

A Resolution addressing the Criminalization of Seafarers

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 and the International Federation of Shipmasters' Associations 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 the PRESTIGE, ERIKA, and ZIM MEXICO III;

WHEREAS Captain Wolfgang Schröder was found guilty under the archaic Seaman's Manslaughter Act and after six months home confinement, has been in a U.S. prison in Mobile, Alabama for four months awaiting his February 7, 2007 sentencing; who up until this incident was widely considered a more-than-competent shipmaster with a letter of commendation from Prime Minister Margaret Thatcher and a medal from the King of Belgium for acts of heroism in the 1987 HERALD OF FREE ENTERPRISE disaster where he and his ship saved a large number of passengers of capsized ferry;

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

AND CALLING TO MIND the words of Cardinal Hamao, past president of the Pontifical Council for the Pastoral Care of Migrants and Itinerants, in his 2005 World Maritime Day address: “Evermore, recently, we have been witnesses of increasing and unjustified detention and criminalisation of seafarers.” **THEREFORE BE IT**

RESOLVED, that the Apostleship of the Sea of the United States America (AOSUSA), during its 2007 Annual Conference at the RTM STAR Center in Dania, Florida 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 a sentence of “time served” with probation; and supports the Fair Treatment of Seafarers by repealing the archaic Seaman’s Manslaughter Act.