



Nahodha

THE OFFICIAL KENYA MARITIME AUTHORITY E-NEWSLETTER

Issue 08 December 2018

KMA hosts
Maritime Transport
event during the
Sustainable **Blue**
economy
Conference



KMA staff Shine at
the World Maritime
University

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We wish you a

**Merry
Christmas**

*and a Happy
New year*



Nahodha

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KENYA
VISION 2030

KMA hosts Maritime Transport event during the Sustainable **Blue economy** Conference

The Kenya Maritime Authority (KMA) hosted a major Maritime Transport event during the Blue economy Conference in partnership with the State Department of Shipping & Maritime, Kenya Ports Authority (KPA), African Ship owners Association-Kenya(ASA), Kenya National Shipping Line(KNSL), Kenya Ferry Services(KFS), Trade Mark East Africa (TMEA), Kenya Trade Network Agency(KENTRADE), Port Management Association of Eastern and Southern Africa(PMAESA), Intergovernmental Standing Committee on Shipping(ISCOS) and the Maritime Technology Cooperation Centre (MTCC). The event was held on 26th November, 2018, at the Kenyatta International Convention Centre in Nairobi and was attended by over 200 delegates from about 30 different countries around the globe.

The event was launched by Mr. James W. Macharia, the Cabinet Secretary, Ministry of Transport, Infrastructure, and Housing, Urban Development & Public Works. Mrs. Nancy Karigithu, Principal Secretary, State Department of Shipping & Maritime, Mrs. Esther Koimet, the Principal Secretary, State Department of Transport and Dr. Chris Kiptoo, the Principal Secretary State Department of Trade were also in attendance as key speakers.

The key discussions in the Maritime Transport event focussed on smart & sustainable transport and logistics, Maritime safety, security and regulatory enforcement and how the Maritime Transport sector can contribute predominantly in employment, job creation & poverty eradication. The event provided a needed platform for learning and exchanging ideas on how to progress the maritime sector, sharing knowledge, experience and investment opportunities on among other topical issues such as measures on improving performance, productivity and efficiency of maritime transport services, trends on the realization of effective port performance and



Mr. James W. Macharia, the Cabinet Secretary, Ministry of Transport, Infrastructure, and Housing, Urban Development & Public Works addresses delegates at the Maritime Transport event during the Sustainable Blue Economy Conference at the Kenyatta International Convention Centre in Nairobi.

management, strategic partnerships and collaborations on improving performance of the sector, resource mobilization for investment opportunities in the maritime transport sector such as the viability of establishing a maritime cluster development fund and how it works, regulatory and oversight strategies and challenges in the maritime sector, research and development initiatives in the maritime sector and implementation of research findings for improved development and growth of the sector, the status of maritime education and training, potential opportunities and requirements for the development of globally competitive human resource and cabotage opportunities for the region.

Some of the notable International speakers in the Maritime Transport event were the Late George Wolf, Senior Director, Market Access, TradeMark East Africa,



Delegates listen to deliberations at the Maritime Transport event during the Sustainable Blue Economy Conference at the Kenyatta International Convention Centre in Nairobi.

Dr. Cleopatra Doumbia- Henry, the President, World Maritime University, Malmö- Sweden, Capt. Ahmad Jaafar Baharom, Director, Seafarer Management Centre- Malaysia, Ms. Funmi Folorunso, Secretary General, African Shipowners Association- Nigeria, Mr. Joshua Oigara, Group Chief Executive Officer, Kenya Commercial Bank, Mr. Chris Trelawny, Chief, Subdivision for Maritime Development, Technical Cooperation Division, International Maritime Organization (IMO)- United Kingdom, and Mr. Conrad Thorpe OBE- Group Chief Executive Officer (CEO) – Salama Fikira.

Some of the notable panelists for the sessions were Dr. Alsosy Balbaa, Vice President for African and Asian Affairs Sector, Arab Academy for Science Technology and Maritime Transport, Egypt, Mr. Han-Dong BANG, Chief Executive Officer Jooway Shipping Co., Ltd South Korea, Captain Jøran Nøstvik- General Manager; Abojeb- Philippines, Dr. Michaël Dooms, VUB University, Brussels- Belgium, Adm. François-Régis Cloup- Andavialle, Coordinator - European Union - Critical Maritime Routes Indian Ocean (EU CRIMARIO) Project, Mr. Sobantu

Tilayi- Chief Operating Officer, South African Maritime Safety Authority (SAMSA), Dr. Dakuku Peterside- Director General, Nigerian Maritime and Safety Authority (NIMASA), Mr. Kwame Ousu, Director General, Ghana Maritime Authority, Major (Rtd) George Nyamoko Okong'o- Director General, Kenya Maritime Authority, Dr. Arch. Daniel Manduku- Managing Director- Kenya Ports Authority, Mr. Amos Wangora- Chief Executive Officer - Kenya Trade Network Agency, Mr. Silvester Kututa- Managing Director, Express Shipping among many others.

