



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



Challenges Remain, Despite Some Respite for Seafarers

Hailed as the “unsung heroes” of COVID-19 by such bodies as the International Maritime Organization (IMO), given the world’s reliance on shipping for over 80% of trade, seafarers have experienced huge challenges during the pandemic.

As has been documented, nations’ moves to control the spread of the virus created significant difficulties with crew changes and repatriation, with seafarers consequently facing the physical, mental and emotional strains of significantly-lengthened stays on vessels.

As the following potted sampling of recent developments illustrate, some positive initiatives are being seen, but serious issues still remain.

Ports Refusing Access to Repatriate Deceased Crew

Reports have emerged of at least two instances whereby vessels seeking to repatriate deceased crew have been refused access to ports on the basis of pandemic prevention measures.

The latest instance involves the Liberian-flagged general cargo vessel *Vantage Wave*, which was en route from Paradip Port (India) to Huangpu New Port in Guangzhou (China) with aluminium ingots when its Romanian master unexpectedly died on April 19.

It is understood his clinical condition before passing did not indicate any COVID-19 infection, although he reportedly had swollen legs and very low blood pressure. Medical advice subsequently sought by Gard P&I insurers has suggested death was the result of a cardiac arrest.

Human Rights at Sea was asked by the deceased’s family and Gard on behalf of owners’ and crew members’ interests, to bring urgent international attention to the continued failure to repatriate the body after seven weeks by multiple states.

“Despite extensive legal, insurance and Romanian diplomatic efforts to arrange for the disembarkation of the body in multiple countries including Singapore, Malaysia, South Korea, Taiwan, Vietnam, the Philippines and Japan, as well as local lawyers’ involvement and reasonable pressure being brought through normal channels by Gard – to date, there has been a collective nil response to assist the crew,” stated Human Rights at Sea on June 11.

“The onboard situation is further exacerbated by a rapidly-emerging issue of food and water shortages, with resupply and disembarkment permissions allegedly being denied by local Chinese authorities at the time of writing.

“Owners and crew members onboard fully understand the COVID-19 pandemic prevention issues of the local government agency, but note that if the vessel cannot proceed to berth and disembark the body, and in addition to the fact that food and water supplies are running low, these factors are adding significant psychological pressure on the remaining crew.

“Further, this issue is assessed to exacerbate a humanitarian and potential public health crisis thereby endangering the vessel’s safety at sea.”

Semaphore has confirmed that as of June 23, the vessel still remains at the Outer Guishan Anchorage (China), where it arrived on May 7.

A similar situation was recently faced by the Italian-registered containership *Ital Libera*, whose captain is understood to have died following a shipboard outbreak of COVID-19 in mid-April. After being denied access to Asian ports, force majeure was declared and the ship ultimately set sail for Taranto (Italy) where it berthed on June 14 to repatriate the body.

Claims of NZ Govt Abandonment

In a recent opinion piece published by *Stuff*, offshore geotechnical engineer Nathan Schumacher has claimed the New Zealand Government is doing “nothing” to help the country’s own seafarers return home when they complete their overseas contracts.

Despite now being classified as “key workers”, returning New Zealand seafarers are given no special provision in COVID-19 or border legislation.

“We must jump in the scrambled queue that is the Managed Isolation Allocation System (MIAS), along with every other returning New Zealander,” stated Mr Schumacher.

“They’ve opened up a corridor for foreign seafarers to gain access into our Managed Isolation Quarantine (MIQ) facilities under a Maritime Allocation. These foreign seafarers enter New Zealand to join vessels trading internationally.

“By not providing a similar corridor for returning New Zealand seafarers, or allowing us into the Maritime Allocation within MIQ, the government appears to be in breach of the Maritime Labour Convention (MLC).”

As a signatory to that treaty, the Government is obliged to provide: “Every possible practical assistance should be given to a seafarer stranded in a foreign port pending repatriation” and “each member should have regard to whether proper provision is made for the return of seafarers employed on a ship that flies the flag of a foreign country who are put ashore in a foreign port for reasons for which they are not responsible.”

