

Chamber of Shipping of America

June 2003 Monthly Update to the International Chamber of Shipping

Maritime Security

The long awaited interim final rule(s) for maritime security was published July 1, 2003 in the Federal Register. CSA notes that this interim final rule consists of six interim final rules addressing maritime security in the areas of area/port systems, AIS, facilities, general requirements, outer continental shelf facilities and vessels. The interim final rules are all effective July 1, 2003 with the final rule promulgation expected by late November 2003. Interested parties may make comments to the docket for consideration by the US Coast Guard in the finalizing of the regulations which are due by July 31, 2003. A public meeting, which CSA will attend, is scheduled on July 23, 2003 in Washington, DC for purposes of discussion and receiving comments from the public on these interim final rules. CSA will analyze these interim rules and provide a full analysis for review by all interested parties with special emphasis on those provisions which may be inconsistent with or more stringent than those contained in the newly adopted SOLAS amendments and the ISPS Code. Recent press reports have suggested that the plan approval requirements contained in the Maritime Transportation Security Act (MTSA) require the US Coast Guard to review and approve the plans of every vessel calling in US ports (versus recognizing the "approved" vessel plans issued by Flag States). The reader is asked to recall that the USCG's position during the deliberations leading up to adoption of the SOLAS amendments and the ISPS (and their current position), held that they could meet their obligations under domestic legislation by recognition of these Flag State approved plans. Unfortunately, Members of Congress disagree with this interpretation and support the more stringent requirement that the USCG need approve each and every vessel plan. It is significant however that Congress has previously increased the USCG budget to permit the addition of additional personnel to handle the work load generated by the plan approval requirements for US flag shipowners/operators ONLY, a point clearly made in the budget documents. This will be a significant issue on which CSA, through regular discussions with Congressional staff, continues to support the USCG position that they fulfill their responsibilities by recognition of approved security plans issued by other governments which are party to the new SOLAS amendments (e.g. Flag States). Earlier in the month, CSA received a question from Mr. Peter Hinchcliffe concerning use of AIS while in US ports specifically during hazardous cargo operations. The specific question relates to the "rumor" that some US ports may require AIS transmission at all times while a vessel is in port, including time at berth and how such a requirement would conflict with existing safe operating practices in **the ISGOTT Guide that restricts VHF transmissions to less than 1 watt while a vessel is engaged in bulk hazardous cargo operations (noting that some AIS units may transmit with up to 12 watts power)**. CSA has approached the USCG and learned the following: (1) there is no truth to the rumor that some or all US ports will require continuous AIS operations while a vessel is in port during a normal (MARSEC 1) security level (2) the USCG did indicate that there may be situations during elevated security levels (MARSEC 2 and 3) where a Captain of the Port may require such continuous operations including time at berth (3) should such a situation arise, provisions in the regulations permitting the AIS to be shut off where it jeopardizes the safety and/or security of the vessel would control where the AIS emissions exceed those that are deemed safe by standard operating practices such as those contained in the ISGOTT Guide. In order to avoid conflicts in such situations, the USCG has advised us that the approved ship's security plan should include those situations where the AIS should be turned off and if questioned by a port state control officer, its inclusion in the approved security plan would be sufficient for port state control purposes. On a practical note, such a solution may require a limited opening of the vessel security plan to only that section that indicates that the vessel is in such a designated situation that permits the AIS to be turned off. Another practical concern which the USCG has promised to review and respond to CSA is what, if any, notifications must be made to local port officials, when such an approved situation occurs.