Kenya is an active maritime nation with a great potential of becoming a great maritime and Blue economy. It is expected that the outcome of the Maritime Transport side event is going to contribute majorly in the progression of the country's Blue economy and Big 4 Agenda as well as improvements in the maritime transport sector. The reports of the Maritime Transport event can be accessed on the KMA website on www.kma.go.ke



Mr. Julius Koech, KMA employee receives his Master of Science Degree in Maritime affairs; specializing in Maritime Safety and Environmental Administration and Ms. Stella Maris Muthike, KMA employee receives her Master of Science Degree in Maritime affairs; specializing in Ocean Sustainability, Governance and Management from the World Maritime University President, Dr Cleopatra Doumbia-Henry (Left) and from Mr Kitack Lim, the International Maritime Organization (IMO) Secretary-General (Right)

KMA staff Shine at the World Maritime University

Two Kenya Maritime Authority (KMA) staff graduated in a colourful ceremony at the World Maritime University (WMU), Malmo - Sweden on 4th November, 2018. The two, Stella Maris Muthike and Julius Koech were conferred their degrees by Mr Kitack Lim, the International Maritime Organization (IMO) Secretary-General and WMU President, Dr Cleopatra Doumbia-Henry after successfully completing a rigorous 14 month Master of Science programme in Maritime affairs; specializing in Ocean Sustainability, Governance and Management and in Maritime Safety and Environmental Administration successively. They graduated alongside other maritime professionals from 71 countries.

The KMA employees are expected to contribute to the development of the maritime, ports and ocean sectors of the economy and participate in the implementation of the United Nations Sustainable Development Goals (UN SDGs) in Kenya and the broader maritime and ocean community. They have also been primed to become maritime and ocean leaders who will promote safe, secure, environmentally sound, efficient and sustainable shipping on clean oceans.

In his address to the graduates, Mr Kitack Lim, the International Maritime Organization (IMO) Secretary-General said, "From today, each one of you will join an elite group of maritime professionals in the global industry that has shaped the modern world. WMU has provided you with the key tools to

succeed in making a difference in the global maritime industry."

Dr. Doumbia-Henry, the WMU President also called on them to return to their home countries and activate national alumni groups to foster the power of the global WMU network. She also noted that each graduate had the capacity to help progress the maritime, ports and ocean sectors of the economy in their home countries with the knowledge and capacities gained at WMU.

"Your WMU experience has expanded your horizons, your professional network and enriched you personally in ways that you may only fully appreciate as you advance in your career. You will go on to change the world," she said.

All about Ships.: Unveiling the Mystery

By G. Kalama

PASSENGER SHIPS

Just as the name states, a passenger ship is a water vessel structured to ferry passengers across water bodies. The most common passenger ships include ferries, yachts, ocean liners and cruiser ships.

Types of Passenger Ships

Ferries



Photo courtesy of Cijin-Gushan Ferry www.wikipedia.com

Ferries are ships or boats that are generally used to ferry people over short distances, but can also be used to transport vehicles. Ferries typically operate in large water vessels such as lakes and oceans. If a ferry makes several stops before reaching its final destination people call it a water bus or a water taxi.



RMS Queen Mary 2 photo courtesy of cruisemapper.com

Ocean Liners

An ocean liner is a *passenger ship* primarily used as a form of transportation across seas or oceans. Liners may also carry cargo or mail, and may sometimes be used for other purposes such as pleasure cruises or as hospital ships.

Cargo vessels running to a schedule are sometimes called *liners*. Ocean liners are usually strongly built with a high freeboard to withstand rough seas and adverse conditions encountered in the open ocean.

Additionally, they are often designed with a thicker hull plating than is found on cruise ships, and have large capacities for fuel, food and other consumables on long voyages.

The first ocean liners were built in the mid-19th century. Technological innovations such as the steam engine and steel hull allowed larger and faster liners to be built, giving rise to a competition between world powers of the time, especially between the United Kingdom and Germany. Once the dominant form of travel between continents, ocean liners were rendered largely obsolete by the emergence of long-distance aircraft after World War II. Advances in automobile and railway technology also played a role. By 2015, the only ship still in service as an ocean liner is the RMS Queen Mary 2 after RMS Queen Elizabeth 2 was retired in 2008. Of the many ships constructed over the decades, only nine ocean liners made before 1967 survive.

