



Nahodha

THE OFFICIAL KENYA MARITIME AUTHORITY E-NEWSLETTER

Issue 09 March 2019

KMA Receives New Board of Directors



Conserve
Mangroves,
stakeholders urged



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KMA receives new Board of Directors

By M.W

The Kenya Maritime Authority (KMA) has received a new Chairperson and a vibrant Board of Directors (BOD) to provide strategic direction to the organization in the regulation of maritime affairs and enhancement of the sector's contribution to the GDP. Geoffrey Ngombo Mwango was appointed the Chairperson of KMA's Board of Directors by His Excellency, the President of the Republic of Kenya and Commander-in-Chief of the Defence forces for a period of three (3) years with effect from the 8th of February, 2019.

KMA's new Board of Directors include John G. Msafari, Roselyn Vugutza Amadi, Salaah S. Balala, Eng. Charles Kombe Charo, Rev. Joseph Kariuki Gatimu and Malika Omar who were appointed by James Macharia, the Cabinet Secretary for Transport, Infrastructure, Urban Development and Public Works for a period of 3 years. The newly appointed team joins the existing Board of Directors who are: Justice Paul Kihara Kariuki – the Attorney General, Dr. Kamau Thugge, the Principal Secretary-National Treasury, Mrs. Nancy W Karigithu, the Principal Secretary- State Department of Shipping and Maritime, Mr. Hezbourne Mackobongo- Alternate Director to the Cabinet Secretary- National Treasury, Mr. Francis M. Muraya- Alternate Director to the Principal Secretary- State Department for Shipping and Maritime Affairs, Mr. Charles Mutinda- Alternate Director to the Attorney General, Major (Rtd) George Nyamoko Okong'o, Ex- officio member of the B.O.D and Director General, KMA and Mrs. Jane Florence Otieno, Corporation Secretary and Head of Legal Services- KMA.

KMA Board of Directors



Mr. Geoffrey Mwango
*Chairman,
Board of Directors- KMA*



**Justice Paul Kihara
Kariuki**
Attorney General



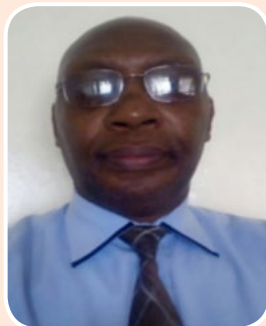
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*Principal Secretary,
National Treasury*



Mrs. Nancy W Karigithu, CBS
*PS – State Department of
Shipping and Maritime*



**Mr. Hezbourne
Mackobongo**
*Alternate Director to the Cabinet
Secretary National Treasury*



**Mr. Francis M.
Muraya**
*Alternate Director to the Principal
Secretary State Department for
Shipping and Maritime Affairs*



**Mr. Charles
Mutinda**
*Alternate Director to the Attorney
General*



**Major (Rtd) George
Nyamoko Okong'o**
Director General



**Mrs. Jane Florence
Otieno**
*Corporation Secretary and Head of
Legal Services*



**Mr. John Gerin
Msafari**
Director



Roselyn Amadi
Director



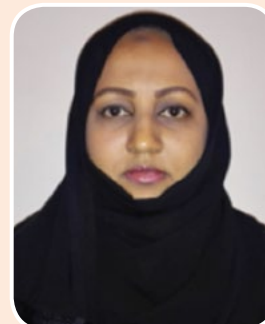
Salaah S. Balala
Director



**Eng. Charles
Kombe Charo**
Director



**Rev. Joseph
Kariuki Gatimu**
Director



Ms. Malika Omar
Director

Kenyan crew repatriated

By M.W

The Kenya Maritime Authority (KMA) has aided in the repatriation of seven (7) Kenyan seafarers who worked onboard Comarco Falcon IMO No. 9191216 in South Africa. The seafarers were successfully repatriated to Kenya from South Africa following interventions by the Kenya Maritime Authority (KMA) in collaboration with the Apostles of the Sea in South Africa. KMA mediated between the ship owner and the seafarers in line with their employment agreements and in accordance with the Merchant Shipping Act and the Maritime Labour Convention, 2006. The repatriated seafarers include: Mohamed Aboud Mohamed, Ali Mohamed Yussuf, Rehema Hassan, James Leonard Mwangi, Hamisi Gona Kazungu, Moses Gachingiri Njuguna and Daniel Sagimo Oduor. KMA is currently

working to repatriate an eighth seafarer, Mr Hamadi Juma Mchoru. He is expected to return to Kenya by 1st March, 2019, after the repatriation process is finalized.

