

The purpose of the TP&I News is to provide the latest news for the shipowners, charterers, as well as any other maritime interests around the globe. Each issue of TP&I News will include a focused review section of several articles on a topic of current interest.¹

1. Seafarers – The key workers for the global maritime industry

1.1. IMO: A year of action for seafarers

Seafarers are the key workers² for the global supply chain. However, due to the Covid-19 pandemic, they are all facing extraordinary difficulties. One of the difficulties is that seafarers had to stay on board much more than their contractual periods. Added to this, they had lengthy quarantine periods related to crew changes. IMO has chosen “Seafarers: at the core of shipping’s future” as the theme for 2021 for drawing attention to the vital role that they play.³

1.2. Updated Guidance by International Chamber of Shipping

The International Chamber of Shipping⁴ has published new and updated guidance for seafarers and shipowners against the challenges of the Covid-19 pandemic and aims to provide knowledge on how to protect and support themselves. The free resources include guidance on vaccinations, manning agents, mental health issues, and shore leave.⁵

1.3. Vaccination of the Seafarers: Joint Statement by IMO and ILO

The joint statement of IMO and ILO⁶ was issued on 17 September.⁷



It aims to increase the recognition of the seafarers at the international level in line with UN General Assembly resolution A/75/17⁸ adopted on 1 December 2020⁹ and to vaccinate them on a priority basis.

In the joint statement, it had been stated that “Information received by IMO and ILO indicates that 24 countries have thus far answered the clarion call by implementing seafarer vaccination programmes, or signalling their intent to do so, in designated ports within their jurisdictions.”¹⁰

TP&I wants to take the occasion to say thank you to many seafarers around the world for their continuous effort and services.

Sources: IMO, ICS.

¹ Disclaimer

All the information provided in this newsletter is provided on an “as is” and “as available” basis and you agree that you use such information entirely at your own risk. The TP&I and corresponding author(s) (hereinafter Parties) gives no warranty and accepts no responsibility or liability for the accuracy, or the completeness of the information and materials contained. Under no circumstances will the Parties be held responsible or liable in any way for any claims, damages, losses, expenses, costs or liabilities whatsoever (including, without limitation, any direct or indirect damages for loss of profits, business interruption or loss of information) resulting from or arising directly or indirectly from your use of or inability to use this newsletter or any news linked to it, or from your reliance on the information and material on this newsletter, even if the Parties has been advised of the possibility of such damages in advance. This newsletter also may contain links to other internet sites. Such links are provided as a piece of information for the readers. As the Parties has no control over third-party sites, the reader hereby acknowledges and agrees that the Parties are not held responsible or liable for any content or material on such sites. In providing such links, the Parties do not in any way, expressly or implicitly, endorse the linked sites or resources or the respective contents thereof. The reader further acknowledges and agrees that the Parties shall not be responsible or liable, whether directly or indirectly, for any damages or loss caused or sustained by the reader, in connection with any use or reliance on information or material obtained from third-party sites.

² “Circular Letter No.4204/Add.35/Rev.7 contains the current list of IMO Member States having notified IMO that they have designated seafarers (and other marine personnel, as appropriate) as key workers.” See <https://www.imo.org/en/MediaCentre/PressBriefings/pages/medicallassistance.aspx> (last accessed on 26.10.2021).

³ <https://www.imo.org/en/About/Events/Pages/World-Maritime-Theme-2021.aspx> (last accessed on 26.10.2021).

⁴ <https://www.ics-shipping.org/press-release/ics-launches-new-covid19-guidance-for-seafarers-and-shipowners/> (last accessed on 26.10.2021).

⁵ “The guides were produced in association with International Maritime Health Association, INTERTANKO, International Transport Worker Federation (ITF), European Community Shipowners’ Associations (ESCA), Intercargo, InterManager, International Association of Ports and Harbors, International Christian Maritime Association, International Marine Contractors Association, International Maritime Employers’ Council Ltd., Asian Shipowners’ Association (ASA), and the International Maritime Employers’ Council (IMEC),” see <https://www.ics-shipping.org/press-release/ics-launches-new-covid19-guidance-for-seafarers-and-shipowners/> (last accessed on 26.10.2021).

⁶ Circular Letter No.4204/Add.42.