Yachts

A yacht is a watercraft used for pleasure or sports. The term originates from the Dutch word *jacht* which means “hunt”, and was originally defined as a light fast sailing vessel used by the Dutch navy to pursue pirates and other transgressors around and into the shallow waters of the Low Countries. The *jacht* was popularized by Charles II of England as a pleasure or recreation vessel following his restoration in 1660.



Tankoa 501 Luxury yacht veritige photo courtesy of www.charterworld.com



MS Symphony of the seas photo courtesy of www.royalcaribbeanblog.com

MS Symphony of the Seas is an Oasis-class cruise ship owned and operated by Royal Caribbean International. As of 9 July 2017, she was the largest passenger ship in the world by gross tonnage, at 228,021 GT, surpassing her sister Harmony of the Seas.

Cruise ships

A cruise ship is a passenger ship used for pleasure voyages when the voyage itself, the ship’s amenities, and sometimes the different destinations along the way, form part of the passengers’ experience. Transportation is not the only purpose of cruising, particularly on cruises that return passengers to their originating port. On “cruises to nowhere” or “nowhere voyages”, cruise ships make 2-to-3 night round trips without any ports of call.



(Pictured below is the Harmony of the seas, photo courtesy of www.royalcaribbeanblog.com)

Marine Pollution Prevention under Part XII of the United Nation Convention on the Law of the Sea (UNCLOS) 1982

By B. A. Haki & N. Wakali

I. Introduction

The importance of a unified approach towards protection of marine environment cannot be gainsaid, thanks to the universality and holistic nature of the sea. Individual state efforts to conserve and protect the marine environment is bound to be an exercise in futility because as much as there are legal boundaries, water and the living organisms are bound to traverse any 'maritime boundary'. It therefore follows that pollution on one part of the marine environment can still affect another part that was not the original recipient of the offending substance.

Before the codification of pollution prevention instruments, the international community mainly relied on customary international law rules which stipulated that a ship outside the internal waters and territorial waters (then 3 nautical miles) of a foreign State was under the exclusive jurisdiction of the flag State in case of a breach of international laws.

In the years preceding United Nation's Convention on Laws of the Sea (UNCLOS) III, various Conventions on the prevention of pollution from ships were adopted as pollution prevention

was considered to be of paramount importance hence UNCLOS 1982 having a whole chapter on the same: Part XII.

UNCLOS is drafted in such a way as to incorporate by reference the instruments that existed prior to its coming into force, as well as future instruments to be adopted under the International Maritime Organization (IMO) auspices. Part XII of UNCLOS forms a holistic overriding principle that guides State Parties on how to develop laws within the marine pollution prevention regime.

II. Scope of UNCLOS with regard to pollution prevention

UNCLOS is the biggest environmental treaty in existence (168 State Parties) as it addresses six main sources of ocean pollution: land-based and coastal activities; continental-shelf drilling; potential seabed mining; ocean dumping; vessel-source pollution; and pollution from or through the atmosphere.

As regards prescription of specific pollution control measures, the Convention avoided enumerating new standards for particular forms of pollution. Instead, it proclaims a

general regime of powers and duties, which builds upon codification and development of existing and future pollution control conventions.

It lays down the fundamental obligation of all State Parties to protect and preserve the marine environment and urges all States to cooperate on a global and regional basis in formulating rules and standards and otherwise take measures for the same purpose.

Article 194 of UNCLOS targets all forms of marine pollution, and Article 192 makes it "the business of governments"; Flag States, Coastal States or Port States.

Coastal States have jurisdiction in the protection of marine environment and the enforcement of the same. This includes; the internal waters, territorial sea, Exclusive Economic Zone (EEZ) and Continental shelf. Flag States on the other hand have to implement and enforce pollution prevention measures and protection of marine environment on the vessels with their flag irrespective of where the pollution occurs. Port States too have a duty to enforce the various instruments, including marine environment protection as regards vessels in the course of Port State obligations.

III. General provisions

Part XII has three Articles that are declaratory in nature and reaffirm what existed in customary international law.

Articles 192 and 194 impose a basic duty on States to protect and preserve the marine environment.

Article 193 is a reaffirmation of State's sovereign rights with regard to exploitation of their natural resources, albeit with due regard to the protection of the marine environment.