One of the functions of the Kenya Maritime Authority (KMA) is to oversee training, employment and welfare of seafarers. KMA continues to mediate in disputes between seafarers and their employers as well as counsel seafarers on employment agreements with crewing agencies. Through its Port State Control and Flag State Inspectors, the Authority conducts ship inspections which include among others, the examining of working conditions of seafarers aboard ships.

Conserve Mangroves, stakeholders urged

By M.W

The Kenya Maritime Authority (KMA) led a mangrove planting project at Mkupe Creek in Port Reitz area by planting over 3000 seedlings together with local communities and its stakeholders on 22nd February, 2019. The Authority partnered with the Mombasa Kilindini Community Forest Association (MOKICFA). The exercise was aimed at conserving the endangered mangrove forests along the Coast and restoring degraded mangrove forests along the Mombasa creek. The project was in line with the Presidential Tree Planting Project directive intended to increase the country's forest cover from the current 7 per cent to 15 per cent by the year 2022 by planting 1.8 billion trees all over the country.

In a speech read on his behalf by John Omingo, the Head of Commercial Shipping Department, Maj (Rtd) George Okong'o, KMA's Director General, highlighted that mangrove trees provide spawning grounds, nurseries, nutrients and shelter for a variety of marine species, including commercially important fish, shrimps

and crabs, reptiles, amphibians, mammals and birds, provide a variety of benefits to human populations, including provision of firewood, timber, fisheries, other forest products, coastal protection, carbon sequestration, buffering seagrass beds from terrestrial sediment/nutrient loads, and cultural services such as recreation, ecotourism, spiritual and are an important breeding ground for artisanal fishers."

"Unfortunately, the statistics on mangrove forest cover for Kenya point a bleak future. Studies show that total mangrove area has decreased gradually over about 25 years (1985-2010) and that Kenya has lost about 18 per cent of its mangroves at an average rate of 0.7 per cent per year," He said, "This is attributed to overharvesting for fuelwood, timber and fish traps which has resulted in fragmentation of many mangrove forests, mangrove clearance for other land uses such as agriculture, solar salt production and coastal development and pollution from industries, agriculture and domestic run-off, and incidences of oil spills, are other important causes of mangrove loss in Kenya."

"As a result of destruction of these forests, we have lost important value attached with having healthy forests such as reduced rainfall, reduced fish catches, soil erosion among others," He added.

Key guests who participated in the mangrove planting initiative included Col. Andre Cisse, the Secretary General from the Port Management Association of Eastern and Southern Africa (PMAESA) who lauded the Authority's initiative. The representative of Jomvu Constituency legislator, Badi Twalib, Moffat Murage was also present and urged the community to support efforts to conserve mangrove forests. Dr. June Mwajuma, the Mombasa County Chief Officer for Environment, Waste Management and Energy, and Rebecca Mungori from the Kenya Forest Services also encouraged the community and stakeholders to participate in mangrove conservation efforts.



Licensed recruiting agents for seafarers

1. Mombasa Ocean Agency

Contact person: Salim Nyowe **Tele:** 0737258240/0715909754
Mombasa, Digo Road, Royal Plaza 4th floor

2. Alpha Logistics

P.O. Box 40268 Mombasa **Tele:** +254-722-203156 Mbaraki Wharf

3. Diverse Shipping LTD

Tele: 0738097322/0704488496
P.O. Box 40775 Mombasa Mwembe Tayari, Shibu Road

4. East Africa Deep Fishing Ltd

Cannon Towers II, 8th Floor, Moi Avenue
P.O. Box 41350 - 80100 Mombasa

Approved medical practitioners for seafarers

NAME OF MEDICAL PRACTITIONER	NAME OF HOSPITAL/CLINIC	LOCATION
Dr. Jalab J. Ashraph	Kisima health Facility	Opposite Makadara ground - Mombasa
Dr. Rishad Ali Shosi	Mombasa Hospital	Mombasa Hospital- Mombasa
Dr. Erumu Valentine Eugene	Watamu Hospital	Mida Creek road, Watamu
Dr. Michael Karume	Coast X-ray centre	NSSF building, 1 st floor- Mombasa
Dr. Gordon G. Odera Calleb	Bandari clinic	next to High level Estate Mombasa
Dr. Walter Aram Oich	Masala Healthcare services LTD	Along Oginga Odinga road next to Fire station, Kisumu
Dr. Rogarth Ishikael Lema	Mombasa Medical Practice	City House building, off Nyerere Avenue, Mombasa

Seafarers can get more information and assistance from KMA's Registrar of Seafarers:

The Registrar of Seafarers, **Kenya Maritime Authority**, Moi Avenue, Whitehouse
P. O. Box 95076-80104 MOMBASA - KENYA Tel: +254 41 2318398 / 9 / 0724319344
info@kma.go.ke; complaints@kma.go.ke

Stepping up seafarers' welfare

By J. Nthia

One of the functions of the Kenya Maritime Authority (KMA) is to oversee training, employment and welfare of seafarers. In this respect, the Authority has undertaken the following activities to enhance training and employment standards of Kenyan seafarers:

In line with the requirements of Section 118 of the Merchant Shipping Act, Cap. 389, the Authority maintains a register of Kenyan seafarers which has 2017 registered as at 30th January, 2019. The number is set to grow as more seafarers continue to be trained, certified and registered.

In 2014, Kenya Maritime Authority noted that there was a large number of experienced Kenyan seafarers who did not have certificates to allow them to work on-board ships as required by the International

Maritime Organization (IMO), Standards of Training, Certification and Watchkeeping (STCW) Convention, 1978 as amended. In 2016, the Authority mitigated the competence gap by sponsoring over 500 experienced Kenyan seafarers for the Mandatory STCW Basic Safety Certificate and Rating Certification to enhance their employment potential on-board ships. More than 50% of those trained have been able to access employment on-board Kenyan and foreign ships; the **Kenyan ships** include MV Aldabra, Alpha 300, Alpha Trion, Seco 500, MV Valentine while the **Foreign ships** include: **Palau Flag:** MV Granada, Alpha Pina, Alpha Transporter, MV Kirawira, Petra I, Petra II, MC Ginty; **Tanzania flag:** MV. Solsky, MV Hippopotes; **Seychelles Flag, Fishing vessels:** Izaro, Galerna III, Playa De Anzoras, Intertuna, Tres, Galernal,

Euskadi Alai, Txori Bat; **Spain Flag:** Fishing vessels: Albacan, Haizea, Hiru, Albatun Tres, Albatun Dos, Alakrana, Alakranatxu, Elai Elai, Explorer II, Playa De Aritzatxu, Albacora Quatro, Haizea Bat, Haizea Hiru among many other ships. KMA is currently working on more initiatives to increase further the number of Kenyan seafarers being employed aboard foreign vessels in line with the nation's Big 4 Agenda and the Blue Economy Initiative.

The Authority is also responsible for overseeing the recruitment of seafarers in accordance with the requirements of the Merchant Shipping Act, Cap. 389 and Regulation 1.4 of the Maritime Labour Convention, 2006 (MLC) as amended. In this regard, the Authority has currently licensed four recruitment and placement agents for seafarers. They include the Mombasa



Ocean Agency, Alpha logistics, Diverse Shipping Limited and the East African Shipping Limited. The licensed recruitment and placement agents for seafarers have currently placed more than 500 seafarers on-board various ships.

KMA also accredits medical practitioners who examine seafarers to ensure that they are medically fit to work on-board ships. The Authority has currently approved seven medical institutions for seafarers. They include the Mombasa Hospital, Bandari Clinic, Watamu Hospital, Mombasa Medical Practice, Kisima Health Facility, Coast X-ray Centre and the Masala Healthcare Services Limited.

The Kenya Maritime Authority (KMA) also ensures that Kenya adheres to the requirements of training and certification of seafarers in accordance to the STCW, 1978 as amended, and that quality standards are maintained in approved training institutions. Kenya was indorsed into the International Maritime Organization (IMO) "White list" in 2010 and has continued to ensure compliance to IMO standards in the training and certification of seafarers. An Audit carried out by the IMO on implementation of seafarers training and certification in 2016 in Kenya confirmed that Kenya continues to maintain the required international training standards for seafarers. For seafarers to be employed onboard international ships, they are required to have certificates of proficiency in the Mandatory STCW safety Certificates as well as Deck Rating or Engine room rating certificates. They may also be employable onboard cruise ships if they have the approved certificates for Ship's cook or stewards as well as the Mandatory STCW safety Certificates. At officer levels, the seafarers must have the required Certificates of Competency

and Proficiency in line with STCW Convention 1978 as amended either as Engineering Officer or Deck Officer and the relevant sea service for the level applied for onboard ship.

Kenya is training an international calibre of seafarers as proven by the recent interviews carried out by a Norwegian shipping employment agency where more than 75 Kenyan marine graduates with deck and engineering qualifications were found fit for employment on the international fleet. Fifteen of the seafarers have been recruited by the Mediterranean Shipping Company (MSC) and the Norwegian Company is still in the process of recruiting the 60 seafarers interviewed. KMA is currently working with relevant Ministries, Departments and Agencies as well as key stakeholders to establish a wage standard for Kenyan seafarers to mitigate disparity in wages and underpayment on board ships.

