U.S. Maritime Transportation Security Act - Summary

February 2003

Introduction

In the wake of 9/11, Congress sought to pass a number of measures enhancing security in American waters, ports, and marine terminals. A amalgamating several proposals, the Maritime Transportation Security Act ("MTSA"), 46 USC §70101 et seq., was passed in November, 2002, and addresses concerns that international waterborne transportation may become a conduit for terrorists or unconventional delivery of weapons of mass destruction.

As the MTSA enters into force over the coming year, vessel owners and operators planning to call in the US will have to comply with certain provisions or risk being denied entry or incurring monetary civil penalties. The following provisions are of particular interest, as they may affect the operation and management of vessels bound for the US.

§ 70101 - Report on Foreign Flag Vessels: the "Hit List"

- The United States Coast Guard ("USCG") will issue a yearly Report of Foreign Flag Vessels, a list of nations whose vessels may be suspect based on past performance (previous use of false documents, poor flag state regulation, inadequate security requirements, etc.).
- The USCG currently uses a "Boarding Priority Matrix" in order to target vessels for inspection. The Boarding Priority Matrix assigns each ship a score based on five performance categories (operating company, flag state, classification society, prior history, and service).
- To a large extent, inspections will be based on a combination of the Report of Foreign Flag Vessels and the Boarding Priority Matrix - thus creating a "hit list" of vessels destined for inspections.

§ 70103 - Maritime Transportation Security Plans

- Once the USCG has assessed the relative vulnerability of different vessel types, due to be completed by Apr. 1, 2003, and published on July 1, 2003, ship owners and operators will have to prepare Vessel Security Plans within 6 months (i.e. December 1, 2003) and obtain approval or waiver from the USCG within 12 months (i.e. July 1, 2004).
- The MTSA final implementation date of July 1, 2004, aligns with the IMO ISPS amendments, also due to enter into force by July 1, 2004.
- Security plans are currently anticipated to consist of a range of the following elements:
  - Intrusion alarm systems
  - Gangway watch procedures
  - Designation of secure access areas
  - Secure area access control
  - Distress words and codes
  - Bomb threat response
  - Deck and roving patrols
  - Security lighting
  - Gunsmoke/Small craft attack prevention
  - Use of force

§ 70105 - Transportation Security Cards

- Transportation Security Cards will be required for access to secure areas of a vessel or facility.
- Transportation Security Cards will use biometric data in order to prevent forgery, theft, or illicit use.
- Cards will be issued to those who work in the transportation industry, such as vessel crew, pilots, longshoremen, etc.
- Cards will be issued unless an individual fails certain criteria identified as posing a risk (recent prior criminal convictions, association with terrorist groups, ineligible for entry to the US, etc.).

§ 70108-70110 - Foreign Port Assessment

- Foreign ports will be assessed to determine whether or not they are sufficiently secure.
- Unless they pose an immediate threat, foreign ports that are not deemed in compliance with US security requirements will be notified and given 90 days to correct the problem(s).
- Failure to correct the problem(s) identified in the assessment may result in cargo from that foreign port being denied entry in the US.
- Transshipment ports are included in the assessment.

§ 70111 - Crew Identification

- In addition to the Transportation Security Cards, all crew members must have proper identification.
- The Act envisions an international crew identification regime, like possibly under the auspices of the International Maritime Organization ("IMO") or the International Labor Organization ("ILO").

§ 70114 - Automatic Identification Systems
Automatic Identification Systems ("AIS") electronically transmit information about a vessel's identity, speed, course, heading, location, and other information. AIS information will be used for on-scene monitoring and by other vessels.

By July 1, 2003 all tankers, vessels moving tankers, and most passenger vessels operating in US waters will be required to have AIS.

All vessels operating in US waters must be equipped with AIS by December 31, 2004.

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Further background and information on the Act is available in an earlier Steamship website article. Click here to view.

See also other articles on Maritime Security on the Steamship website.

Update - July 2003

Interim rules on the requirements for maritime security mandated by the Act were published in the Federal Register for 1 July 2003. The six interim rules implement national maritime security initiatives concerning general provisions, Area Maritime Security (ports), vessels, facilities, Outer Continental Shelf facilities, and the Automatic Identification System. Click here for summary and link the the Federal Register entry.