

Committee: Merchant Marine
Subject: **A Resolution addressing the Criminalization of Seafarers**
Proposed by: Jon Furukawa, Seafarer Member AOSUSA

WHEREAS there is great concern of the trend by port state control authorities to unfairly treat seafarers by criminalizing masters and seafarers in the event of maritime accidents;

WHEREAS the Baltic and International Maritime Council (BIMCO) has conducted many investigations into the criminalization of seafarers and identified 44 cases between 1996 and 2006; nine involved the detainment of seafarers prior to them being found guilty of committing a deliberate act or act of negligence;

WHEREAS the Council of American Master Mariners (CAMM) and the International Federation of Shipmasters' Associations (IFSMA) have adopted several resolutions concerning this worrisome trend of criminalization of seafarers by port state control authorities; and calling "upon the International Maritime Organization (IMO) and the International Labour Organization (ILO) and other maritime and regulatory interests to: use professional and civil sanctions, rather than criminal action, to penalize negligence; stop the criminalization of seafarers; ensure flag States protect their seafarers and abide by UNCLOS; ensure flag States carry out independent maritime accident investigations; facilitate greater mandatory use of Voyage Data Recorders; ensure IMO and ILO members States abide by the Guidelines on the Fair Treatment of Seafarers, adopted by the IMO Legal Committee in April 2006 and press for a mandatory Code; ensure flag States exercise effective control and jurisdiction over ships flying their flags";

WHEREAS the issued of criminalization of shipmasters has not substantially improved and the tendency by Port and Coastal States to arrest and detain Masters and officers without trial following maritime incidents including Captain Karun Mathur *Erika* by France in 1999; Captain Apostolos Mangouras *Prestige* by Spain in 2002; seven crewmembers and the salvage master of the *Tasman Spirit* by Pakistan in 2003; Captain Wolfgang Schröder, *ZIM Mexico III* by the United States in 2006; Captain Mao Cai Sun, Chief Officer Kong Xiang Hu, Second Officer Shun Biao Zhao, Seaman Lang Xian Zheng and two other crewmembers *COSCO Busan* by the United States in 2007; Captain Jasprit Chalwa and Chief Officer Syam Chetan, *Hebei Spirit* by South Korea in 2007; and the world's source of piracy information Mr. Andrew Mwangura, Head of the East Africa Seafarers Assistance Program by Kenya in 2008

WHEREAS there is great concern that foreign port state control authorities will take retaliatory action against U.S. seafarers; **THEREFORE BE IT**

RESOLVED, that the Apostleship of the Sea of the United States America (AOSUSA), during its 2009 Annual Conference in New Orleans, Louisiana supports the work of CAMM, IFSMA, Nautilus, ITF, BIMCO, ILO and IMO in their effort to fight the trend of port states to criminalize seafarers; **AND**

RESOLVED, that AOSUSA recommends the immediate release and repatriation of the crewmembers of the *COSCO Busan-6*, the *Hebei Spirit-2*, and all charges dropped against Mr. Andrew Mwangura.

RESOLVED, that AOSUSA recommends repealing the archaic U.S. Seaman's Manslaughter Act.