



Refugees, Asylum Seekers & Illegal Migrants at Sea

ONGOING UNREST IN THE ARAB COUNTRIES

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Photograph By: MCpl Angela Abbey, DND-MDN Canada

The ongoing unrest in the North African, Mediterranean and Middle East countries has highlighted various issues that arise from the movement of refugees. This has prompted the EU, Mediterranean and other coastal countries to put in place measures to tackle the wave of refugees that according to some sources, may reach up to 1.5 million, primarily affecting Italy, Malta, Spain, Greece, and Cyprus.

In view of the above, the British European and Overseas (BE&O) P&I club wishes to bring

to the attention of their assured the various International Laws governing the rescue of illegal migrants and to provide procedural advice to Masters encountering vessels carrying large number of illegal immigrants.

There has been a longstanding maritime tradition of Ship Masters having an obligation to provide assistance to persons in distress at sea without regard to their nationality, status or circumstances in which they are found. This tradition is now protected by International Laws which also endeavor to protect the global search and rescue system which IMO has put in place. The relevant international regulations governing the above are mentioned below,

Article 98 of UNCLOS: Duty to render assistance

SOLAS Chapter V: Safety of Navigation Regulation 33 Distress messages: Obligations and procedures

IMO SAR (Search and Rescue Convention)

IMO Resolution A920: Treatment of Persons Rescued at Sea

IMO Facilitation Convention (dealing with Stowaways)

Following a number of incidents that highlighted concerns surrounding the treatment of persons rescued at sea. The IMO assembly during its 22nd session in November 2001, adopted resolution A.920 (22) Review of safety measures and procedures for the treatment of persons rescued at sea addressing the plight of refugees and asylum seekers who are rescued at the sea by merchant vessels.

Further, in May 2004, the Maritime Safety Committee (MSC) adopted amendments to the SOLAS and SAR Conventions concerning the treatment of persons rescued at sea, and/or asylum seekers, refugees and stowaways. The amendments came in force on the 1st July 2006.

A BROAD OUTLINE OF THE AMENDMENTS ARE AS FOLLOWS ¹

- **SOLAS - chapter V (Safety of Navigation)**
- to add a definition of search and rescue services; to set an obligation to provide assistance, regardless of nationality or status of persons in distress, and mandate co-ordination and co-operation between States to assist the ship's master in delivering persons rescued at sea to a place of safety; and to add a new regulation on master's discretion.
- **SAR - Annex to the Convention - addition of a new paragraph in chapter 2 (Organisation and co-ordination) relating to definition of persons in distress, new paragraphs in chapter 3 (Co-operation between States) relating to assistance to the master in delivering persons rescued at sea to a place of safety and a new paragraph in chapter 4 (Operating procedures) relating to rescue**

co-ordination centres initiating the process of identifying the most appropriate places for disembarking persons found in distress at sea.

The above amendments were aimed at maintaining the integrity of the SAR services, by ensuring that people in distress at sea are assisted while minimising the inconvenience for the assisting ship. The amendments require the Contracting States/Parties to co-ordinate and co-operate to ensure that Masters of ships providing assistance by embarking persons in distress at sea are released from their obligations with minimum further deviation from the ship's intended voyage; and arrange disembarkation as soon as reasonably practicable. They ensure that the Masters are obliged to treat embarked persons in distress at sea with humanity.

The MSC also adopted related Guidelines on the treatment of persons rescued at sea. The purpose of the Guidelines is to provide guidance to Governments and to Ship Masters with regard to humanitarian obligations and obligations under the relevant international law relating to treatment of persons rescued at sea.

The obligation of the Master to render assistance should complement the corresponding obligation of IMO Member Governments to co ordinate and co operate in relieving the Master of the responsibility to provide follow up care of survivors and to deliver the persons retrieved at sea to a place of safety. The Guidelines are intended to help Governments and Masters better understand their obligations under international law and provide helpful guidance with regard to carrying out these obligations.

1. IMO: Illegal Migrants – Persons in distress at sea available at <http://www.imo.org/OurWork/Facilitation/IllegalMigrants/Pages/Default.aspx>

PROCEDURES AND ACTIONS TO BE TAKEN BY THE SHIP MASTERS

The following checklist is intended to be a broad outline to complement any onboard checklist / procedures in place to define action that needs to be taken by Ship Masters involved in rescue at sea.

Inform the Rescue Co-ordination Centre (RCC) responsible for the region as to:

- **The assisting ship:**

- 1) Vessels name, flag and port of registry.
- 2) Name and address of the Owner and the owner's Agent at the next port.
- 3) Position of the vessel, its next intended Port of Call.
- 4) Its continuing safety and current endurance with additional persons on board.

- **About the survivors:**

- 1) Name, age (if possible), gender.
- 2) Apparent health, medical condition and special medical needs.

- **Actions taken or intended by the Master.**

- **Master's preferred arrangement for disembarking of survivors.**

- **Any help required by the assisting ship.**

- **Any special factors (e.g. prevailing weather, time sensitive cargo etc.)**

- **If people rescued at sea claim asylum:**

- 1) Alert the closest RCC.
- 2) Contact UNHCR.
- 3) Do not ask for disembarkation in the country of origin or from which the individual has fled.
- 4) Do not share personal information.

regarding the asylum-seekers with the authorities of that country or with others who might convey this information to those authorities.

- **Inform the BE&O P&I Club immediately.**

FROM THE DESK OF THE MANAGING DIRECTOR

The British European and Overseas P&I Club's (BE&O) is pleased to announce our new Circulars / Newsletters which coincides with the start of the new P&I year. These replace our existing Circulars and continue to provide valuable information to our Members.

The first circular, 'Service Our Ships' (SOS) reflects the Club's approach in servicing the needs of their assured and aims to carry forward the Club's ethos of working closely with our Members providing them with advice, information on various related topics and updates on a regular basis.

It is the intention of the Club to publish the 'SOS' circular whenever any new regulations or legislation is introduced and if any important or significant events occur in the shipping industry, that may have a direct or indirect affect on their Members.

In addition to 'SOS', the Club will also publish a quarterly newsletter called 'The Compass'. It will include articles on matters of common interest to the Club and their Members. It will also include lessons learnt from claims, comment on new legislation / Case Law and Risk Loss Prevention issues. Additionally, it will also include events the Club has sponsored or participated in and updates on the Club's expansion.

Finally, the Club has introduced a new 'Alert' tab on our website under the Loss Prevention section where brief updates are available on political / catastrophic events which are of immediate concern to the Member and the shipping industry at large.

The aim of these new Circulars / Newsletters is to ensure that the BE&O P&I Club continues its close collaboration with their Members and also to ensure they receive continuous support from the Club. We trust the Members and their Ship's Crew find these new publications helpful and informative.

Should you have comments or queries; do not hesitate to contact us through our relevant departments.



*David Skinner
Managing Director*

CONTACT INFORMATION

Should the assured have any further queries on the foregoing, please contact;

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