⁷ See [https://wwwcdn.imo.org/localresources/en/MediaCentre/PressBriefings/PublishingImages/Pages/medicallassistance/Circular%20Letter%20No.4204-Add.42%20-%20Coronavirus%20\(Covid-19\)%20Joint%20Imollo%20Statement%20on%20UpholdingMedical%20Assistance%20Obligations...%20\(Secretariat\).pdf](https://wwwcdn.imo.org/localresources/en/MediaCentre/PressBriefings/PublishingImages/Pages/medicallassistance/Circular%20Letter%20No.4204-Add.42%20-%20Coronavirus%20(Covid-19)%20Joint%20Imollo%20Statement%20on%20UpholdingMedical%20Assistance%20Obligations...%20(Secretariat).pdf) (last accessed on 27.10.2021):

⁸ <https://www.imo.org/en/MediaCentre/PressBriefings/pages/44-seafarers-UNGA-resolution.aspx> (last accessed on 27.10.2021)

⁹ <https://www.imo.org/en/MediaCentre/PressBriefings/pages/medicallassistance.aspx> (last accessed on 26.10.2021).

¹⁰ [https://wwwcdn.imo.org/localresources/en/MediaCentre/PressBriefings/PublishingImages/Pages/medicallassistance/Circular%20Letter%20No.4204-Add.42%20-%20Coronavirus%20\(Covid-19\)%20-%20Joint%20Imollo%20Statement%20on%20UpholdingMedical%20Assistance%20Obligations...%20\(Secretariat\).pdf](https://wwwcdn.imo.org/localresources/en/MediaCentre/PressBriefings/PublishingImages/Pages/medicallassistance/Circular%20Letter%20No.4204-Add.42%20-%20Coronavirus%20(Covid-19)%20-%20Joint%20Imollo%20Statement%20on%20UpholdingMedical%20Assistance%20Obligations...%20(Secretariat).pdf) (last accessed on 26.10.2021).

2. Risk of Detention for Anchoring in Indonesian Waters

2.1. Risk of Detention by the Indonesian Navy

Recently, there has been an increase of incidents where the Indonesian Navy have detained vessels anchored in Indonesian waters particularly around the island of Bintan, in the Eastern portion of Singapore Straits.

2.2. Why particularly Bintan Island?

Bintan is the island furthest to the East and a popular place to anchor while “waiting for orders” because it is close to shipping lanes and believed to be an outer port limit (OPL) of Singapore. However, these waters are within Indonesian territorial waters. During the past years, it was a common practice for the vessels to await their next instruction whereby their next port of call was Singapore/Malaysia (or any other country around Indonesian territory) or before entering China South Sea. That’s to say it was accepted that the Master could drop the anchor while “waiting for orders”. Yet, it appears since 2019, the authorities of the Indonesian Navy and Coast Guard have been not recognising this custom.¹¹ In fact, today one of the typical reasons for the infringement is the misunderstanding of where the territorial water of Indonesia legally begins and ends.

2.3. Innocent passage

If a vessel is passing through territorial waters without stopping, she will not be subject to the jurisdiction. This right so-called “innocent passage” is secured in the article 17 of the United Nations Convention on the Law of the Sea (UNCLOS).¹² The passage, however, according to the article 18/2 of the said Convention needs to be continuous and expeditious.¹³ This means that the vessel cannot stop¹⁴ except when she is forced for reasons of safety, danger, or distress.¹⁵



2.4. Indonesian Law No. 17 of 2008: Transshipment activities in Indonesian waters

The transshipment activities, including the operation of launch boats carrying stores, crew change and cargo operations within Indonesian waters are categorised as activities that may violate Indonesian Law No. 17 of 2008 and can only be performed by an Indonesian shipping company, operating an Indonesian flagged vessel, and manned by Indonesian crew. The Indonesian Navy has recently been upholding this rule strictly.

2.5. Illegal anchoring

Members should also be aware that in case of non-compliance with the Indonesian regulation, the Navy can undertake an investigation independently from other authorities and can hold the vessel indefinitely as evidence. They will further proceed to hand the file to the Prosecutors office. These all can cause tremendous delays to the release of vessels even when providing an LOU to the competent Authority.

¹¹ According to Indonesian Law No. 17 of 2008, vessels may pass through Indonesian waters but cannot drop anchor without reporting to the HM office and paying the related anchorage dues. However, this regulation seems to be applied only recently.

¹² “Subject to this Convention, ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea.”

¹³ “Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.”