The Authority continues to work closely with the Seafarers' Union of Kenya (SUK) in seafarers' employment and welfare matters including dispute resolution between seafarers and their employers in line with the tripartite spirit (this is a spirit of collaboration between seafarers unions, their

employers and the Government in dealing with seafarers' welfare issues) as advocated by the International Labour Organization (ILO) and the Maritime Labour Convention, 2006 (MLC). It is important for seafarers to register with a legitimate union in order to benefit from the strength in negotiation provided by the united call of trade unions.

Furthermore, the Authority is dedicated in progressing the welfare of seafarers. In 2018, KMA, facilitated the repatriation to Kenya of various groups of Kenyan seafarers abandoned by ship owners in Indonesia, Oman, Somalia, as well as, assisted in the repatriation of seafarers from the Philippines, Mauritius, Indonesia and Seychelles, who were abandoned at the Port of Mombasa, to their countries. KMA is currently assisting to repatriate to Kenya two seafarers stranded onboard Comarco Falcon in South Africa. Besides, KMA continues to mediate in disputes between seafarers and their employers as well as counsel seafarers on employment agreements with crewing agencies. Through its Port State Control and Flag State Inspectors, the Authority conducts ship inspections which include among others, the examining of working conditions of seafarers aboard ships.

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info@kma.go.ke; complaints@kma.go.ke

Delimitation of Maritime Boundary: What it means

By K. Kithikii

Disputes concerning the delimitation of a State's maritime boundary with respect to the territorial sea, the exclusive economic zone and the continental shelf against another adjacent or neighbouring State may at times be a weighty subject.

The United Nations Convention on the Law of the Sea (UNCLOS) 1982 lays down a comprehensive regime of law and order in the world's oceans and seas establishing rules governing all uses of the oceans and their resources. It enshrines the notion that all problems of ocean space are closely inter-related and need to be addressed as a whole. UNCLOS therefore governs all aspects of ocean space including but not limited to the delimitation and the settlement of disputes relating to ocean matters.

Article 15 of UNCLOS provides that Coastal States that are opposite or adjacent each other may enter an agreement on delimitation of the **territorial sea**.

Article 74 of UNCLOS on the other hand, provides that the delimitation of the **exclusive economic zone** between States with opposite or adjacent coasts shall be by way of an agreement on the basis of international law to enable States achieve an equitable solution. Where no agreement can be reached, the respective States may invoke any of the procedures enumerated in Part XV of UNCLOS.

Similarly, article 83 of UNCLOS provides that the delimitation of the **continental shelf** between States with opposite or adjacent coasts also be by way of an agreement on the basis of international law to enable States achieve an equitable solution. Where no agreement can be reached, the respective States may invoke any of the procedures enumerated in Part XV of UNCLOS.

Settlement of Disputes

The overriding principle of settlement of disputes under article 279 of UNCLOS is that States are under an obligation to do so by peaceful means.

This process may entail:-

- a) making reference to a general, regional or bilateral agreement on the interpretation of the Convention or otherwise;
- b) making a submission of a procedure that entails a binding decision;
- c) expeditious proceedings by exchange of views regarding settling the matter through negotiation or by other peaceful means; or;
- d) settlement of dispute by way of conciliation or through other conciliation procedure.

Where parties to a dispute fail to reach a settlement by peaceful means of their own choice, they are obliged to resort to the compulsory dispute settlement procedures as enumerated under articles 286 and 287 of UNCLOS. States are free to choose the forum in any of the courts/tribunals enumerated under article 287(1) (a-d) of UNCLOS. These include:-

- (a) the International Tribunal for the Law of the Sea;
- (b) the International Court of Justice;
- (c) an arbitral tribunal constituted in accordance with Annex VII; or;
- (d) a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified.

Where a State to the dispute, does not accept any of these procedures, the dispute may be submitted only to arbitration in accordance with Annex VII of UNCLOS, unless the parties otherwise agree.

It is worth noting that, the court or tribunal referred to hereinabove has jurisdiction over any dispute concerning the interpretation or application of UNCLOS.

