\$1,654,758.00 US Dollars
10. 2013	\$1,118,683.00 US Dollars
11. 2014	\$1,659,626.00 US Dollars
12. 2015	\$1,360,090.00 US Dollars
13. 2016	\$1,214,652.00 US Dollars
14. 2017	\$901,750.00 US Dollars
15. 2018	\$811,000.00 US Dollars
16. 2019	\$830,108.00 US Dollars
17. 2020 (9 month)	\$500,000.00 US Dollars

Total amount: \$22,230,000.00 (Twenty two million two hundred thirty thousand dollars)

## CONCLUSION

Having studied international legal documents, national and international labour codes, work by Russian and foreign lawyers, and the flags of convenience system in particular, we have come to the following conclusions:

A flag of convenience ship is one that flies the flag of a country other than the country of ownership. The use of flags of convenience has reached a record high level with nearly half of the world's merchant ships registered under FOCs.

Seafarers, working on board of flags of convenience ships, are denied their basic human rights and union membership due to the fact that FOC registries do not follow minimum social standards. To improve working conditions for the seafarers, there must be a genuine link between the real owner of the vessel and the flag the vessel flies.

In the "second" international register, ships are flying their national flags and follow the maritime law of their country which allows them to compete on the world freight market, including with flags of convenience ships, due to low taxes, and relaxed hiring standards. The "second" register practice has been highly successful in maintaining the shipping industry under their national flag and providing a greater protection of the rights of the seafarers and shipping companies.

The Maritime Labour Convention is an international document designed to improve the standards of social protection, working conditions, pay, safety requirements, and the wellbeing of all seafarers of the merchant fleet, no matter the flag of the ship they are working onboard. It is important to note that those ILO state members that ratify it undertake to give complete effect to its provisions to secure the right of seafarers to decent employment.

It is necessary to evaluate the provisions of the Labour Code and laws of the Russian Federation in regard to its compliance with the adopted ILO Maritime Labour Convention. Furthermore, to study and compare labour standards and requirements in the Russian shipping industry in order to prepare to ratify the Convention and meet its requirements.

This evaluation will require joint efforts from shipowners and trade union organizations. Having considered legal status of seafarers all over the world, the following steps need to be taken in order to improve the current situation:

1. To abolish the flags of convenience system.
2. To raise awareness of life essential services provided by the seafarers.

3. To request port authorities to restrict ships that do not meet minimum standards established by specialized UN agencies entering their ports.
  4. To encourage decent shipowners and penalize those who do not follow maritime laws.
  5. To fine companies which use substandard vessels to carry their cargo.
  6. To man ships with crews in compliance with standards of international conventions.
- All in all, merchant seafarers play an important role in carrying supplies all over the world and are an essential part of successful globalization. Therefore, they should not remain victims of it.

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