Article 194 creates an obligation to reduce pollution from any source. This is an omnibus provision and at the same time futuristic as it envisions and caters for pollution from any conceivable source.

Section 2 – Global and Regional Co-operation

In a bid to protect the marine environment, States are to cooperate in the following:

- by formulating rules and standards- **Article 197;**
- by giving notification of imminent or actual damage- **Article 198;**
- by formulating contingency plans against pollution- **Article 199; and**
- by undertaking research and the exchange of information- **Article 200.**

The above provisions did not follow any specific pattern as they were driven by public outcry and national interest with regard to pollution. In existence therefore were reactionary laws or laws based on necessity. In spite of the existence of such laws, there remained a void which Section 2 attempts to fill. Section 2 recognizes the universality of maritime affairs and the importance of State cooperation in formulating

common rules and standards in the protection and preservation of the marine environment. This section envisages cooperation on both global and regional basis.

It is essential to note that States are urged to be proactive and cooperate in marine environment protection. Setting rules and standards is not sufficient as it is futile to have standards without the corresponding obligation to minimize pollution from a practical point of view.

State Parties therefore have a duty to notify other State Parties deemed likely to be affected by any imminent or actual damage to the environment and also notify the competent international organization by virtue of the marine environment being a shared resource with a corresponding need for collective obligation.

Research and exchange of information and data is also considered key towards marine environment protection as it is from such research that State Parties are expected to establish appropriate scientific criteria for formulation and elaboration of rules, standards and recommended practices and procedures.

Section 4 – Monitoring and environmental assessment

This section requires State Parties to monitor and evaluate the risks or effects of pollution within any given area, especially if it is as a result of an activity it has permitted. Further, State Parties are expected to take precautionary measures and to perform an environment impact assessment whose result is to be shared with other State Parties and the competent international organization before undertaking an activity that may cause substantial pollution or significant harmful change to the marine environment.

IV. Sources of pollution under UNCLOS

Article 207 – Land-based pollution

Major pollution emanates from land-based sources. There are Polluter Rivers, industrial discharges, garbage and many other pollutants. It can be rightly said that every substance used on land will most probably end up in a water body and finally the ocean. State Parties are obliged to adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources **taking into account** internationally agreed rules, standards and recommended practices.

“Taking into account” is a political compromise. Use of such wording should be of no surprise, as State Parties are obliged to adopt laws in their lands where they enjoy territorial sovereignty. Further, from the Article, it is evident that this form of pollution is neither comprehensively covered in UNCLOS nor in other international instruments. This is because the solution for preventing land –based pollution is on land i.e. subject of sovereignty of a State, a sensitive subject globally.

Article 208 – Pollution from Seabed activities subject to National Jurisdiction

These activities include pollution that may emanate from artificial islands, installations and structures in connection with seabed activities including mining and even marine scientific research. UNCLOS places a minimum obligation for laws, regulations and measures to be adopted by Coastal States and that such laws ought to be no less effective than international rules, standards and recommended practices and procedures.

It is generally agreed that this is not limited merely to a Convention but includes customary international law and soft law instruments not binding in international law but all the same persuasive.

This may be interpreted to mean that domestic law must not only be seen as effective but should if possible supersede the minimum standards that international laws provide.

Article 209 – Activities in the Area

State Parties have an obligation to adopt laws and regulations to prevent, reduce and control pollution of the marine environment from activities in the Area (seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction that is the purview of the International Seabed Authority (ISA)) undertaken by vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority, as the case may be. State Parties in this case have to conduct their activities in tandem with the management and control role of the Area that is vested in ISA.

All activities in the Area are however regulated by Part XI of UNCLOS and all rules and regulations which fall under part XII must also adhere to Part XI.

Article 210 – Dumping

Dumping ought not to be carried out without permission of Competent Authority of States.

Part XII of UNCLOS draws a distinction between two States; Coastal and Flag State. For coastal States, the jurisdiction is limited to geographical limitations; internal waters, territorial sea, EEZ and continental shelf (express prior approval of Coastal State required). However, such Coastal States also

have to consult with other Parties that are likely to be affected by such dumping prior to granting approval. For Flag States, the jurisdiction follows a vessel that it flags.

Due to the interconnectivity of the world, national laws, regulations and measures have to be no less effective in preventing, reducing and controlling such pollution than the **global rules and standards**.

However, the term “global rules and standards” is unclear. It is practically impossible with the exceptions of *ius cogens* and customary international law to speak of globally accepted rules.

