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Circular Letter No.4641

12 October 2022

To: All IMO Member States  
Intergovernmental organizations  
Non-governmental organizations in consultative status

Subject: **Communication from the Government of Antigua and Barbuda**

The Government of Antigua and Barbuda sent the attached communication, dated 7 October 2022, with the request that it be circulated by the Organization.

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THE OFFICE OF THE PERMANENT REPRESENTATIVE TO THE  
INTERNATIONAL MARITIME ORGANIZATION (IMO)  
GOVERNMENT OF ANTIGUA & BARBUDA



October 07, 2022

HIS EXCELLENCY KITACK LIM  
Secretary-General  
International Maritime Organization (IMO)  
4 Albert Embankment  
London SE1 7SR

**URGENT:**

***Incidents of questionable interception and detention of Antigua & Barbuda flagged ships off the coast of Libya.***

Dear Secretary General,

On behalf of the government of Antigua and Barbuda, I would like to draw your kind attention to two incidents involving our ships transiting off the coast of Libya, which we have deemed to be deliberate violations of the International Law of the Sea and applicable IMO Conventions.

The first incident occurred on 24 May 2022 at around 09:00 UTC, the Antigua and Barbuda flagged vessel M/V Corona J (IMO 9238686) was at 33-14.5N, 22-17.3E, enroute from Port Said, Egypt to the port of Misrata, Libya. The vessel was approached and boarded by armed forces claiming to be the Libyan Coast Guard. The guards accused the vessel of entering a military restricted area and proceeded to seize all the passports and ship documents and certificates. The vessel was ordered to anchor at 32-54N, 022-11E, and the crew was detained on the bridge under the supervision of two armed guards while other guards conducted a search of the vessel. The vessel had to pay a “fine” of USD 41,000 for the release of the vessel and the return of crew passports and ship documents.

The second incident was on 21 September 2022 at around 10:20 UTC, the Antigua and Barbuda flagged vessel M/V Rogaland (IMO 9505596) was at 33-09.3N, 021-59.4E, approximately 13nm from the coast of Libya enroute from the port of Alexandria, Egypt, to the port of Zarzis, Tunisia. The vessel was approached and boarded by armed forces claiming to be the Libyan Coast Guard who alleged that there were problems with the paperwork although the master was not given any specific details on the alleged issues. The ship documents and all the passports of the crew were forcibly seized by the group and the vessel was ordered to proceed to the port of Benghazi “to clarify the matter”. The operators and P&I Club opted to settle the matter by paying a fine of USD 41,600 to secure the release of the vessel and return of the ship and crew documents.

Based on the amplified information presented in the appendix to this missive, Antigua and Barbuda consider that these actions pose a significant threat to the safety and security of shipping transiting this area. Further, as an IMO member State, we strongly condemn these incidents and kindly ask that this information is brought to the attention of all IMO Member States, Intergovernmental Organizations, and Non-governmental Organization in consultative status.

Please accept the assurances of my highest consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Dwight C. R. Gardiner". The signature is fluid and cursive, with a long horizontal stroke at the end.

**Dwight C. R. Gardiner OBE**

Ambassador Extraordinary and Plenipotentiary

Permanent Representative of Antigua and Barbuda to the IMO



***Incidents of questionable interception and detention of Antigua & Barbuda flagged ships off the coast of Libya.*****BACKGROUND**

There have been two unusual incidents this year involving Antigua & Barbuda flagged vessels operating in the Mediterranean Sea around the State of Libya. The incidents involved the boarding and detention of the vessels by armed personnel claiming to be officers of the Libyan Coast Guard.

The first incident was on 24 May 2022 at around 09:00 UTC, the Antigua and Barbuda flagged vessel M/V Corona J (IMO 9238686) was at 33-14.5N, 22-17.3E, enroute from Port Said, Egypt to the port of Misrata, Libya.

The vessel was approached and boarded by armed forces claiming to be the Libyan Coast Guard. The guards accused the vessel of entering a military restricted area and proceeded to seize all the passports and ship documents and certificates. The master was aware of the restricted zone and the vessel had in fact passed approximately 10nm north of the zone. The vessel was ordered to anchor at 32-54N, 022-11E, and the crew was detained on the bridge under the supervision of two armed guards while other guards conducted a search of the vessel. It was later discovered by the crew that all their money as well as other personal belongings were missing.

The master then informed the operating company and European Naval Forces (EUNAVFOR) of the incident. The operator contacted the P&I Club agent in Benghazi who then contacted the Libyan Coast Guard to inquire. The agent was informed that the vessel had to pay a “fine” of USD 41,000 for the release of the vessel and the return of crew passports and ship documents. When the guards were questioned on whether any money or other property was taken, they denied any involvement, and the crew and owners were forced to write an apology letter for falsely accusing the guards of theft. In order to de-escalate the matter and secure its release, the vessel agreed to pay the fine and write an apology letter.

The second incident was on 21 September 2022 at around 10:20 UTC, the Antigua and Barbuda flagged vessel M/V Rogaland (IMO 9505596) was at 33-09.3N, 021-59.4E, approximately 13nm from the coast of Libya enroute from the port of Alexandria, Egypt, to the port of Zarzis, Tunisia.

