



HUMAN RIGHTS AT SEA

INVESTIGATIVE REPORT & CASE STUDY  
- Defending Maritime Human Rights -

## Breach of Seafarers Human Rights while under criminal investigation in Angola

MV Sutton Tide Crew IMO 9389461 - Soyo Angola

### Crew Evidence and Impact Statements

Initial Report: 15 June 2017



*"I don't want to kill my self but if I stay here in prison then my death will be very slowly and painful. My family is already in big suffering. During my time here my wife finish to hospital for surgery. She is already 2 months in bed and she cannot even take care about our son and he is now with his grandmother. I believe that story's from other colleges [sic: colleagues] regarding family are also very bad."*

*"I am optimist but I also read my present situation very clear. I don't like to kill my self but between fast and slow death I chose fast"*

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## INTRODUCTION

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[Facts correct at time of writing based on submitted evidence.]

- The former crew of the MV Sutton Tide<sup>1</sup> are currently facing a criminal trial in Soyo, Angola for allegedly being complicit in the theft of fuel **despite not being arrested**. The Sutton Tide is a platform supply vessel owned by Sonatide, a joint venture between Tidewater Inc<sup>2</sup> and Sonangol, the national oil company of Angola.
- **The suspected crew's ("the crew") basic human rights<sup>3</sup> have been breached** with lack of liberty, a lack of legal representation, lack of proper access to justice, lack of ability to freely leave Angola, and lack of family life due to retention in Soyo, Angola.
- Throughout their ordeal the suspected crew have been **denied proper legal representation, denied adequate procedural information and detailed explanations about the charges they are facing**. They have not been provided with suitable welfare support, and they have been subject to contradictory evidential submissions during what appears to be a superficial investigation with limited evidential corroboration.
- **While not under arrest**, at the time of writing the crew have been **prevented from leaving Soyo for three months** due to a non-issue by the crew management company, Sonatide, of the requisite sign-off paperwork, and despite not being subject to any explicit court orders restricting their movements.
- Throughout their enforced stay in Soyo, the mental health of the crew has been damaged by the indeterminate nature of their confinement. Already, **one crew member is purported to have attempted suicide**, with other crew members displaying increasingly concerning suicidal tendencies.
- Despite the involvement of the Ukrainian Embassy and the Ukrainian ambassador to highlight the investigation's procedural irregularities, and to present evidence of the crew's innocence, the prosecution has continued without proper legal representation of the crew and limited evidence.

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<sup>1</sup>[http://www.marinetraffic.com/en/ais/details/ships/shipid:738023/mmsi:576356000/imo:9389461/vessel:SUTTON\\_TIDE](http://www.marinetraffic.com/en/ais/details/ships/shipid:738023/mmsi:576356000/imo:9389461/vessel:SUTTON_TIDE)

<sup>2</sup> Tidewater Inc. owns 356 vessels, the world's largest fleet of vessels serving the global offshore energy industry.

<sup>3</sup> African Charter on Human and Peoples' Rights. <http://www.achpr.org/instruments/achpr/>



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- The local Sonatide office of the crew's US-based company Tidewater Inc, have apparently refused to acknowledge responsibility for the crew. Providing neither support for their on-going stay in Soyo, nor comprehensive legal representation, including satisfactory translation services for the crew.

## LOCATION

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- Soyo is a city located in the province of Zaire in Angola, at the mouth of the Congo river. Soyo recently became the largest oil-producing region in the country, with an estimate of 1,200,000 barrels per day<sup>4</sup>.



<sup>4</sup> Wikipedia



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## VESSEL INFORMATION

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Name: MV Sutton Tide - Platform Supply vessel  
IMO Number: 9389461  
Flag: Vanuatu  
Owner: Tidewater, Inc. (US) (Joint venture with Sonangol)  
Vessel location: Soyo, Zaire Province, Angola  
Crew: **(Replaced and now ashore)**  
Master (Croatian)  
One Croatian crew  
Four Filipino crew  
One Russian crew  
One Ukrainian crew

## THE CURRENT SITUATION

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- On the 5th March 2017, the General Management of MV Sutton Tide received a complaint from a member of the crew alleging that on 1 March the Master colluding with other members of the vessel illegal sold circa 104 cubic meters of diesel without the consent of the owners and during which the AIS was turned off.
- Following this incident, an accusation of illegal activity by that crew member was passed to the local authorities by Tidewater's Sonatide Area Office, Soyo.
- At the time of writing, the crew have attended the local court where they have been told that they will be found guilty of the alleged theft offences due to the evidence being presented. They have not been arrested, nor afforded the protections and rights of an arrested person breaching their fundamental human rights.
- At the time of writing, the Sailors Society through the Seafarers Crisis Response Centre based in South Africa<sup>5</sup> has been tasked with visiting the crew.