“Is this happening? Not at all,” continued Mr Schumacher

He said questions have repeatedly been put to the Ministers of COVID-19 Response, Immigration, Health, Transport and Ministry of Business, Innovation and Employment.

“We rarely get constructive feedback or clear answers, if at all. Instead, we’re met with radio silence, messages of ‘understanding’ and ‘we’re still assessing our options’ and ‘we’ve elevated it to senior management’. The picture is becoming clearer – the New Zealand Government is playing pass the buck with this one and are not taking responsibility.

“The Government is, however, helping every other industry, pretty much – if it’s to get comics in, children’s entertainers, foreign fishermen to work for New Zealand companies, migrant workers to pick fruit – they’re helping them as they’re seen as ‘critical’.”

Mr Schumacher said New Zealand seafarers had to “constantly watch” the MIAS page to try and book a spot, “all while working 12 hours a day with poor or non-existent Internet connectivity”.

“We’ve told them a possible solution. Many times. We are essential workers, we need the same recognition as airline crew – for access to MIQ, for vaccinations, for travel exemptions.

“Give us the essential worker status that we deserve. Have a small allocation of rooms available for seafarers. And let us come and go between New Zealand and our foreign ports, to do the essential work that is recognised around the world.”

Funding Boosted for Seafarers' Centres

The New Zealand Government has recently amended legislation to enable greater funding to be provided to support international seafarers visiting the country.

The amendment will see Maritime New Zealand enter into service delivery arrangements with the Seafarers Welfare Board which will be paid for from maritime levies, stated a media release from Transport Minister Michael Wood.

“The aim of the arrangement would be to provide secure funding for core welfare services, rather than replace all funding that the board currently generates,” it stated.

“The board helps run seafarers' welfare centres and provides services such as toll calls, E-mail/Internet, money exchange, access to counselling and books.”

As a party to the MLC, New Zealand must ensure that seafarers on ships visiting its ports have access to welfare services necessary for their health and wellbeing, promote the development of welfare facilities and encourage the development of welfare boards.

In response to the New Zealand initiative, Human Rights at Sea commented: “The New Zealand Government's stated commitment to permanently address the issue of sustainable funding for seafarer welfare centres should be congratulated. The proposed legislative change on July 1, 2021 will be closely watched by the maritime industry, states, United Nations agencies and civil society.”

Emergency Relief Fund for Seafarers

In early May, Shipping Australia reported that “leading seafarer welfare charities and shipping industry players” had launched an emergency relief fund to support seafarers and their families “devastated by the rampant COVID-19 pandemic in India and other countries”.

“Seafarers have been the invisible victims of COVID-19, with hundreds of thousands marooned on vessels for months beyond agreed contracts, in some cases,” stated the article.

“Despite suggestions that the crew change crisis was near its end, the escalation of COVID-19 cases in India to more than 400,000 per day has prompted some major ports to prohibit ship crew changes for seafarers with recent travel history to India, Bangladesh, Nepal, Pakistan and Sri Lanka.

“In response, the Seafarers International Relief Fund has set a target of US\$1 million. It has been established by bringing together leading international seafarer welfare organisations, The Seafarers' Charity (formerly Seafarers UK) supported by The Mission to Seafarers, ISWAN, Sailors' Society and other charities – in a united appeal to the shipping industry, to deliver urgent support to seafarers and their families in India.”

IMO Secretary-General Kitack Lim welcomed the establishment of the fund.

“The COVID-19 pandemic continues to cause immense hardship all around the world,” he said.

“I offer my heartfelt support to all those struggling at this time. I am pleased to learn of the establishment of this industry-led emergency fund to assist seafarers and their families during these unprecedented times.”

Focusing on the Australian context, Shipping Australia chief executive Melwyn Noronha called on state and federal governments to “acknowledge the current plight of seafarers, especially those that may transit Indian ports”.

“Although we, of course, acknowledge the importance of shielding Australians from COVID, the legitimate needs of protecting public health can be met without interrupting the supply chain upon which Australian families depend for employment and the delivery of essential goods,” stated Mr Noronha.

“We therefore call upon all Australian governments and officials to avoid imposing any unnecessary, unreasonable or draconian restrictions on the ability of ships to call at ports in Australia.”

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