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20 May 2019

LA(19)25

TO: LABOUR AFFAIRS COMMITTEE

**Copy: Marine Committee
All Full & Associate Members (for information)**

GUIDANCE FOR ALL SHIPS ENTERING INDONESIAN TERRITORIAL WATERS

Action Required: Members are advised to notify their Shipping Companies to ensure that their crews properly notify the Indonesian Authorities if they enter Indonesian Waters.

It has come to the attention of ICS that there have been an increased number of vessel detentions in the Eastern portion of the Singapore Strait, mainly in the waters around Bintan Island. These waters are often misconstrued as being the outer port limit of Singapore, but are in fact within the territorial waters of Indonesia.

ICS have been advised by the International Group of P & I Clubs that the Indonesian authorities are now enforcing rules that have existed for many years due to some smuggling occurring in the area. These rules were not previously actively enforced and as a consequence some shipping companies not involved in smuggling are becoming affected if they have been deemed to illegally enter Indonesian territorial waters.

ICS is aware of about 20 recent "illegal anchoring" detentions being recorded, which we believe to be largely due to a misunderstanding of the territorial water limits and the applicable local laws.

The waters in the Malacca Strait and the Singapore Strait up to the entrance in the South China Sea, are territorial waters either of Malaysia, Indonesia or Singapore. The right to innocent passage under UNCLOS article 17 requires the passage to be continuous and expeditious. This means that a vessel will be considered as making an innocent passage only if it proceeds without stopping unless for extenuating circumstances such as safety, danger or distress.

Thus vessels undergoing ship to ship transfer operations, or slowing down to perform commercial activities such as crew changes, loading provisions or stores all lead to disqualification of the right of innocent passage.

The local Indonesian laws require that any vessel not engaged in an innocent passage within the territorial waters of Indonesia must obtain clearance from the relevant authorities. This rule also applies if the vessel is only anchored and has no intention of visiting Indonesia to conduct cargo operations, take on supplies, or make crew changes.

It is strongly recommended that a local agent is appointed to facilitate the necessary liaison with the authorities.

Ships should also ensure that AIS equipment remains switched on at all times.

Transshipment activities may also violate Indonesian law 17 enacted in 2008. In upholding this law the Indonesian Navy has fired live ammunition towards a merchant vessel so it is essential that ships follow the orders of the Indonesian Navy.

ICS is aware that some of the ship detentions have been for a long period with the result of the crew members (who in some cases may now have completed their contractual period of their employment contracts concluded) becoming very stressed and adversely affecting their health. We would therefore strongly urge any companies with ships entering Indonesian Waters to notify the Indonesian authorities as appropriate to avoid further potential detentions.

Natalie Shaw
Director Employment Affairs