## TIMELINE OF EVENTS (2017)<sup>6</sup>

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- 5 March 2017: the General Management of MV Sutton Tide receives a complaint from a crew member, alleging that on 1 March the Master, colluding with other crew members, illegal sold 104 cubic meters of diesel without the consent of the owners.

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<sup>5</sup> <http://saiss.co.za>

<sup>6</sup> Diary entries supplied by a crew member in his own words.



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- 24 March: the MV Sutton Tide is boarded by 50 police officers in Soyo. The crew are removed from the vessel, and their passports confiscated before being taken to a local hotel while the investigation continued.
- 25 March: a plain clothed police officer approaches the crew, and puts the crew under pressure to sign Portuguese documents that he claims are unimportant, but without giving the crew a chance to read them. However, the crew identify that the documents constitute a confession of criminal acts, and refuse to sign. After this discovery, the policeman leaves.
- 29 March: The local magistrates release a document authorising the return of the crew's passports, and confirming that they are not under arrest. However, this document is not passed on to the crew of the MV Sutton Tide until 30 May 2017. In the meantime, the crew are not informed of the nature of the allegations against them.
- 27 March – 24 April: During this time crew members are frequently taken two at a time to the police station for additional statements. The crew members are often detained there for full or half days, often without being questioned, before being returned to the hotel. During this time, the crew notify their respective consulates, although the consulates are initially unable to make any progress with understanding the nature of the allegations.
- 7 April: Tidewater's Area Officer contacts the crew to inform them that they are under criminal investigation for illegal fuel transfer, and as the alleged acts fall outside of their scope of employment, the company is not obliged to provide legal representation or to support their stay in the area during the investigation.
- 29 April: the crew are still detained at the hotel, with no information about the progress of their case, or when they may be released. In protest, two crew members begin a hunger strike.
- 4 May: A representative of the Ukrainian Embassy visits the crew, and is given evidence of their innocence. Specifically, Engine logbooks and reports signed by a third party: demonstrating that while the ship was working for 44 days in Angola, all the fuel tanks were checked and the volume reported. These checks were repeated a month later, and once again when the crew were initially detained, all without any evidence of wrongdoing (see Annexes 4 – 7 for original documents).
- 5 May: The representative of the Ukrainian Embassy attends the prosecutor's office. He presents the crew's evidence, after which the prosecutor personally returns the passports to the crew in the hotel with the promise that after the testimony of the crew member who had accused the rest of the crew they would be free to leave.
- 14 May: Despite the promises of the prosecutor, the crew are still unable to leave the hotel. A Russian member of the crew allegedly attempted suicide by jumping from the top of a flight of stairs after drinking heavily. He was found unconscious in a pool of blood, and received medical attention from a nearby physician. At the same time, the crew were informed they had a fine of \$600,000 to pay before the crew could be released, or else they faced a possible 8 year prison sentence. At the time of writing, neither claim has been formally justified.
- 18 May: a representative of the local tribunal hand delivers an invitation to attend court, but without a starting date for any proceedings. They provide documents

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detailing the evidence against claims against the crew. However, these claims lack supporting evidence (see attached Annex 8).

- 30 May: the crew are provided with evidence that the local magistrates authorised the return of their passports on 29 March, and that they were not formally under arrest. However, this information was not passed onto the crew.
- 5 June: the proceedings against the crew begin, and the crew attend court.