Article 211 – Pollution from vessels

State Parties are obliged to establish rules and standards to prevent, reduce and control pollution of the marine environment from vessels and to adopt harmonised routing systems designed to minimise the threat of accidents which might cause marine pollution.

These rules are to have “*at least the same effect as that of generally accepted international rules and standards*.” This creates a valid obligation with the effect being that State Parties have to ensure that their legislation is updated at least to be in line with international standards.

Developed maritime interests States fought hard to resist unilateral Coastal State regulation over vessel-source pollution. Their eventual success in doing so had the result of internationalizing pollution control issues, thereby limiting Coastal State jurisdiction and preserving a large portion of the freedom of navigation. This is not to say that developed maritime States were ignoring the problem of marine pollution. On the contrary, they were busy initiating pollution control efforts at

IMCO (now International Maritime Organization) at about the same time that UNCLOS was being negotiated. The strategy of developed maritime interest States required effective control over marine pollution, but only through international agreement and decidedly not through Coastal State autonomy.

Article 212 – Pollution from or through the atmosphere

States Parties are to adopt laws and regulations for prevention and control of pollution from or through the atmosphere.

All such laws are to take “*into account internationally agreed rules, standards and recommended practices and procedures and the safety of air navigation*.”

State Parties have a wide discretion in adopting their own criteria when laying down any rules or regulations because we are talking pollution of the airspace over the State’s landmass where it enjoys sovereignty. In doing so, all they have to do is take into account the internationally agreed standards.

V. Other Provisions of Part XII

Section 8 – Ice-covered area

Article 234: Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone.

Laws and regulations are to be “*based on the best available scientific evidence*.” - This may be because this is not a much-known area and it may also imply that scientific studies which a country uses to come up with its laws ought to be suitable for use in a dispute settlement procedure.

This Article may not necessarily apply to Kenya as a Coastal State but a Kenyan flagged ship may be affected by laws derived from this section by a Coastal State.

Section 9 – Responsibility and liability

Article 235: Provides that all State Parties are liable in accordance with international law for the non or partial fulfillment of their international obligations concerning the protection and preservation of the marine environment. State Parties shall also ensure that recourse and adequate compensation is available in their domestic systems in respect to all pollution-related damage to the marine environment.

Although State Parties may not be sanctioned if they do not fulfill their obligations and adhere to UNCLOS, States are more inclined to implement and enforce such standards in line with the doctrine of good faith (UNCLOS Article 300) and the principle of *pacta sunt servanda* as per the preamble of the Vienna Convention on the Law of Treaties, 1969. Furthermore, States tend to avoid being in a state of illegality that may arise as a result of breaching or non-adherence to international obligations as this may not augur well for the State Party's international relations.

Section 10 – Sovereign immunity

Article 236: Provisions regarding the protection of the marine environment and the preservation of the marine environment do not apply to any warship, naval auxiliary, other vessels or aircraft owned or operated by a State Party and used for governmental non-commercial services.

Section 11 – Obligations under other Conventions

Article 237: The specific obligations assumed by State Parties under special Conventions, with respect to the protection of the marine environment should be carried out in a manner consistent with the general principles and objectives of the Convention. This Article is futuristic in that it envisioned a wide and continually expanding range of global regional agreements dealing with protection of marine environment.

VI. Conclusion

UNCLOS is a comprehensive and near universal Convention in terms of ratification and has stood the test of time. It plays a unifying and integrative function as concerns ocean governance. If any convention ought to be considered as having springboard characteristics, that

would be UNCLOS. It is the skeleton upon which further norms of substance can be created as it seeks to encompass prior and subsequent treaties in relation to different aspects of the Law of the Sea. Another quality that distinguishes it from other international instruments is that some of its provisions: Article 237 and 311(2) establish the pre-eminence of the general principles of UNCLOS over other Conventions with regards to ocean governance issues hence earning the title, 'A Constitution of the Oceans'.

Looking at UNCLOS from this perspective, it can be said that it is a great success in that it has in-built mechanisms that allow for co-existence of other regimes including IMO, International Seabed Authority (ISA) and Regional Fishery Management Organizations (RFMO).

Part XII is an embodiment of the 'due regard rule' and has been implemented by different Conventions including the 1972 London Dumping Convention. Further it has been generally agreed that various provisions of UNCLOS are considered as having attained the customary international law status.



Pictorial

Mr. James W. Macharia, the Cabinet Secretary, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works, receives a memoire at the Maritime Transport event from Dr. Alsnosy Balbaa, Vice President for African and Asian Affairs Sector, Arab Academy for Science Technology and Maritime Transport, Egypt.