¹⁴ Ship-to-Ship (STS) operations is a good example of this. It is not an incidental stop, and the right of innocent passage is “lost”. Slowing down (crew change or taking stores) also disqualifies the right of innocent passage.

¹⁵ See article 18/2 of the UNCLOS.

2.6. Recommendation

(i) Do not stop and anchor at the border area around the island of Bintan or the eastern of Singapore straits for waiting for orders except when forced to stop for safety reasons, etc.

(ii) If it is necessary for anchoring at the area, be sure that you do clearing prior to arrival and upon departure.

Members should check with local agents before their vessels anchor in the area. Please once again note that

this applies to all vessels even if there is no other intended activity beyond anchoring (e.g., cargo operations, crew changes, taking on stores or supplies, etc.)

We would like to thank our correspondents Thomas Larsen, SPICA Services (INDONESIA) Wisma PMI, and Zet Sadra, PT. Sealink Marine Services for their assistance in providing the information contained above.



3. Attention: Is your vessel arriving at a Spanish port?

3.1. Free Practique: The certificate to be obtained

If your vessel is arriving at a Spanish port, she needs to be granted a Free Practique which is a certificate/licence given to the vessel on her entry to assure that she is free from any disease (aim is to be ensuring that the ship is not infected).

The certificate is issued by the Spanish Border-Health Authorities.

3.2. What if you do not obtain the Free Practique?

Due to the Covid-19 pandemic, if the owners do not provide the certificate, the Spanish Maritime Authorities will not allow the vessel:

- to sail from her position to another port,¹⁶
- to enter the port, board/disembark crew,
- load/unload cargo or supplies.

3.3. Vessel to be remained 10 days blocked

The Master will issue a "Maritime Health Declaration" by confirming to the authorities that none of the crew members is showing any symptoms regarding the Covid-19 disease. If the Master declares that there is an incident - suspected¹⁷ or confirmed¹⁸ - on board the vessel, the vessel remains for a period of minimum of 10 days blocked. Please note that the provision only applies to merchant vessels or fishing vessels.¹⁹

3.4. Are there any exceptions?

If a crew who is tested positive and his close contacts²⁰ are full doses vaccinated²¹ or who have been confirmed positive within the previous 180 days this can be subject to exemptions. In the meantime, however, the Border-Health Authority will continue monitoring the vessel and owners as well as crew members must wait for the instructions and orders of the Sanitary Authorities. However, during this time there is a potential risk of confirming a new positive case on board which might prolong the period of restraint up to 20 days. Considering this potential risk of delay, owners might also consider replacing the entire crew.

We would like to thank Aiyon Abogados for assisting us with this alert.



¹⁶ In rare cases, if the Flag State authorizes the voyage and undertakes all responsibility derived from the health situation on board the vessel, the vessel can sail from the Spanish port.

¹⁷ The term "suspected cases" refers to the person who is showing symptoms such as fever, or loss of smell.

¹⁸ The term "confirmed cases" refers to the cases which are confirmed and tested as positive for the disease.

¹⁹ Therefore, the provisions do not apply to passenger ships (i.e., cruise vessels).

²⁰ Generally close contacts are considered as the one who has been within 2 meters for longer than 15 minutes in contact with a confirmed positive case (2 days prior to symptoms or diagnostic sampling).

²¹ i.e., Pfizer.

4. Crew changes in Argentinian ports

From 20th October 2021, foreign crew changes have been allowed in Argentina. The Chamber of Ship's Agents have advised that so far, the only requirements would be for the incoming crew members to be fully vaccinated at least 14 days prior to arrival; to present a negative PCR test within 72 hours prior to arrival and to have an antigen on arrival to Argentina.²²

If, however, the crew members have not completed their full vaccination scheme at least 14 days pre-arrival, they will have to carry out mandatory quarantine onshore. They must carry out Covid19 test on the 7th day and if the test result is negative the quarantine will be discharged.

The replacement of crew applications must be processed before the National Directorate for Migration and will be able to be carried out only through the authorised insurance brokers.

We would like to thank our correspondent Sebastian A. Trigub, Pandi Liquidadores, for providing us with this news.



Please also check our website for circulars of each month.

For Turkish version please visit our website.

Should you need any further information, please do not hesitate to contact us at info@turkpandi.com

Tel: +90 850 420 8136 // Fax: +90 216 545 0301

²² 951/2021 numbered Administrative Decision