## STAKEHOLDERS

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- **Owners.** The MV Sutton Tide belongs to Tidewater, Inc Joint venture with Sonangol. The crew have been in contact with their local Area Manager (Sonatide), Mr. Arthur McGimsey, who has refused to provide support or legal representation to the crew.
- **Diplomatic.** Upon their transfer to the hotel, the crew successfully contacted their respective consulates in Angola. Specifically, the Croatian, Filipino and Ukrainian consulates. It is currently uncertain whether the Russian crew member has been in contact with the Russian Embassy in Angola.
- **Unions.** The Master of the vessel has been in contact with Captain Predrag Brazzoduro a representative of Seafarers Union of Croatia. The International Transport Workers Federation (ITF) have reportedly provided some US\$4000 funding towards the legal bills of the crew.
- **Welfare.** Support has been supplied by the Apostleship of the Sea, Human Rights at Sea and the Sailors Society through the Seafarers Crisis Response Centre based in South Africa.
- **Media.** Media outlets have been contacted and some press has been published<sup>7</sup>.

## ISSUES

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### Breach of basic human rights

- The crew's basic human rights with respect to access to and being subject to lawful legal due process and the removal of their liberty, have been breached under International Convention.

### Perverting the course of justice

- The crew have reported that members of the Sonatide office are putting pressure on other crew members to change their statements to go against them.

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<sup>7</sup> <http://www.offshoreenergytoday.com/osv-crew-detained-in-angola-for-months-under-false-charges/>



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### Legal representation

- While the crew's area manager Mr. Arthur McGimsey was present on board when the local police boarded the vessel, he apparently initially failed to inform the crew of the nature of the investigation, or the source of the allegations against them.
- The crew were not arrested by the local police. They were interviewed without legal representation and without any formal caution. They have not been kept up to date with the progress of the police and company investigation. Crucially, they were left under the impression that they were under arrest for almost two months after the local magistrates had determined they could be released and their passports returned. This lack of information has hampered the crew's ability to prepare their defence, and has led to far greater mental anguish than was necessary.
- Until they attended court, the crew had no legal representation provided by their employers. Currently, they have been forced to find local legal representation.

### Financial costs and unpaid salaries

- Tidewater's Sonatide office have allegedly insisted that the company is not obliged to provide for the crew, and has refused to support the crew during their stay in Soyo. In addition, since the 24<sup>th</sup> of March the crew have not been paid, and they are facing increasing legal and accommodation costs. Current legal expenses are already approximately \$15,000. The majority of these costs have had to be paid by the seafarer's families.

### Crew Dependents

- Family dependency is a key and recurring concern for the crew. The prolonged, enforced stay in Soyo, coupled with the crew's unpaid salaries has put a strain on the crew's dependents. This has been recently amplified by the hospitalisation of the wife of one crew member who is increasingly mentally traumatised by his inability to help her, or their family.

### Mental health

- The mental health of the crew has been severely damaged by the indeterminate nature of their ordeal, and the seemingly pre-determined nature of the case against them despite a lack of evidence (see crew impact statement below). On the 14<sup>th</sup> of





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May a Russian member of the crew purportedly attempted suicide after drinking, and the rest of the crew have been demonstrating increasingly suicidal tendencies.



Images: Crew member after apparent suicide attempt.



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### CREW MEMBER IMPACT STATEMENT & EVIDENCE

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**NB:** This statement has been selectively reproduced. Original statements are held by Human Rights at Sea.

[QUOTE]

"I am optimist but I also read my present situation very clear. I don't like to kill my self but between fast and slow death I chose fast."

"We are here already almost 3 months we survive many bad things, we are unprotected and for local people we are white sheep ready for slaughter. Sorry for using this words but in short story is like this."

"This two witnesses are the strongest point of prosecutor and they have been catch in contradictions between them. Also the port captain was pushing us that we accept that we switch off AIS for 11 hours and that he have strong evidence for this. On the question to port captain to tell us from which time AIS was off and on he didn't know..."

"This log is inside of AIS history and it is updated automatically, there is no any whey that this can be changed manually .In this log it is very clear that AIS was switched off for one hour and it was possible that was switched from Sherwin Espina because he was on bridge in this time. This evidence of on/off log judge dint what (sic: didn't want) to accept."

"Today we receive information from our local crew that our office making pressure on then that they must change statements what they give. Office want that crew change statement against us."

"Whiteout (sic: without) any international team who will be only like observer we are finish. If this cannot be done then what I can to do? I don't want to kill my self but if I stay here in prison then my death will be very slowly and painful."

"My family is already in big suffering. During my time here my wife finish to hospital for surgery. She is already 2 months in bed and she cannot even take care about our son and he is now with his grandmother. I believe that story's from other colleges regarding family are also very bad."

