

{ COMMENT }



Bob Rust

Who will act when seafarers find their ship is their prison?

The system to protect seafarers from their owners is still failing when going to sea on the wrong ship can continue to mean effective enslavement

Seamen abandoned by unscrupulous or bankrupt owners were supposed to have been protected by new legislation that came into effect in 2018. But today, at a time when their industry is banking windfall profits, seafarers can still find themselves enslaved and unable to claim the relief that is owed to them by international law, held on board their vessels by indifferent or hostile port states.

This summer, the Pakistani seafarers on one product tanker fleet have been effectively imprisoned on their ships, unpaid, often unprovisioned, sometimes under court orders to work with no contract and no wages, clocking up well over \$1m in wages that should have been remitted to 90 families in the midst of a national disaster back home.

The Saint James Shipping crew abandonment debacle may be on its way to resolution now, but the point is that it was supposed to have been made impossible four years ago. The Maritime Labour Convention (MLC) of 2006 was then amended to make abandoned seafarers the responsibility of insurers — even in cases where a financially challenged owner has walked away from paying premiums.

BLAME GAME

As TradeWinds has previously reported, the parties in the Saint James case — the owner, ship manager, mortgagee, insurer, trade creditors, port states, flag state — have spent months blaming each other in various combinations for the debacle.

Now the International Transport Workers' Federation (ITF) representative in the case is singling out Saint James' protection and indemnity insurer, the American Club.

The club is returning the favour, accusing the seafarers' union of unfair and aggressive tactics.

The MLC as amended in 2018 requires P&I insurers to provide upkeep, repatriation, and up to four months' wages for abandoned seafarers. The relief "shall be granted promptly upon request made by the seafarer or his nominated representative".

But according to ITF representative John Wood, the American Club "never provided anything to the ships' crews" until the recent repatriation of the crew of one ship, the laid-up 13,554-dwt *Lua* (built 2010) in the Dominican Republic.

The problem may hinge partly on when the crew of a ship may claim the relief that is due it.

The American Club insists it has played by the rules.



ON THE LOOKOUT: The International Memorial to Seafarers, which is located outside the IMO building in London, pays homage to the work of seafarers — but, even now, those at sea can still find themselves enslaved and unable to claim the relief that is owed to them by international law. Photos: Mira68/Creative Commons

"The union has a one-sided and uncommercial view of things and it is an unfair view of the club," chief legal officer Daniel Tadros told TradeWinds.

"We, the clubs, are not the bad guys here. We are here to help, but they antagonise us at every turn and that is not consistent with the spirit of the MLC. The spirit of the MLC is to help abandoned crew members and we're all here to help, not to be harassed and antagonised by the ITE."

If he and the ITF's Wood agree on anything, it is that the Saint James case is an extreme one that has put the amended MLC to the test.

In particular, said Wood, the drafters did not think about the case in which P&I clubs refuse to provide relief until the crew leaves the vessel, and port states refuse to let the crew disembark, whether for the sake of port safety or because of political hostilities as in the case of Pakistani crew in Indian ports.

That has compounded the troubles of the crews of two ships, the 18,041-dwt *Aeon* (built 2012) and the 11,479-dwt *Sol* (built 2007). Both have now been sold through Indian court auctions, with one crew paid a month's wages, the other none at all, and both

waiting for a legal process that could take 18 months to three years.

"The crews on these ships have lurched from one disaster to another," Wood told TradeWinds.

"First, the owner Saint James' callous disregard in abandoning the crews. Then the P&I club's failure to act. The American Club failed utterly to do what they're obligated to do, provide the crew with financial security as stipulated in the MLC.

"Third, the reneging on its agreement by the mortgagee, EnTrust Global, represented by Watson Farley & Williams, who attempted to suggest with a false document that Cargill's support was wages."

(TradeWinds has previously reported on the forgery allegation and on a \$270,000 payment by charterer Cargill International to crew of the *Aeon*.)

"Fourth, the courts in India, where the crew were left at the mercy of a legal system where recovery of wages is likely to take months, if not years," he said.

The shipping industry is a system with so many moving parts that in cases of shameful exploitation, it may be conveniently difficult to find the right part to blame. But maybe that is the point. ■

TradeWinds

independent shipping news since 1990

Julian Bray Editor-in-Chief

Yannick Guerry News Editor

Steve Sampson Deputy News Editor

Eric Priante Martin US Bureau Chief

Trold Sundnes NHST Group CEO

EMAIL any of our editors and reporters by using "firstname.lastname@tradewindsnews.com"

London: paul.berri@, holly.blrkl@, julian.bray, adam.corbett, gary.dixon, yannick.guerry, lucy.hine, jan.lewis, paul.peachey, steve.sampson (Desk: monica.alcalde, thomas.lovejoy, andrew.hollis, julian.stuart)

Oslø: bob.rust@, singapore: rene.ang

jonathan.burns@, dale.walsh@, stamford.ct: joe.brady, matt.coyne, michael.julliano, eric.martin, athens: harry.papachristou
Wavelength columnist: terry.mccallister@gmail.com

DISTRIBUTORS

Belux PPP Sprit (+32) 4911 39842
Denmark A/S Bladkompagniet (+45) 44 51 74 51
Germany MD Media Publishing (+49) +08 537 8313
Greece Telstar (+30) 210 479 3618
London CIPPost (+44) 207 2321816
New York Mitchells (+1) 800 868 2275

Visit www.tradewindsnews.com for subscription information and advertising rates. Annual subscription fees for 2022 with no access to archive (EUR 115; GBP 86; NOK 10,567; USD 1,439) and annual subscription with access to archive (EUR 1315; GBP 1,377; NOK 16,692; USD 2,380). Rates are exclusive of VAT. Local VAT may apply.

EDITORIAL OFFICES

Email: letters@tradewindsnews.com
Athens: (+30) 210 7299268
London: (+44) 207 645 2300
Oslo: (+47) 2200 1200
Singapore: (+65) 3185 0961
Shanghai: (+86) 21 8329 8381
Stamford, CT: (+1) 203 324 2994

SUBSCRIPTION & ADVERTISING

Email: sales@tradewindsnews.com
Oslo: (+47) 2200 1200
London: (+44) 207 645 2300
Athens: (+30) 210 7299268
Singapore: (+65) 3185 0961
Shanghai: (+86) 21 8329 8381
Stamford, CT: (+1) 203 324 2994