(From far left) Dr. Chris Kiptoo, the Principal Secretary State Department of Trade, Mrs. Nancy Karigithu, Principal Secretary, State Department of Shipping & Maritime, Mr. James W. Macharia, the Cabinet Secretary, Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works and Mrs. Esther Koimet, the Principal Secretary, State Department of Transport take part in the Maritime Transport event during the Sustainable Blue Economy Conference at the Kenyatta International Convention Centre in Nairobi



Director Agnes Wanjuki Ndwiga, HSC, KMA's Board of Director and Mrs. Jane Florence Otieno, KMA's Corporation Secretary Graduate in Executive Leadership and Advanced Management successively, from the Strathmore Business School in Nairobi.



The World Maritime University (WMU) alumni from Kenya, Ethiopia, Namibia, Senegal, Tonga among other countries pose for photo with the WMU President, Dr Cleopatra Doumbia-Henry Mr Kitack Lim, the International Maritime Organization (IMO) Secretary-General and Professor Ronan Long, Director, WMU- Sasakawa Global Ocean Institute and Nippon Foundation Professional Chair of Ocean Governance & the Law of the Sea, during the Sustainable Blue Economy Conference at the Kenyatta International Convention Centre in Nairobi.



Major (Rtd) George Nyamoko Okong'o, KMA's Director General, leads a session in Maritime Safety, Security and Regulatory enforcement at the Maritime Transport event during the Sustainable Blue Economy Conference at the Kenyatta International Convention Centre in Nairobi. Listening on are (from far left) Mr. Sobantu Tilayi, Chief Operating Officer-South African Maritime Safety Authority and Mr. Chris Trelawny, Chief, Subdivision for Maritime Development, Technical Cooperation Division-International Maritime Organization (IMO).

Mrs. Nancy Karigithu, the Principal Secretary, State Department of Shipping & Maritime presents a certificate to Dr. Dakuku Peterside, Director General- Nigerian Maritime and Safety Authority (NIMASA) at the Maritime Transport event during the Sustainable Blue Economy Conference at the Kenyatta International Convention Centre in Nairobi.



Water Safety Tips

Whether you are on holiday, engaging in water sports or simply enjoying the breathtaking view of Kenyan waters, **ensure you stay safe by observing the following basic Water Safety Tips:**

Staying Safe in the waters: Wear your Life Jacket at all times!

- Life jackets come in different styles but still serve the same protective purposes.
- They prevent wearers from sinking and drowning, especially if they cannot swim or have been injured.
- The typical bright colours given to life jackets allow wearers to be spotted by rescue teams.
- Life jackets should be worn properly and in the right size in order to save life
- Wear a life jacket at all times when in a boat.



How and when do Life Jackets Save Lives?

- Capsized in rough water
- Sinking in unexpectedly heavy sea conditions
- Thrown from the boat as a result of a collision
- Injured by rocks or submerged objects
- Unconscious from carbon monoxide fumes
- Thrown off balance while fishing
- Unable to swim because of heavy or waterlogged clothing

Navigational safety

- Ensure that your vessel has sufficient life jackets and safety equipment onboard
- Ensure your vessel is insured and licensed and has sufficient communication devices
- Be aware of the limitations of your vessel
- While boating at night, it is important to have the required lighting so that other boats can see you
- Never operate a boat under the influence of alcohol or any kind of drug
- Do not spill petrol or oil or throw rubbish into the sea/beaches and other water bodies

Safe swimming tips

- Always swim near the shore
- Insist on riding only in boats/dhows with life jackets
- Do not accept swimming lessons from strangers
- Keep and maintain sight of your children at all times as they swim and play
- Do not leave children to swim without supervision
- Do not drink alcohol or use drugs especially when going to swim in the sea;

Preserve Our Marine Environment

Protection of our marine environment is very important to Kenya's economy as it relies heavily on tourism and fisheries.

- Therefore do not spill petrol or oil into the sea, beaches and other water bodies.
- Do not throw rubbish into the sea, beaches and other water bodies.
- Do not pollute the waters and beaches.
- Do not touch or disturb marine life: For your protection, always maintain a safe distance from all sea creatures and try not to make any sudden moves to startle the ocean inhabitants.

SAFE BOATING PRACTICES

It is important to follow safe boating and sailing practices at all times:

Before boarding a boat or dhow take charge of your safety:

- Wear a life jacket! Life jackets save lives in case of any emergency in water;
- Ensure that the boat/ dhow you are riding in is seaworthy, insured and licensed;
- Ensure that the boat/ dhow has communication gadgets on board to help you call for help in cases of emergencies at sea;
- Be certain that the boat/ dhow operators and crew are skilled and qualified to take you on water. They should match their knowledge to conditions at sea and never put passengers, fellow crew or the vessel at risk!