"I am optimist but I also read my present situation very clear. I dont like to kill my self but between fast and slow death I chose fast."

[UNQUOTE]



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### ANNEX 1 – FULL CREW IMPACT STATEMENT

**NB:** This consolidated statement has been reproduced from emailed statements. Original statements are held by Human Rights at Sea.

[QUOTE]

“I am optimist but I also read my present situation very clear. I don’t like to kill my self but between fast and slow death I chose fast.

We are here already almost 3 months we survive many bad things, we are unprotected and for local people we are white sheep ready for slaughter. Sorry for using this words but in short story is like this.

Nobody from AoS contact us.

When we went to court we have for two of us one lawyer, which we pay 15000 \$. This cost was paid from my family. Other college take different lawyers for similar price. In this moment I don’t have full trust that lawyers even want to finish case or they want to use us for more money.

This court is very far from fair play because on court there was not showing any evidence except theory of 2 witness who change statements many times and in this last they have been captive in contradictory.

On the 05 June [2017] 09 00 we start with court. First they remove all crew from court and give space for witness against us. Sherwin Espina our crew member is the witness how report this to office and in his testimony he speak some important details much different then what he give in official statement to police. I like to mention one thing, on the court he told that after the criminal activities he never take any money,

But in his statement to police he is explaining how he took money and he give money to first guy what he see and told him how this money is for his family. He wrote a lot more details regarding his money. In his statement on court he totally denied receiving any money. So it is very clear that he was lying.

Second whitens against us was cadet how also change story from his statement, in statement he told that he was sleeping and don’t see nobody and he receive some money what he spend. On the court he speak that he saw some Congolese people on ship and that they speak on Russian langue and after he receive money he bring this money to our general director Ms.Maria-Ellena .

Ms. Maria –Ellena was in the court that day and she totally denied his story and confirm that she had never me=et cadet or that he give to her any money. For everybody in court it was very clear that somebody is talking lies.



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These two witnesses are the strongest point of prosecutor and they have been catch in contradictions between them. Also the port captain was pushing us that we accept that we switch off AIS for 11 hours and that he have strong evidence for this.

On the question to port captain to tell us from which time AIS was off and on he didn't know. Regarding AIS they pushing to us from first day like strong evidence against us only because Sherwin Espina report this to office. We where very confused about this AIS and check this with our colleges new crew who replace us on our ship. They sent to us photo of of AIS off on log history. This log is inside of AIS history and it is updated automatically, there is no any whey that this can be changed manually .In this log it is very clear that AIS was switched off for one hour and it was possible that was switched from Sherwin Espina because he was on bridge in this time. This evidence of on off log judge didnt what to accept.

**Today we receive information from our local crew that our office making pressure on then that they must change statements what they give. Office want that crew change statement against us.**

In this moment the court will be continue on the next week.

From all this it is very clear in which direction this court is going and what is the end.

In this moment if Sherwin Espina even speak that we kill somebody we will be guilty even for this.

Whiteout any international team who will be only like observer we are finish. If this cannot be done then what I can to do?

I don't want to kill my self but if I stay here in prison then my death will be very slowly and painful. My family is already in big suffering. During my time here my wife finish to hospital for surgery. She is already 2 months in bed and she cannot even take care about our son and he is now with his grandmother. I believe that story's from other colleges regarding family are also very bad.

I am optimist but I also read my present situation very clear. I don't like to kill my self but between fast and slow death I chose fast.

I am very disappointed that this can be happen in 21st century.

[UNQUOTE]



