

Concerned About Seafarers

September 22, 2020

The Hon. Ron Johnson, Chairman
Committee on Homeland Security &
Governmental Affairs
U.S. Senate
328 Hart Senate Office Building
Washington, DC 20510

The Hon. Bennie G. Thompson, Chairman
Committee on Homeland Security
U.S. House of Representatives
2466 Rayburn House Office Building
Washington, DC 20515

The Hon. Gary Peters, Ranking Member
Committee on Homeland Security &
Governmental Affairs
U.S. Senate
724 Hart Senate Office Building
Washington, DC 20510

The Hon. Mike Rogers, Ranking Member
Committee on Homeland Security
U.S. House of Representatives
2184 Rayburn House Office Building
Washington, D.C. 20515

Re: **Seafarer Crew Changes**

Dear Chairman Johnson, Ranking Member Peters, Chairman Thompson, and Ranking Member Rogers;

The undersigned extend their sincere thanks for your leadership during the ongoing, unprecedented crisis in which we find ourselves.

You have numerous pressing issues to address, and it is our unfortunate duty to bring one more to your attention: seafarer physical and mental health. This letter seeks your assistance in resolving this global problem, which is all too apparent at many U.S. seaports.

Background

When governments began ordering lockdowns and other restrictions to help prevent the spread of COVID-19, ship owners largely kept crewmembers on board, desiring to keep them safe from harm. At the same time, airports closed, and nations restricted international travel, some closing their borders altogether. As a result, many mariners have been locked aboard their ships well beyond their contract expiration dates. About 300,000 seafarers have remained aboard their vessels, some for as long as 17 months. Now they are desperate to get home. An equal number has been waiting to join their ships, unable to earn a living to support their families.

U.S. Customs and Border Protection is responsible to clear foreign seafarers upon arrival. Those with valid visas may move through the country for shore leave and to join or sign off from their vessels.

A May 24, 2020 presidential proclamation limited or restricted certain international travelers from entry into or through the U.S. but specifically exempted "any alien traveling as a nonimmigrant

pursuant to a C-1, D, or C-1/D nonimmigrant visa as a crewmember or any alien otherwise traveling to the United States as air or sea crew.”

In early July, the UK hosted an international summit on crew changes. The result was a statement pledging urgent resolution to seafarer issues that have arisen due to the pandemic. The International Maritime Organization strongly supports the statement, which 12 nations signed, including the U.S. Since that time, we have seen some improvement in crew repatriation processes. But much more is needed.

Enclosed is a more recent statement, dated September 10 2020, from United Nations organizations responsible to develop international regulations. It is clear that the highest levels of the international community recognize the critical problems, both humanitarian and operational, facing seafarers and shipping management. The major issue is implementation of effective practices nationally and locally.

The Issue

In order to provide relief to anxious and increasingly distressed seafarers, vessel owners have been attempting to rotate their crews. Unfortunately their efforts have been hampered by two primary factors: 1) limited choices for airports and flights and 2) government policies which prevent departure of offsigning crew. These factors place human life and property in jeopardy as overworked, overtired mariners are more likely to make mistakes that can cause accidents. Until owners can safely and efficiently change out crewmembers, the risks to America's fragile supply chain, including critical relief supplies, and to seafarers' mental health will continue to grow.

The need to allow crewmembers who have so long been stranded aboard their ships to go home and to bring fresh workers aboard is increasingly pressing. Unfortunately, vessel owners and their agents find that some U. S. CBP officials are denying crew repatriation requests for reasons that sometimes seem arbitrary (e.g., the vessel's next port of call) and at other times providing no reason at all, contrary to federal regulations.

While senior executives at agencies charged with border protection may agree with the International Maritime Organization protocols for ensuring safe crew changes and travel during the pandemic, day-to-day decisions are often left to local port personnel.

Some CBP field offices have allowed certain deviations from normal procedures, such as allowing crew to depart from non-local airports. Yet often the attendant requirements (such as constant guarding and preventing ship departures until after the crewmembers' flights leave) are onerous, expensive, and sometimes unworkable due to flight schedule limitations. These requirements can also throw the remainder of the ship's voyage off schedule, jeopardizing the closely choreographed transportation and supply chains. CBP claims it must keep a ship in port in the event crewmembers miss their flights or flights are cancelled, after which they must rejoin their ships. This can create challenges for owners attempting to plan for the appropriate crew complement at each stage of the voyage.

