

PASSAGE PLAN

INTERNATIONAL ANNOUNCEMENTS

[NEW LAWS PROPOSED IN THE UNITED STATES FOLLOWING DP WORLD ACQUISITION OF P&O PORTS](#)

Following the political battle surrounding the intended takeover of P&O Ports by the Dubai-based company DP World, a plethora of new laws have been initiated by various members of the US Congress. Some of them are positive; others are repeats of laws that already exist, while most are completely impossible. Many of these bills demonstrate a complete lack of understanding for the industry. Here is a sampling of their proposals:

- Representative Nadler (D-NY) introduced a bill (H.R. 4899) to prohibit the entry of ocean shipping containers into the United States unless such containers have been scanned and sealed before loading on the vessel for shipment to the United States, either directly or via a foreign port.
- Representative Hunter (R-CA) introduced a bill (H.R. 4881) to promote the national defense by establishing requirements for the ownership, management, and operation of critical infrastructure in the United States, and for other purposes.
- Representative Berkley (D-NV) introduced a bill (H.R. 4885) to amend the Defense Production Act of 1950 to prohibit acquisitions, mergers, or takeovers of persons engaged in interstate commerce in the United States by entities controlled by or acting on behalf of foreign governments that do not recognize countries that are member states of the United Nations, participate in boycotts against countries that are friendly to the United States, or provide support for international terrorism.
- Representative LoBiondo (R-NJ) introduced the Maritime Terminal Security Enhancement Act of 2006 (H.R. 4880) to direct the Commandant of the Coast Guard to require that a security plan for a maritime facility be resubmitted for approval upon transfer of ownership or operation of such facility, and for other purposes. The bill, if adopted, would also require that the qualified individual identified in the security plan be a US citizen.
- Senator Coleman (R-MN) introduced the Foreign Investment Transparency and Security Act of 2006 (S. 2374) to amend the Homeland Security Act of 2002 to limit foreign control of investments in certain United States critical infrastructure. The bill, if adopted, would require that the US subsidiary of foreign corporations owning US critical infrastructure have a board of directors with a majority of US citizens and that the chief security officer be a US citizen.
- Representative Doolittle (R-CA) introduced a bill (H.R. 4833) to require that only United States persons may control security operations at seaports in the United States or enter into agreements to conduct such security operations.
- Representative Shaw (R-FL) introduced a bill (H.R. 4839) to prohibit entities owned or controlled by foreign governments from conducting certain operations at seaports in the United States, and from entering into agreements to conduct such operations.
- Representative Hayworth (R-AZ) introduced a bill (H.R. 4817) to prohibit entities owned or controlled by foreign governments from carrying out operations at seaports in the United States.



[IMO SUBCOMMITTEE PROPOSES INSPECTION AND SURVEY REQUIREMENTS FOR ACCOMMODATION LADDERS](#)

The Sub-Committee discussed proposals for a draft new SOLAS regulation II-1/3-9 on means of entering and leaving ships and related guidelines for inspection and survey for accommodation and pilot ladders, as well as a proposal for a draft new SOLAS regulation on Gangways and accommodation ladders. There was

general agreement on the need to discuss inspection and survey requirements for accommodation and pilot ladders further at the next session. In the meantime, the Sub-Committee agreed to a draft MSC circular on means of embarkation on and disembarkation from ships, for submission to MSC 81 for approval. The Circular invites Administrations to review and update existing national requirements to provide for safe means of access to and from ships and for survey and inspection provisions.

IMO – AVIAN INFLUENZA

The IMO issued a circular letter providing background and guidance with a view to minimizing the risk that highly pathogenic H5N1 avian influenza may present to passengers, seafarers, and the public at large. Among measures under consideration are quarantines and travel restrictions. Circular Letter No. 2694

PIRACY OFF THE COAST OF SOMALIA

The UN Security Council issued a Statement saying that, at its meeting on March 15, it reviewed the situation in Somalia. Among other things, it endorsed the IMO resolution concerning the increasing incidents of piracy and armed robbery against ships in waters off the coast of Somalia. The Council encouraged Member States with naval vessels in international waters adjacent to the coast of Somalia to take appropriate action to protect merchant shipping. On March 17, the IMO issued a News Release reporting on the Security Council action. On March 18, the US Navy issued a Press Release stating that, while conducting maritime security operations in international waters off the coast of Somalia, two of its warships were fired on by a suspicious vessel. Twelve suspected pirates were taken into custody, but one suspect was killed in an exchange of gunfire. The suspicious vessel caught fire and sank.