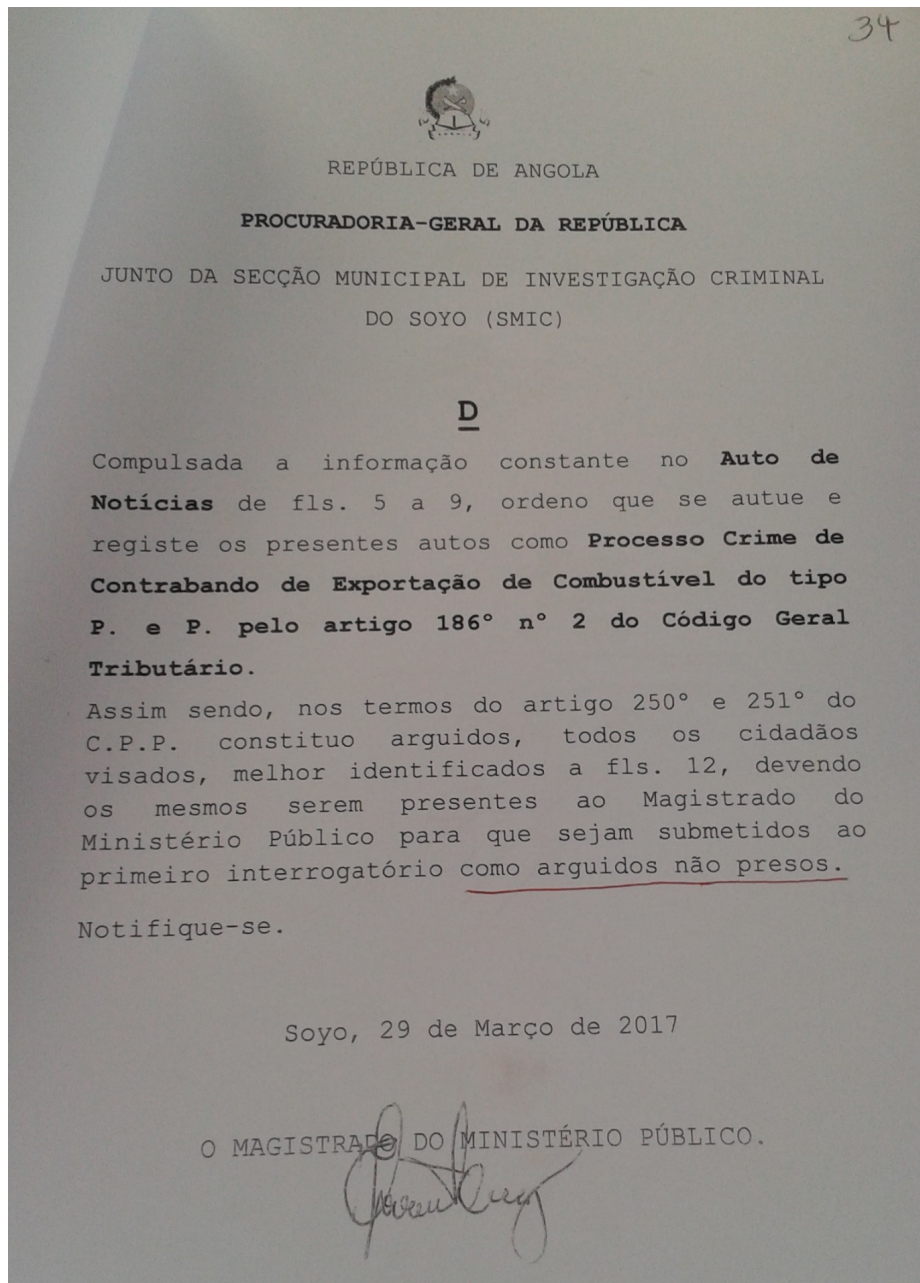
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### ANNEX 2 – NOTICE FROM LOCAL MAGISTRATES

**NB:** Notice from the local magistrates confirming that the crew were not under arrest. This information was not passed onto the crew until 30 May 2017.





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### ANNEX 3 – ON HIRE CERTIFICATE FOR THE MV SUTTON TIDE

NB: The document includes quantity of fuel on board, was signed on 9 February 2017 by Dusko Jelaca (Master), Roman Jurak (Tidewater Operation Manager), and Rodrigo Kilanda (Representative from Total Angola).

**SONATIDE** On HIRE CERTIFICATE

**Sonatide Marine Ltd** "TOTAL"

VESSEL: Sutton Tide ON-HIRE: 11:00 DATE: 09-02-2017

PORT: AREA: 2608 OWNERS: Tidewater LOCATION: Luanda

FUEL TANK SOUNDINGS											
PORT				CENTRE				STARBOARD			
TANK	FT	IN	QTY	TANK	FT	IN	QTY	TANK	FT	IN	QTY
17			16					17			16
16			0					16			0
17			56.2					17			56

