

Brussels, 22 September 2020

Dear President Von der Leyen, Dear Vice President Schinas,
Dear Commissioner Johansson, Dear Commissioner Vălean,

Open Letter: Shipping industry calls for action to ensure prompt and predictable disembarkations for persons rescued at sea by merchant vessels

We are writing on behalf of the European and International Shipowners' Associations and European and International Seafarers' Unions in order to express our growing concern over developments in large scale rescues of distressed persons in the Mediterranean.

Since the height of the migrant crisis in 2014, merchant ships have helped rescue over 80,000 distressed persons in the waters of the Central Mediterranean. These rescues were helped by the prompt assistance of European States and operations in the region.

Whilst the numbers of persons crossing these waters has decreased, evidence suggests this trend is now reversing with Frontex recently reporting an 86% increase in the number of migrant transits through the central route compared to the same period for 2019. This is deeply alarming to the shipping industry, as the migrant routes pass through international shipping lanes, increasing the likelihood of merchant ships being called on to conduct rescues. As recent incidents such as the Talia and Maersk Etienne demonstrate, there is no guarantee that those ships will receive prompt and adequate assistance when fulfilling their humanitarian responsibilities.

UNCLOS and SOLAS place complementary obligations on ships and coastal States to ensure the rescue of persons in distress at sea, regardless of their nationality, status, or circumstances in which they are found, and disembark them in a place of safety as per instructions received from the Search and Rescue (SAR) Authority coordinating the SAR operation.

Merchant ships will not shrink from their legal and moral responsibility to render assistance to those in need of assistance at sea. However, merchant ships are neither built nor equipped to rescue and sustain large groups of distressed people. This places huge pressure on the crews providing humanitarian help. Even when following best practice guidance, provisions for first aid, medical care and food and water are not adapted to large groups of distressed persons – it is therefore essential that rescued persons can be disembarked at the earliest opportunity in a place of safety – as the law demands.

Moreover, the transfer of rescued persons at sea is an atypical operation that carries significant risk for all those involved. Finally, large numbers of rescued persons, and/or their extended time on board may increase the difficulty for a Master and crew to comply with the requirement for humane treatment of persons rescued in SOLAS regulation V/34.6, and the ability of the Master to discharge his responsibility for ensuring the safety and security of ship's personnel.

While the extra pressures of the COVID-19 pandemic are fully acknowledged, it remains vital that States fulfil their obligations to cooperate in rescue and disembarkation and find pragmatic and swift solutions so that commercial vessels involved in SAR operations are provided with a safe port to promptly disembark rescued migrants.

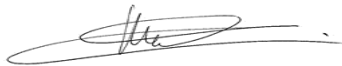
ECSA, ICS, ETF and ITF consider that merchant vessels need to be able to conclude rescues safely, promptly and predictably both for those rescued and the rescuing seafarers. The safety of life at sea is a higher principle that must be respected in all circumstances. Therefore, States must ensure that the vessels and the masters of those vessels carrying persons in distress whom they have rescued at sea are relieved as soon as reasonably possible in accordance with international law.

Similarly, it is essential that, in accordance with the Palermo Protocol, it is ensured that acts of humanitarian aid are not criminalised and that States should ensure that the legislative frameworks in place provide sufficient clarity to avoid that charges may not be pressed against those who fulfil their obligation of rescue and preservation of life.

Recent incidents have seen merchant ships denied their right to disembark rescued persons in European States, resulting in a humanitarian crisis onboard for rescued people and crew alike. These situations highlight the need for long-term solutions and a coordinated framework between EU Member States in relation to their obligations under international law to coordinate rescue operations. This should include the provision of clarity and predictability in all such cases, guaranteeing prompt disembarkations of people rescued by merchant ships in a location which minimises the risk to the safety and security of ships, rescued persons, masters and crews, consistent with the obligations of SOLAS.

ECSA, ICS, ETF and ITF call on the EU and Member States to facilitate such an outcome without any further delays, taking full account of the need to ensure the safety and security of merchant ships, seafarers and the distressed people they help.

Yours faithfully,



Martin Dorsman
Secretary General ECSA



Guy Platten
Secretary General ICS



Livia Spera
Acting Secretary General ETF



Stephen Cotton
Secretary General ITF