PORT STATE CONTROL

ISM TO BE FOCUS OF FUTURE PARIS MOU INSPECTIONS

The Paris MOU secretariat is already warning shipowners, operators, and managers that they will be launching a concentrated inspection campaign focused on shipboard implementation of the International Safety Management (ISM) system in early 2007. The campaign reflects the fifth anniversary of the Code's implementation and the need for owners to renew their initial ISM certification.

SHIPPER OF DANGEROUS GOODS NOT STRICTLY LIABLE

The US Court of Appeals for the Second Circuit ruled that, under the circumstances of the case, a shipper of dangerous goods was not strictly liable for damages resulting from a fire caused by overheating of the cargo. In the instant case, the shipper arranged with the carrier for transport of a container holding

drums of calcium hypochloride (cal hypo) from Charleston, South Carolina to Tahiti. The IMDG Code states that cal hypo has a maximum storage temperature of 55°C, but also advises carriers to stow potentially unstable materials with critical temperatures over 35°C in conditions at least ten degrees cooler than the critical temperature. The shipper was aware that this particular shipment of cal hypo could become unstable at about 47°C, but did not share that special information with the carrier. The trial court found that the carrier entirely disregarded the factor of heat in developing its stowage plan, and placed the container of cal hypo in the hottest portion of the hold, where temperatures rose to 47°C. Upon the ship's arrival in Tahiti, the cal hypo became unstable and initiated a fire that damaged the ship and other cargo. The carrier sued the shipper. The appellate court ruled that, in the circumstances of this case, the shipper satisfied its duty to

warn by disclosing the dangerous characteristics of the cargo in less than specific terms. The court concluded that a carrier cannot invoke the strict liability provisions of the Carriage of Goods at Sea Act



(COGSA) if it knows that a cargo poses a danger and requires gingerly handling or stowage, and nevertheless exposes the cargo to the general condition that triggers the known danger, regardless of whether the carrier is aware of the precise characteristics of the cargo. *Contship Containerlines, Ltd. v. PPG Industries, Inc.*, No. 05-0267-cv (2nd Cir., March 21, 2006).

[SHIP MANAGER AND CHIEF ENGINEER PLEAD GUILTY RE FALSE OIL RECORD BOOK](#)

The US Attorney for the District of New Jersey issued a Press Release stating that a ship management company and the chief engineer on one of its ships pleaded guilty with regard to making false statements to the US Coast Guard relating to entries contained in the ship's oil record book (ORB). The company has agreed to pay a criminal fine of \$5 million and to make a \$1.5 million payment that will be devoted to community service. The chief engineer faces a maximum penalty of five years in prison.

[NEW ZEALAND – ACCIDENT REPORT](#)

Maritime New Zealand issued the report of its investigation of the collision between the passenger ferry SANTA REGINA and the recreational vessel TIMELESS in Cook Strait on 2 May 2005. The two vessels approached each other at night in a nearly end-on situation and were likely to make a port-to-port passing. When the vessels were very close, the recreational vessel suddenly turned to port and the collision ensued. The skipper of the recreational vessel died in the collision. In the opinion of the investigating officer, the skipper of the recreational vessel misjudged the course that he was steering, the course of the ferry, and his position relative to the ferry.