LIQUIDS	QTY	UNIT	TYPE	LIQUIDS	QTY	UNIT	TYPE
DIESEL FUEL	176.20	lit	MCO	BARITE	0	lit	
MAIN ENGINE LUBE	12,600	lit	Indo 6170	BENTONITE	0	lit	
AUXILIARY ENGINE LUBE	250.00	lit	Indo 6170	ELEMENT	0	lit	
COMPRESSOR OIL	70.00	lit	Waco 427	OIL BASE MED	0	lit	
CAB OIL	170.00	kg		WATER BASED MED	0	lit	
HYDRAULIC OIL	5,600.00	lit	ITT 1154	DISTILLED WATER	0	lit	
REDUCTION GEAR OIL	500.00	lit	Mobilgear	POTABLE WATER	0	lit	
TURBINE OIL	0.00	lit		DROIL WATER	0	lit	

ADDITIONAL INVENTORY			LTR PER UNIT	COUNT	TOTAL IN LTRS
ITEM DESCRIPTION	LOCATION				
Ingersoll Rand 50R Ultra Oil	4	lit			
Ingersoll Rand Ultra Oil	0	lit			
Mobil 500 430	15	lit			
Mobil 500 430	17	lit			
Texaco Capella HX 32	7	lit			
Sumco T-32	8	lit			
Shell Refrigeration 54 FR-148	9	lit			
Yanmar 2 Stroke Magnar Oil	4	lit			
Mobil 500 430	6	lit			
Mobilgear 400 N.P. 110	0	lit			
Mobilgear 400 N.P. 460	0	lit			
Mobilgear 400 N.P. 220	0	lit			
Mobilgear 400 N.P. 150	0	lit			
Mobilgear 400 N.P. 150	0	lit			
Mobilgear 400 N.P. 65	0	lit			

Remarks: GRAND TOTAL LTRS

OPERATOR'S REPRESENTATIVE: [Signature]

MASTER: [Signature]

CHARTERER'S REPRESENTATIVE: [Signature]



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#### ANNEX 4 – FUEL CHECK OF THE MV SUTTON TIDE 12 MARCH 2017

NB: All of the vessel's tanks are checked in Luanda by Operation Manager Dominic Thyssen and Technical Manager Velimir Susa. The Vessel's Chief Engineer takes measurements of the fuel on board, and finds no differences between the readings and the crew's reports. Report date 12 March 2017.

SOUNDING						
M/V "Sutton Tide"						
12.03.2017						
16.00hrstrim. 0m						
list 0.0Ps						
FO Tanks	MAX M3 Capacity	95% M3 Capacity	Act Sound m	Qty m 3	% Capac of Tank	Free space to 100%
P Daily 32	19.43	16.52		16.40	84.41	3.03
S Daily 32	19.43	16.52		12.90	66.39	6.53
Tk 30P	39.10	37.15	0.33	10.49	26.83	28.61
Tk 30S	39.10	37.15	0.44	14.30	36.57	24.80
Tk 31P	44.30	42.09	3.54	35.65	80.47	8.65
Tk 31S	43.50	41.33	3.63	35.34	81.24	8.16
Tk 33P	33.60	31.92	0.22	0.60	1.79	33.00
Tk 35P	106.90	101.56	6.18	97.61	91.31	9.29
Tk 35S	106.90	101.56	6.16	97.40	91.11	9.50
Tk 36P	80.50	76.48	6.35	73.19	90.92	7.31
Tk 36S	80.50	76.48	6.51	74.79	0.00	5.71
Tk 37P	98.80	93.86	5.65	73.64	0.00	25.16
Tk 37S	98.80	93.86	5.93	79.43		19.37
Tk 34 Overflow	19.60	18.62	0.15	1.00		18.60
						2.96
<b>TOTAL FO</b>	<b>830.46</b>	<b>785.05</b>		<b>622.74</b>	<b>74.99</b>	<b>207.72</b>
			log book	625.70		
				5		