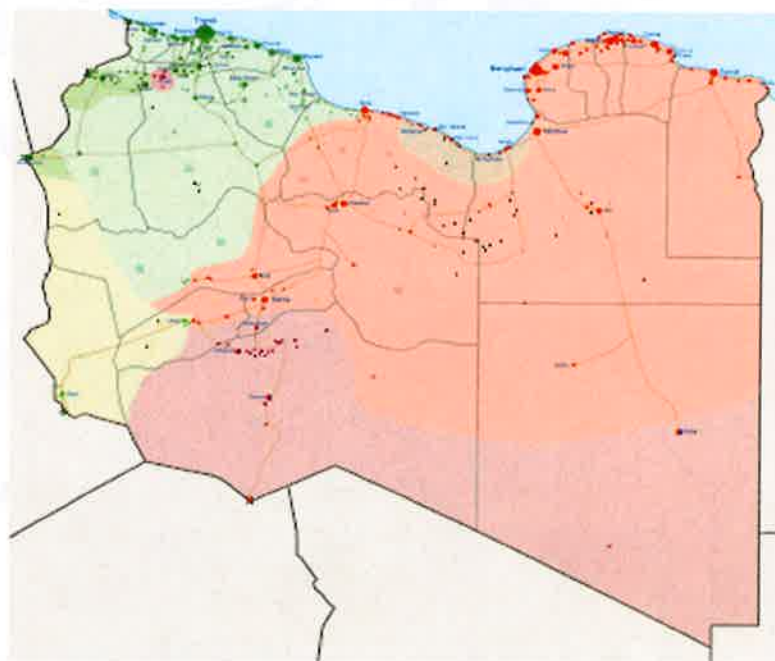
The vessel was approached and boarded by armed forces claiming to be the Libyan Coast Guard who alleged that there were problems with the paperwork although the master was not given any specific details on the alleged issues. The ship documents and all the passports of the crew were forcibly seized by the group and the vessel was ordered to proceed to the port of Benghazi “to clarify the matter”.

The operating company instructed the master to lock the vessel at security level 3, remain drifting in its present position and await further instructions. The local P&I agent reached out to the Coast Guard and informed them of the matter. The Coast Guard responded that the vessel entered a restricted military area in the east coast

of Libya thus it was detained for illegal entry and a “fine” of USD 41,600 is required to be paid for the release of the vessel. The operators and P&I Club opted to settle the matter by payment of the fine to secure the release of the vessel and return of the ship and crew documents.

### **PERSPECTIVE ON THE POLITICAL INSTABILITY IN LIBYA**

Since the overthrow of Colonel Muammar Gaddafi in 2011 Libya has been in turmoil as rival factions vie for control of the country. As of today, the Tripoli-based Government of National Accord (“GNA”) which is an interim government backed by the United Nations is considered the legitimate government of Libya and is in control of the western portions of the country (Image 1: Green Area). Their current main opposition is the Libyan National Army (“LNA”) which is in control of the east and central parts of the country and is considered an illegitimate government (Image 1: Red Area).



**Image 1: Military Situation in Libya 2020**

It should be noted that both incidents involved persons claiming to be members of the Libyan Coast Guard and the local P&I Club negotiated with personnel in Benghazi claiming to be the administration of the Libyan Coast Guard, and both ships were detained off the eastern coast of Libya on a westbound route it is likely that it was the connection to the illegitimate Libyan National Army led eastern government as Benghazi is under the control of rival forces.

### **LEGAL CONSIDERATIONS**

The alleged military zone is the one established by the State of Libya in its *Navigational Warning 225/2016* relating to an area designated as *Area III* along parts of the eastern coastline of Libya which was in force until 9 June 2022 when notice of its cancellation was published in IMO Circular No. 4585.

In the Case of the M/V Corona J in May 2022, the zone was in effect at the time and the vessel was aware of its existence as it was noted in NAVAREA III notices for Libya. The vessel also conducted the required reporting and obtained confirmation from the Misrata agent that the port is safe and operational, thus it avoided the area.

In the case of the M/V Rogaland in September 2022, the zone had already been canceled thus there was no basis for the arrest of the ship. This incident also has wider consequences as unlike the M/V Corona J, the vessel was not calling at a Libyan port but was in transit to another State.

At the time of its detention, the vessel was approximately 13nm from the coast which is outside of the territorial sea in the Exclusive Economic Zone (“EEZ”). UNCLOS Art 58 extends the freedom of navigation on the high seas to the EEZ with the caveat of the due regard principle. This means that freedom of navigation in the EEZ can be limited to an extent by the laws of the coastal State. This due regard principle is what legally underpins the ability of the State to declare a military exclusion zone extending into the EEZ.

However, as the M/V Rogaland was in transit to a third State and the exclusion zone was canceled by the authorities there were no legal grounds for the detention of the ship and the act was a flagrant violation of the vessel’s right to freedom of navigation.

Even if the alleged Coast Guard officers believed that the M/V Rogaland was in Libya’s territorial waters, or in the case of the M/V Corona J which was on route to a Libyan port, they still would have no jurisdiction as the right of innocent passage applies in the territorial sea. As under UNCLOS Article 17-19 a vessel in transit or proceeding to or from internal water which is not prejudicial to the peace, good order, or security of the coastal State enjoys the protection of innocent passage. Both vessels are cargo ships carrying on their ordinary course of business of transporting goods and there were no allegations of any other illicit activities.

#### **ANTIGUA AND BARBUDA’S PERSPECTIVE ON THE INCIDENTS**

The detention of both vessels without just causes on the pretense of violating a military exclusion zone which the vessel either did not enter or no longer exists is likely to be a fraud perpetrated by rebellious actors in the eastern portion of Libya to extract money from ships doing business in the area. The threat of violence and seizure of personal documents of the crew are paired with a “fine” that is low enough that owners and P&I Clubs would lose more to further delays in order to exert pressure to pay quickly.

The matter is not one that Antigua & Barbuda can address on its own and should be brought to the attention of the international community through the IMO. Our flagged ships are unlikely to be the only targets of the fraud and a coordinated response from Mediterranean stakeholders is necessary to address the matter of safety while the UN conducts its work to address the political instability.