



S-0042-0003-005-00006

Expanded Number **S-0042-0003-005-00006**

External ID

Title

Item-in-KAA: OLA Office for Ocean Affairs and the Law of the Sea 2004

Date Created

Date Registered

Date Closed

11/12/2006 at 1:42 PM

11/12/2006

Primary Contact

Home Location **S-0042-0003-005 (In Container)**

Assignee **In Container 'S-0042-0003-005 (Souleymane Soukouna)' since 11/12/2006 at**

Priority

Local-container

Owner Location **Archives and Records Management Section**

Record Type **Archival Item**

Date Published

Document Details

Container **S-0042-0003: OLA - Office for Ocean Affairs & the Law of the Sea**

Notes

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Law of the Sea

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UNITED NATIONS



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Office of the Deputy Secretary-General

11 May 2004

TO: Mr. Patricio Civili

Please see enclosed a self-explanatory letter on guidelines on the disembarkation of persons rescued at sea.

I would be grateful if you could advise on the follow-up needed, and prepare a draft response and possible follow-up letters to the agencies, in consultation with IMO and UNHCR.

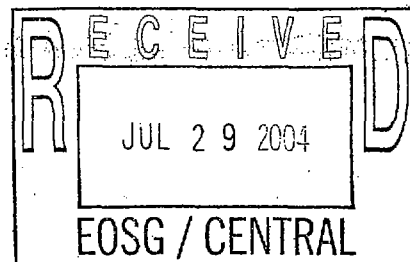
It would be helpful if we could receive your feedback by 24 May.

Thank you.

Decided not to send reply as it is not expected.

M 21/7

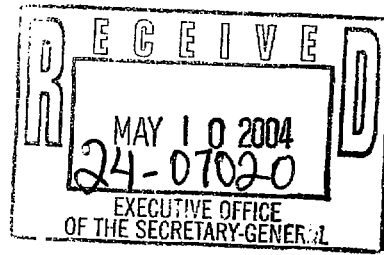
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7 May 2004

H.E. Mr. Kofi Annan
Secretary General
United Nations
United Nations Headquarters
New York 10017

M. J. C.
cc MIM

Dear Secretary General

RESCUE AT SEA

I am writing on behalf of the Round Table of international shipping associations - BIMCO, International Chamber of Shipping, Intercargo and Intertanko - to draw to your personal attention the problems with which ships' masters can be faced with regard to rescue at sea.

You will, I know, recall the incident in August/September 2001 when the Norwegian container ship "Tampa", which had rescued more than 300 "boat people" in international waters north of Australia, found itself the subject of world-wide attention as a result of the difficulties encountered in arranging for their disembarkation. Since that time the Round Table - representing the interests of the shipowning industry world-wide - has been engaged with other bodies in endeavouring to bring to the attention of the regulatory agencies the plight of ships' masters who rescue people in distress at sea.

It is a long-standing maritime tradition that a ship goes to the assistance of persons in difficulty at sea. What originated as a humanitarian act has also for many years been incorporated in international conventions, notably the Safety of Life at Sea (SOLAS) Convention, as a legal obligation on ships' masters. This obligation is unquestioned by the shipping industry world-wide.

Conversely, there is at present no international regime to assist the master to disembark persons rescued at sea, nor precise obligations on coastal states to assist in the process. The "Tampa" incident illustrated all too clearly the problems faced by a ship's master in disembarking persons picked up at sea whose status was unknown to, or questioned by, coastal authorities.

As you are aware, the International Maritime Organization (IMO), as the UN specialised agency with responsibility for shipping matters, took the initiative in proposing an inter-agency group to co-ordinate consideration of these issues, and since that time IMO has been actively engaged, with the co-operation of the UN High

Commissioner for Refugees (UNHCR), in the preparation of guidelines on the disembarkation of persons rescued at sea. If adopted by IMO member states later this month, the guidelines will provide advice to governments, ship operators and ships' masters in support of the master's unequivocal duty to provide assistance to those in distress at sea.

However, the guidelines will have no mandatory force, and the shipping industry remains concerned that political circumstances may again conspire to create the sort of unacceptable situation with which the master and crew of the "Tampa" were confronted. It is not the role of a ship's master to establish the status of persons rescued at sea, and it is certainly not the role of a merchant ship to act as a floating detention centre while issues of refugee status determination, resettlement or repatriation are debated by states or intergovernmental organisations.

Our primary concern is that the reluctance of states to accept any formal responsibility for allowing rescuees to be disembarked to a place of safety is that some ships' masters may be discouraged, notwithstanding their moral and legal duty, from going to the assistance of people in distress, and that people will die needlessly. This must not be allowed to happen.

We are hopeful that the guidelines developed by IMO will be universally welcomed and adhered to by member states. But we would be more confident if we believed that the issue was receiving the attention from governments that it clearly demands.

May I therefore respectfully request that you use your good offices to ensure both that the UN agencies principally concerned are made aware of the importance attached to the matter by the United Nations at the highest level, and also that individual states are left in no doubt of the expectations of the international community to prevent a repetition of the "Tampa" incident. If it would be helpful to discuss this matter directly with you or your staff we would of course be most willing to do so.

I am copying this letter for information to the Secretary General of IMO and to the UN High Commissioner for Refugees.

Yours sincerely

Chris Horrocks

J.C.S. Horrocks
Secretary General
International Chamber of Shipping

The Round Table of international shipping associations comprises:

BIMCO

Established in Denmark in 1905, BIMCO is the world's largest international shipping association, with approximately 2,550 members in 123 countries. The owner-members of BIMCO control a fleet of about 525 million dwt thereby representing 65% of the world's merchant fleet. BIMCO is accredited as an official observer at the International Maritime Organization (IMO). Among its many activities, BIMCO provides practical information and assistance to the maritime community.

International Chamber of Shipping (ICS)

The International Chamber of Shipping, founded in 1921, is the trade association for the international shipping industry, its members being national shipowners' associations in 40 countries world-wide. It has long enjoyed consultative status with several intergovernmental organisations, in particular the International Maritime Organization (IMO), and is especially active on safety, environmental and legal issues in the maritime field.

Intercargo

Formed in 1980 and with a secretariat based in London, Intercargo represents the dry cargo sector of the international maritime community.

Comprising more than 100 shipowning and associate members based in Asia, Europe and North America, Intercargo provides representation and information services to its membership with an overall objective of creating a rational, competitive and safety-conscious dry cargo industry.

As an observer at IMO and through the work of specific in-house Committees, Intercargo keeps its members informed about strategic regulatory, commercial and technical issues.

INTERTANKO

INTERTANKO (the International Association of Independent Tanker Owners) has been the voice of the independent tanker owners since 1970, advocating safe, responsible and competitive shipping of the oil, products and chemicals that keep the world economy turning. Membership is open to all independent owners and operators of oil and chemical tankers who fulfil the Association's membership criteria.

Independent owners operate some 80% of the world's tanker fleet and the vast majority are members of INTERTANKO. The organisation has over 240 members, whose combined fleet comprises more than 2,160 tankers totalling over 160 million dwt.