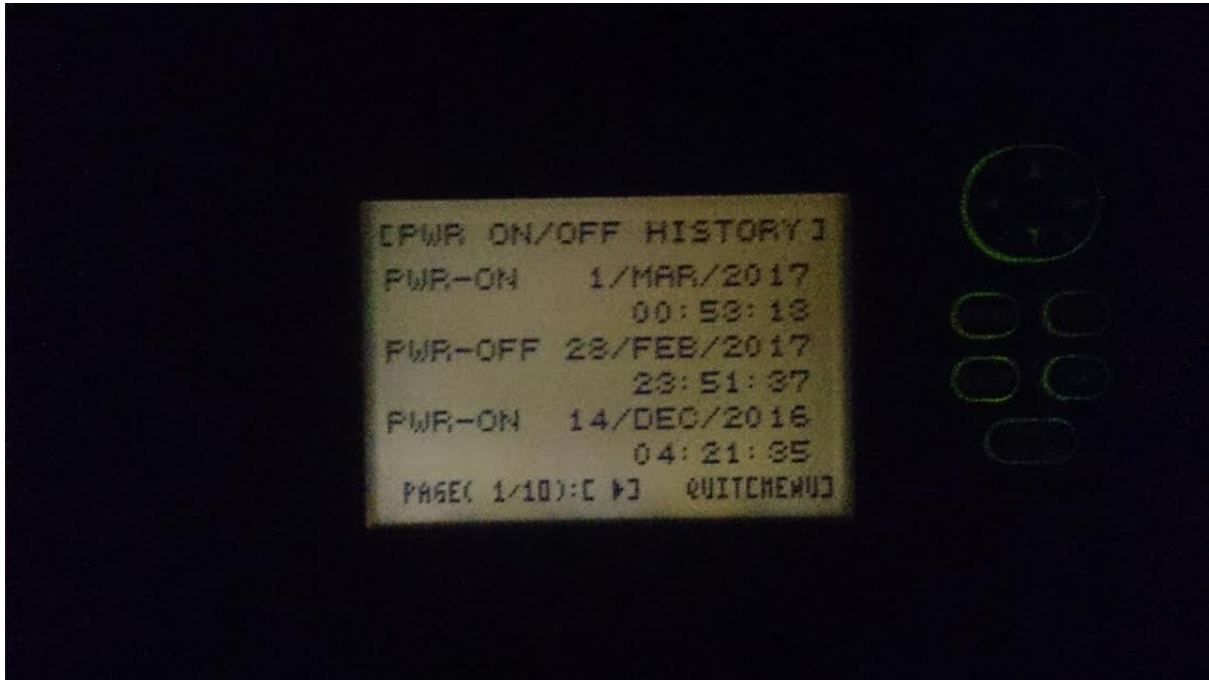
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### ANNEX 5 – AUTOMATIC IDENTIFICATION SYSTEM READING

**NB:** The vessel's AIS history (ON/OFF) log demonstrates that the AIS was off for a single hour from 28th February, time 23:51:37 to 1st March time 00:53:13. This is contrary to the eleven hours alleged by the Prosecution.







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### ANNEX 6 – INFORMATION FROM VANJA MARICIC'S LOG BOOK (2017)

**NB:** Entries transcribed.

[STARTS]

24 March – all officers have been taken off the vessel from police. Investigation all day.

25 March – policeman in civilian clothes came on Saturday morning and forcing us to sign documents on Portugese langue whiteout give us chance for reading. We refuse to sing.

27 March – 3 crew members went to Harbour master office on investigation

28 March – 3 more crew members went to Harbor master office on investigation

29 March – 2 more crew members went to Harbor master office on investigation

30 March – transfer to another accommodation much worst than first accommodation.

14 April – went to prosecutor after waiting half day sent us back to accommodation.

18 April – went to prosecutor after waiting half day sent us back to accommodation.

19 April – went to prosecutor after waiting half day only captain was investigated.

20 April – 3 crew member went to prosecutor on investigation.

21 April – 2 crew member went to prosecutor on investigation.

24 April – 2 crew member went to prosecutor on investigation.

03 May- our lawyer send letter to prosecutor regarding our case. No answer from prosecutor

05 May – prosecutor personal returned our passports after talking to Ukrainian embassy.

18 May – Received accusation. after coming agent and asking to show him.

20 May – Prosecutor came and asking to show accusation.

22 May – Came our lawyer, after visit judge told us that accusation have been change and that process start all over again.

24 May – Ukrainian ambassador give us information that technically we can leave the country and our lawyer will remain to represent us. But we need a certificate from our shipping agency disembark manifest so that we can past through immigration. Our agency is employer from our company and they don't wont to make our papers what is illegal.

[ENDS]



TRANSPARENCY | CLARITY | ACCOUNTABILITY



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