Master’s Duty to Rescue Persons at Sea and Recent IMO Amendments

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Every year, thousands of migrants and asylum seekers undertake perilous journeys at sea in search of safety, refuge from persecution, or simply better economic conditions. Under international maritime law, vessel masters have an obligation to render assistance to those in distress at sea. In most circumstances, the embarkation of distressed persons present numerous logistical and political considerations for masters, owners and charterers, which prevent timely disembarkation to a place of safety. In recognition of this dilemma, the International Maritime Organization (IMO) has recently adopted amendments to two relevant maritime conventions.

The 1974 International Convention for the Safety of Life at Sea (SOLAS Convention) obliges 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.”

The 1979 International Convention on Maritime Search and Rescue (SAR Convention) obliges State Parties to: “…ensure that assistance be provided to any person in distress at sea… regardless of the nationality or status of such a person or the circumstances in which that person is found… and to “provide for their initial medical or other needs, and deliver them to a place of safety.”

On 1 July 2006, amendments to the SOLAS and SAR Conventions concerning the treatment of persons rescued at sea entered into force. The SOLAS amendments add to and clarify the existing obligations to provide assistance, adding the words: “This obligation to provide assistance applies regardless of the nationality or status of such persons or the circumstances in which they are found.” Of further significance to vessel masters, owners and charterers, is the amendments to the SOLAS and SAR Conventions mandating Contracting States to (1) coordinate and cooperate to ensure that masters of ships providing assistance by embarking persons in distress at sea are released from their obligation with minimum further deviation from the ship’s intended voyage; and (2) arrange disembarkation as soon as reasonably practicable.

To the benefit of owners and charterers alike, these amendments firmly obligate Contracting States to assist vessel masters. The overwhelming majority of member states of the IMO have adopted the SOLAS Convention. While not as popular as SOLAS, many member states have additionally adopted the SAR Convention. When making arrangements to disembark persons rescued at sea, vessel owners, charterers, insurers and local correspondents would be well advised to engage immediately nearby Contracting States at the onset of rescue efforts.

In the event that Contracting States appear unsure of their humanitarian obligations, the United Nations’ refugee agency, UNHCR, and other local refugee relief agencies should be consulted for additional assistance. To further assist Contracting States and vessel masters, the IMO published Resolution MSC.157 (78), “Guidelines on the treatment of persons rescued at sea,” providing that assisting vessels, serving as a temporary place of safety, should be relieved of this responsibility as soon as alternative arrangements can be made. The new amendments help resolve ambiguities and clarify obligations surrounding the rescue of distressed persons while serving as an incentive to vessel masters to fulfill their obligations under international maritime law.

We are grateful to Don Mumane and Daniel Fitzgerald of Freehill Hogan & Mahar, New York, and Dan Carr, General Counsel for Stoel-Nielsen Transportation Group B.V. for contributing this article:

1. International Maritime Organization (IMO) Feature Article “SOLAS and SAR amendments to strengthen international rescue regime” dated July 1, 2006.
2. 1974 International Convention for the Safety of Life at Sea (SOLAS Convention); and
3. SOLAS Convention Chapter V, Regulation 33 (1).
4. SAR Convention Chapters 2.1.10 & 1.3.2.
6. SOLAS Convention Chapter V, Regulation 33.
7. SOLAS Convention Chapter V, Regulation 33 and SAR Convention Chapter 3.1.9.
8. Resolution MSC.167 (78) (paragraph 6.13 adopted in May 2004 by the Maritime Safety Committee together with the SOLAS and SAR amendments).