As a water craft operator, always note that you are responsible for your passengers and crew's safety. At all times ensure that:

- Your crew/fellow water craft operators are trained, skilled and qualified to handle the vessel;
- Your crew or vessel operators are familiar with meteorology and navigation as well as any navigational dangers they may encounter;
- Your craft or vessel is seaworthy;
- Your vessel has sufficient life jackets for passengers and crew. Remember, one life jacket per person;
- Your vessel has sufficient communication devices and safety equipment onboard to handle emergencies at sea;
- Your vessel is insured and licensed;
- Be aware of the limitations of your craft/ vessel. Do not overestimate its speed or ability to handle difficult conditions. Remember that the state of sea and weather can change rapidly;
- If you are boating at night, it is important to have the required lighting on the boat so that other boats can see you. It is also important to know the signals that boaters use at night. This is important so that you can use the signals if you need help also;
- You should never operate a boat under the influence of alcohol or any kind of drug;
- Do not spill petrol or oil or throw rubbish into the sea/beach. Protecting our marine environment is our responsibility.

Incase of any emergencies at Sea or oil spills contact:

The Regional Maritime Rescue Coordination Centre(RMRCC)

Telephone: **0721-368313**
or **0737-719414**

Email: **rmrcc@kma.go.ke**

or **info@kma.go.ke**

Facebook: **Kenya Maritime Authority**

Twitter: **@kmakenya**

Website: **www.kma.go.ke**

Frequently Asked Questions on Seafarers Employment and Welfare

By J. Nthia



CONTINUOUS DISCHARGE BOOKS (CDC)

1. What are the requirements for obtaining a CDC?

Answer:

- Copy of National Identity Card
- 2 passport size photographs taken on a white background
- Copy and Original valid Basic STCW Certificates
- In case the STCW certificate is not issued by the Kenyan Maritime Administration, then verification will be done with the issuing Authority before application is processed.

2. What about CDC replacement in case of loss or damage?

Answer:

- The original CDC (in case of damage)
- In case of loss (police abstract)
- Copy of the CDC to the last endorsement
- Copy of National Identity Card
- 2 passport size photographs on a white background
- Original and a copy of valid basic STCW certificates.

3. What is the cost of a new CDC, replacement of a CDC, lost CDC and renewal of CDC?

Answer:

- New and replacement of CDC = USD 20.00
- Loss of CDC = USD 25.00
- Renewal of CDC = USD 2.00

4. How many days will it take to process the CDC?

Answer:

Three (3) working days

PAYMENT OF WAGES

1. Must a monthly payment of the wages be available to the seafarer?

Answer:

Yes, Seafarers shall be paid at interval of not greater than a month and given a monthly account of the payments due and the amounts paid, including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to. It can be in electronic or hard copy.

2. What happens if I sign off without being paid?

Answer:

Report to The Seafarers Union of Kenya, local ITF agent or Kenya Maritime Authority (KMA) offices

EMPLOYMENT AGREEMENTS

1. Must seafarers' employment agreements be in English?

Answer:

No, Where the language of the seafarers' employment agreement and any applicable collective bargaining agreement is not in English, then it follows that English translation of the same will be available (except for ships engaged only in domestic voyages):

2. What if I do not understand what my employment agreement says?

Answer:

You should be given the opportunity to seek advice from KMA office or any other person who can assist.

3. Must seafarers' employment agreements be in paper format?

Answer:

No, they can be available electronically, but such electronic versions must have been signed by both parties and copies deposited with the Registrar of Seafarers in line with the requirement of the Merchant Shipping Act, Cap. 389

4. What should a seafarer do after receiving a new contract?

Answer:

The seafarer must have a chance of going through the employment contract, if you don't understand seek advice about its terms before signing it. The seafarer can visit KMA for advice.

5. Must seafarers' original employment agreements be available on board?

Answer:

a copy of seafarers' employment agreement should be kept on board, signed by both parties.

6. Must the collective agreements be available on board?

Answer:

Only, if a collective agreement constitutes the seafarer's employment agreement in part or full, the ship owner must ensure that either a standard copy of the collective agreement or an electronic version is available on board. It can be in the any other language, in such a case English translation should be available.

7. Must the collective agreement have been signed by the two parties?

Answer:

Yes.

8. Must collective agreements be in paper format?

Answer:

No, they can be available electronically.

