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Shipping Information Notice – No. 042

To: Local Representatives Ship Owners, Operators, Masters, Officers

Obligation for a vessel to provide assistance to persons in distress at sea with particular reference to small craft reported to be carrying refugees.

Reference: SOLAS Chapter V Regulation 33.1

Background

It has been brought to the attention of the UK Maritime & Coastguard Agency that vessels in the Mediterranean Region are being requested by some Maritime Rescue Coordination Centres (MRCC's) in the area to go to the assistance of small craft reported to be carrying refugees or migrants. When the Master on scene has reported that no request for assistance is being requested by the small craft, they have been requested by the MRCC's to stand by the small craft for humanitarian reasons as a possibly dangerous situation could develop.

Advice

The attached annex is an extract from a memo provided by the UK MCA and gives guidance and advice for Masters, Owners and Operators of British registered ships.

Richard Montado
Maritime Administrator

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ANNEX to SIN 042

REQUESTS FOR UK FLAGGED VESSELS TO MAINTAIN EXTENDED SURVEILLANCE OF SMALL CRAFT AT POSSIBLE RISK IN THE MEDITERRANEAN

The Issue

It has been brought to the attention of the Maritime & Coastguard Agency that vessels in the Mediterranean Region are being requested by some Maritime Rescue Coordination Centres (MRCC's) in the area to go to the assistance of small craft reported to be carrying refugees or migrants. When the Master on scene has reported that no request for assistance is being requested by the small craft, they have been requested by the MRCC's to stand by the small craft for humanitarian reasons as a possibly dangerous situation could develop.

Line to Take

1. The obligation for a vessel to provide assistance to persons in distress at sea is specified in SOLAS Chapter V Regulation 33.1 which states:

1 The master of a ship at sea which is in a position to be able to provide assistance, on receiving information from any source that persons are in distress at sea, is bound to proceed with all speed to their assistance, if possible informing them or the search and rescue service that the ship is doing so. This obligation to provide assistance applies regardless of the nationality or status of such persons or the circumstances in which they are found. If the ship receiving the distress alert is unable or, in the special circumstances of the case, considers it unreasonable or unnecessary to proceed to their assistance, the master must enter in the log-book the reason for failing to proceed to the assistance of the persons in distress, taking into account the recommendation of the Organization to inform the appropriate search and rescue service accordingly.

2. Regulation 33 places an obligation on the master of the ship "to proceed with all speed to their assistance" upon "receiving information from any source".

3. In respect of SOLAS Regulation 33 where a ship has been informed by MRCC of a vessels or persons in distress at sea, they are bound to proceed to their assistance in accordance with Regulation 33.1, but if the vessel turns away and refuses to respond to an offer of assistance, the Master may conclude that it is unreasonable or unnecessary to proceed further to assist and therefore must enter in the log book the reason failing to proceed the assistance of the persons in distress. The logbook entry must reflect the reason for ascertaining that no assistance is required.

4. It should also be noted that Art 98 UNLCOS also triggers an obligation for the UK to ensure that the master of UK-flagged ships render assistance to those in danger of being lost at sea, insofar as (according to Art 98.1(b)) such action may reasonably be expected of him.

5. In respect to requests made by MRCC's for a merchant ship to remain in proximity to another ship on the chance that an emergency may arise. The UK is aware of the policy of the Italian Coastguard such that they designate all sightings of migrant vessels as falling under SOLAS Chapter V Regulation 33.1. This falls in line with UK policy and the interpretation of the duty to render assistance under Article 98 of UNCLOS. It has however been brought to our attention that requests have been made to stand by a vessel in case a distress situation occurs.

6. **The MCA should advise UK flagged ships that that there is no legal obligation for a UK vessels to keep on station if in the view of the master of that vessel it is has been ascertained that no assistance is requested (which would include the ship failing to respond to an offer of assistance) or that the threshold to render assistance has not been met. The Master should enter in the log-book the reason(s) for ascertaining that no assistance is requested or required.**

7. The UK government will seek through the International Maritime Organisation further clarification in respect of the individual parties to SOLAS in respect of their current policy to ask merchant vessels to stand by in case an incident of distress may occur and assistance requested.

END