[USCG ENVIRONMENTAL CRIMES INVESTIGATION TEAM](#)

The US Coast Guard issued a Press Release stating that the Meritorious Team Commendation has been awarded to the Sector New York Environmental Crimes Investigation Team. The team, comprised of 54 Coast Guard and 3 Environmental Protection Agency (EPA) personnel, board ships arriving in New York to check compliance with international pollution prevention regulations and recordkeeping requirements. While most ships are found to be compliant, nine ships are alleged to have engaged in illegal activities during the period September 2004 through February 2006. Because of these investigations, two companies and six individuals have pled guilty. Penalties have included over \$2.5 million in fines, prison sentences, and community service.

LEARNING OPPORTUNITES

[PUBLIC COURSES](#)

Our schedule for the first half of 2006 is posted. Please check our website for the posting: www.usmaritimeinstitute.com. Courses to be offered:

[Maritime Accident and Incident Investigation](#)



This two-day course provides participants with a thorough understanding of the causes and effects of loss using workshops and actual case studies. Emphasis is placed on pre-accident planning and preparation, evidence gathering, the methodologies of root cause analysis, and remedial actions necessary to prevent incident recurrence. Maritime Accident and Incident Investigation covers the skills needed to conduct systematic accident investigations, nonconformity analysis, and hazardous occurrence elimination.

Fort Lauderdale, USA: POSTPONED.

[Port State Control – Preparation and Response](#)

This two-day course is designed to help companies ensure that their management systems identify and address potential problems to help prevent vessels in their fleets encountering difficulties during port state

control inspections. Understanding how port state control inspections relate to the ISM and ISPS Codes will help you diminish the likelihood of your ships being detained by the authorities. Through a highly participative combination of presentations, group discussions, case studies and syndicate exercises, you will learn about and understand: the background to port state control inspections, the different port state control Memorandum of Understanding (MOU) targeting and inspection policies, port state control links with the ISM and ISPS Codes, the port state control inspection/detention process and appeal procedure if the detention is considered unjustified, and port state control ISM and ISPS deficiency codes. In addition, you will gain knowledge of the transparency of the port state control MOU's reporting systems, the port state control's use of the ISM and ISPS Code checklist, the International Association of Classification Societies (IACS) initiatives to reduce port state control detentions, and flag administration initiatives to improve safety standards. Fort Lauderdale, USA: June 14-15, 2006.



[Yacht Management Series: Senior Crew Seminar](#)

Leader, manager, supervisor, team leader--no matter what your official title, you're expected to get the job done through others. Management success depends upon your abilities as a coach, team builder,



master delegator, time and project manager, and employee motivator and disciplinarian. The job-within-the-job often expands to include managing inventories, resolving conflicts, eliminating unacceptable behavior, hiring the best employees--and terminating when necessary, and more. Nobody said managing, leading, and supervising would be easy, and whether you've been leading and managing for years, or you're looking forward to that promotion Chief Engineer, First Officer, or Captain, you'll become your best with our tried-and-true techniques, strategies and "how-to's" for management success. Subject matter will also include topics dealing with

SOLAS, MARPOL, classification rules, US Coast Guard, and Port State Control, the ISM Code, and ISPS Code. Fort Lauderdale, USA: April 19-20, 2006.

[Yacht Management Series: ISM Code, ISPS Code, STCW Code Basics](#)

These series of courses are designed specifically for today's megayacht crews with a demanding schedule. Each training session is offered on board your vessel and geared specifically to your area of operation, flag of registry, and specific requirements of your manager's ISM and ISPS procedures.

Open Enrollment: Call to schedule.

[Customized Course Offerings](#)

In addition to the above public training courses, USMI offers a full catalog of subjects, including hazardous materials, security awareness, safety drills, and full company exercises. If you don't see the training event that is right for you, talk to us about your requirements -we can probably offer you a customized solution to meet your precise expectations. Your training event can be run in any location to suit you - in our offices, in your premises, or even onboard ship, anywhere you need it - the choice is yours.

[DISTANCE LEARNING](#)

For those alumni that have completed either the ISM Auditor or ISPS Auditor course, but not both, USMI now offers a distance learning course that allows you to upgrade to Integrated Maritime Auditor (ISM / ISPS). No classroom attendance is required. Contact us for full details.

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