9. What should be included in the content of the employment agreement?

Answer:

*the seafarer's full name, date of birth or age, and birthplace; *the ship owner's name and address; * the place where and date when the seafarers' employment agreement is entered into; * the capacity in which the seafarer is to be employed; * the amount of the seafarer's wages or, where applicable, the formula used for calculating them; * the amount of paid annual leave or, where applicable, the formula used for

calculating it; * termination of the agreement and the conditions thereof, including: * if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period *if the agreement has been made for a definite period, the date fixed for its expiry; and * if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged * the health and social security protection benefits to be provided to the seafarer by the ship owner.

10. We have seafarers who were employed before 20 August 2013. Must these seafarers have new employment agreements that meet the MLC requirements?

Answer:

Yes. Employment agreements are to be renewed at most after one year.

11. What will happen if a valid collective agreement has expired?

Answer:

Most collective agreements concluded with Seafarers Union stipulate that the collective agreement applies either beyond the agreed duration or until the collective agreement has been replaced by a new collective agreement. Should a collective agreement to which reference is made in a seafarer's employment contract be terminated or cancelled during the service, the conditions and terms of the terminated collective agreement must automatically apply as individually agreed conditions and terms for the employment for the remainder of the service. This is automatic and as regards expressions – minor change of the contractual basis will not normally require a new employment contract.

Recruitment and Placement Services

1. Is a license needed in order to run Recruitment and Placement Services (RPS)?

Answer:

Yes. One has to have a license before starting the business of recruitment and placement, it is issued from KMA upon application and meeting all the requirements as recruitment and placement agent in accordance to the Merchant Shipping Act, 389

2. Should Recruitment Placement Services be certified as a ship owner?

Answer:

No. A licensed Recruitment and Placement Agency is not allowed to own ships.

3. We use a recruitment and placement service in another country that has ratified the MLC. What must we be aware of in that connection?

Answer:

Ship owners using private recruitment and placement services for seafarers in countries that have ratified the Maritime Labour Convention (MLC) or International Labour Organization (ILO) Convention no. 179 on the recruitment and placement of seafarers (1996) – must ensure that the relevant services have a certificate, a license or a document showing that they are operated in accordance with the Convention requirements.

4. We use a recruitment and placement service in another country that has not ratified the MLC. What must we be aware of in that connection?

Answer:

Ship Owners using private recruitment and placement services for seafarers in countries that have not ratified the MLC – or ILO Convention no. 179 on the recruitment and placement of seafarers (1996) – must be able to document that the relevant services meet the requirements for recruitment and placement services following from the Convention.

HOURS OF REST

1. Should hours of rest be agreed upon in the employment agreement?

Answer:

Yes, it may be. However, hours of work and rest should be stipulated in the national laws of the flag state where the ship is registered. In accordance with MLC 2006 the minimum hours of rest for all seafarers are: 10 hours in any 24 hour period; and, 77 hours in any 7 day period. Hours of rest may be divided into no more than 2 periods one of which shall be at least 6 hours in length.

2. Can information on hours of rest be kept on board in electronic form?

Answer:

Yes. If the system for recording hours of rest is electronic.

3. Must the seafarer always receive the overview of hours of rest in paper format?

Answer:

It is required that records of seafarers' daily hours of work or of their daily hours of rest be maintained to allow monitoring of compliance in accordance to ILO standards. The seafarers shall receive a copy of the records pertaining to them which shall be endorsed by the master, or a person authorized by the master, and by the seafarers.

4. Are seafarers permitted to work on "public holidays"?

Answer:

Collective agreements will state that compensation be done of work performed on public holidays by at least equivalent time off duty and off the ship or additional leave in lieu of remuneration or any other compensation so provided. Seafarers should rest on public holidays as provided for in the MLC, 2006.

FOOD

1. Must the food be free?

Answer:

Yes. Seafarers on board a ship shall be provided with food free of charge during the period of engagement. The food should be of good quality and quantity.

COMPLAINT PROCEDURE

1. Who do I present a complaint to onboard ship?

Answer:

Report to the immediate supervisor. If non responsive, escalate the complaint to a higher level (Master).

COMPLAINT PROCEDURE AT PORT

1. How to I report persistent violation in (wage payment, conditions of work, violation of seafarers' rights, hours of rest) to shore authorities?

Answer:

Report to Port State Control Officers, the International Transport Workers Federation (ITF), Seafarer's Union, and the Maritime Authority

For further enquiry please contact:

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Kenya Maritime Authority
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