CBP personnel cite security concerns as a primary rationale for denying repatriation requests. They have rejected proposed alternative solutions to processing crewmembers who miss outbound flights and requiring constant guarding. However, despite multiple requests over the

years, CBP will not provide data that supports treating every repatriating mariner as a threat to national security.

Further, by denying these beleaguered seafarers the ability to leave their ships at the earliest possible opportunity, these policies are at some level creating a security risk that did not previously exist. Depressed, exhausted, increasingly distressed, often frustrated, and sometimes angry mariners will be more likely bring about a marine accident, desert, abscond, or otherwise cause harm, including self-harm — up to and including suicide. Let them go home and the risk diminishes appreciably.

The Solution

This issue needs top-down leadership. In recognition of the logistics difficulties ship owners and their agents must overcome to effect crew changes, CBP must direct its port personnel to grant all crew changes when and at any port requested, unless specific intelligence suggests an individual seafarer may pose a security threat. For the duration of the pandemic, and perhaps beyond if experience warrants it, CBP should allow repatriating crew to take flights with domestic connections so as to expand options for seafarers to return home as quickly as possible.

If CBP grants a repatriation request and the flight is missed or cancelled, CBP should allow overnight hotel stays so the crewmember can board the next available flight, the onsigning seafarer can join the ship, and the ship can continue on its voyage as scheduled.

Finally, CBP should allow for innovative solutions to the worsening problem, such as allowing seafarer welfare organizations or others to charter flights for groups of mariners without the normal restrictions mentioned above.

Industry recognizes the possibility that relaxing these requirements may result in a seafarer attempting to remain in the country illegally; however, CBP and other agencies have processes in place to respond to such incidents. These potential events should not hamper all crew changes any more than a security breach at one marine terminal should result in the closure of all ports. Further, it must be noted that the opportunity for deserting exists even under normal operating conditions.

Finally, CBP should issue national guidance to field personnel to give them the leeway to implement the suggestions above and to standardize procedures wherever possible. Currently, every crew repatriation request is considered — and approved or denied — on a case-by-case basis. CBP port personnel should formalize and publish their requirements and procedures so port stakeholders can plan accordingly. Without such information, it is impossible for vessel owners safely effect crew changes in any given port.

However, CBP field personnel are reluctant to implement the suggestions outlined above without specific approval from CBP Headquarters. CBP HQ has informed us that, while it will work with port personnel in an effort to address the issue, it will not change its policies and will continue to make decisions at the local level and on a case-by-case basis.

In Closing

We recognize that, like the rest of us, CBP has faced unprecedented challenges resulting from the pandemic, and the agency has worked diligently to overcome its difficulties. We just ask CBP officials to take their efforts a few steps further.

In their statement following the international summit on crew changes, signatory governments agreed that “the inability of ship operators worldwide to conduct ship’s crew changes is the single most pressing maritime operational challenge to the safe and efficient movement of global trade.” Despite its agreement, U.S. CBP’s actions belie the spirit and intent of the statement.

We recognize that CBP must balance the safety and health of its own personnel and that of crewmembers against the need for border security and potential economic impacts. However, given the current humanitarian crises, governments that do not take all available measures to repatriate crewmembers when requested are causing prolonged misery for hundreds of thousands of people. This in no way justifies the cost of protecting against a future security event that may never happen.

If an agency is facing conflicting missions, it is well past time to place the greater value on human life and liberty. Seafarers are the lifeline of the vital maritime supply chain. They are in distress, and we must act now to resolve this humanitarian and economic crisis.

We would greatly appreciate your assistance in swiftly and urgently resolving this issue. Please feel free to contact Lisa Himber at 267-974-0488 or lisa.himber@maritimedelriv.com with any questions you may have or if you need additional information.

Thank you for your consideration of this request.

Sincerely,

American Maritime Officers
American Pilots’ Association
Association of Ship Brokers and Agents
Chamber of Shipping of America
International Maritime Employers’ Council
International Organization of Masters, Mates & Pilots
International Propeller Club
International Transport Workers Federation, Seafarers Section
Marine Engineers’ Beneficial Association
Maritime Information Service of North America
The Maritime Institute of Technology and Graduate Studies (MITAGS)
National Association of Maritime Organizations
Nautilus International
North Atlantic Ports Association
North American Maritime Ministry Association
Seafarers International Union of North America

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