

23 December 2003

## TO ALL MEMBERS

Dear Sirs

### Maritime Security – US requirements and the ISPS Code

We refer to our Circular 5:326 dated 7 August 2003 and particularly to ship security plan requirements for Members trading to the USA.

Some subsequent legal analysis of the US Maritime Transportation Security Act (MTSA) has highlighted a potential inconsistency between its requirements and those of the US Coast Guard (USCG) for the submission of non-US flag ship security plans. In particular, the MTSA appears to require the submission of such plans to the USCG by 31 December 2003 – and commentary from one US law firm has even suggested that non-compliance could result in Owners losing limitation rights, in the event of a subsequent security incident.

That risk seems remote in view of USCG advice that it will not be involved in the review and approval of plans for non-US flag ships subject to the ISPS Code, and the following additional guidance issued by the USCG, on 12 December:

**“Foreign-flag vessels subject to the requirements of the International Convention for the Safety Of Life At Sea (SOLAS) should submit their security plans to their flag states or flag administrations as specified in the International Ship and Port Security Code. Security plans for these vessels are not to be submitted to the Coast Guard. After July 2004, the Coast Guard will begin boarding these vessels to ensure that the security plan has been properly implemented.”**

The full text of the rules and information can be found on the USCG port security website at: <http://www.piersystem.com/external/index.cfm?cid=21&fuseaction=EXTERNAL.docview&pressID=26715>

Moreover, the MTSA requirement for the submission of ship security plans to the USCG could also be contrary to the confidentiality provisions included in the ISPS Code - and it is understood that a number of flag administrations are raising concerns in that regard with the US authorities.

The Managers are monitoring developments and Members will be advised as these matters are clarified. In the meantime, Members are reminded generally that the ISPS Code will come into force on 1 July 2004. However, the inconsistency between the MTSA and USCG requirements highlighted above is such that it would seem sensible for Members trading to the US to pay particular attention to the early preparation of their ship security plans.

Additionally, any Members still seeking guidance on the requirements and responsibilities imposed by the Code, are reminded of the detailed explanation provided in the International Chamber of Shipping (ICS) publication *Maritime Security: Guidance for Ship Operators*, which is available from the ICS at: <http://www.marisec.org/pubs/publist.htm>

Yours faithfully

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(MANAGERS)