Hereunder please find some cases that have been determined by courts or tribunals on matters of dispute on maritime boundaries between adjacent States:-

- a) Maritime Delimitation in the Caribbean Sea and the Pacific Ocean (Costa Rica v. Nicaragua), ICJ;
- b) Maritime Dispute (Peru v. Chile), ICJ;
- c) North Sea Continental Shelf Cases, ICJ ;
- d) Dispute Concerning Delimitation Of The Maritime Boundary Between Bangladesh And Myanmar In The Bay Of Bengal (Bangladesh/ Myanmar), ITLOS;
- e) Dispute Concerning Delimitation Of The Maritime Boundary Between Ghana And Côte d'Ivoire, ITLOS;

Provisional measures

Provisional measures are generally referred to as interim orders, however at an international level these measures seek to protect the rights of the parties pending the final decision in a dispute. They seek to maintain the status quo pending the final decision of the court. It is worth noting that the International Court of Justice (ICJ) noted that the Court's power to grant provisional measures has been controversial because it has been unclear whether such orders are

binding. In 2001 the International Court of Justice was of the view that provisional measures imposed binding obligations whose ramifications were rendering a State responsible.

Provisional measures have however been provided under UNCLOS article 290. It provides that the Court may prescribe any provisional measure which it may consider appropriate under the circumstances to preserve the respective rights of the parties to the dispute pending final determination/decision. This provision has been invoked at the International Tribunal for the Law of the Sea by various State Parties seeking interim reprieve.

There are several cases where application for provisional measures have been made. These include:-

- a) The "Enrica Lexie" Incident (Italy v. India), Provisional Measures;
- b) The "Arctic Sunrise" Case (Kingdom of the Netherlands v. Russian Federation), Provisional Measures;
- c) The "ARA Libertad" Case (Argentina v. Ghana), Provisional Measures; and,
- d) The "ARA Libertad" Case (Argentina v. Ghana), Provisional Measures;

It is worth noting that the application for provisional measures has been made in respect of a maritime boundary dispute namely in, ***“The dispute concerning delimitation of the maritime boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire).”***



Prospects for the Revised Mombasa Port Community Charter 2018

By E. Kiyangu

Port and corridor performance can be boosted by enhancing port facilities, strengthening transport infrastructure, correcting the imbalance between imports and exports on the Northern Corridor and improving border crossings. The Charter brings together key stakeholders to do this. The 2018 Charter which was reviewed and revalidated between March and August 2018, strengthens the 2014 Charter in the following ways:

- as a framework for benchmarking Northern Corridor performance;
- as a monitoring and evaluation framework;
- includes new key stakeholders and criteria for new signatories;
- has revised performance indicators, targets and benchmarks;
- contains more stakeholder coordination, engagement and management;
- includes new sustainability processes;
- has enhanced management arrangements, systems, processes and human resources;
- has timelines for review and lifespan of the Charter;
- has a new communication strategy;
- uses new information technology tools.



The 2018 Charter is a statement of scope, objectives and participants by the Mombasa port Community and Northern Corridor community in their efforts to become efficient, reliable and globally competitive. It has been created as a mechanism for discussion, negotiation and planning between port and corridor stakeholders and it aims to:





- Create a common framework for the port community to meet obligations and targets;
 - Incorporate individual institutional service charter goals into the Charter's results framework;
 - Educate cargo owners, traders, labour unions, civil society and the public on best industry practices, encouraging acceptable behaviour by those participating in international trade;
 - Develop and implement a self-monitoring mechanism to ensure collective obligations are met;
2. Highlight to stakeholders relevant emerging issues and trends;
 3. Identify priorities and challenges faced by the port and corridor community;
 4. Develop a coherent and unified advocacy agenda for the port and corridor community;
 5. Articulate challenges faced by shippers, freight forwarders and transporters;
 6. Monitor progress towards results and resolving challenges in the port and corridor;
 7. Find lasting solutions to the high logistics costs in the port and corridor;
 8. Foster strong partnerships between the communities of the Mombasa Community and Northern Corridor, the East Africa Community, the Northern Corridor authorities and Partner States;
 9. Create communication strategies aimed at different target groups;
 10. Act as a pre-policy development sounding board, when appropriate;
 11. Provide feedback on the impact of Charter action plans;
 12. Other relevant issues as they arise.

Scope of Engagement

The 2018 Charter will make policy recommendations and engage in the following:

1. Promote the sharing and adoption of best practices in the port and corridor;

The Mombasa Port Community Charter was established in 2014 to provide a framework for enhancing an efficient, effective and competitive port and supply chain. The Charter is viewed as a multi-stakeholder institutional coordination mechanism meant to enable discussions, negotiations and joint planning between stakeholders from various sectors in the Mombasa Port Community. The Signatories to this Charter commit themselves to actively promote an efficient, effective, reliable and globally competitive Port and Corridor that underpins rapid economic growth of Kenya and Northern Corridor as a whole.



**KENYA MARITIME
AUTHORITY**

For safe and efficient water transport



FOR MORE INFORMATION

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