

PASSAGE PLAN

INTERNATIONAL ANNOUNCEMENTS

IMO – PASSENGER SHIPS WITH BALCONIES

The Maritime Safety Committee, at its eighty-first session (10 to 19 May 2006), taking into account the information available to date from the ongoing casualty investigation of the very serious cabin balcony fire onboard the passenger ship *STAR PRINCESS*, agreed that appropriate recommendations should be developed, on an interim basis, for the passenger ship industry regarding the hazards posed by cabin balconies where there may be a presence of combustibile materials and an effective fire detection system or fire suppression system is not installed. In order to counter any fire risks associated with these balconies, the Committee agreed to the following recommendations for consideration with a view to implementation by the passenger ship industry:



1. increased vigilance such as the deployment of lookouts, fire patrols and television surveillance systems should be enhanced;
2. onboard training and response procedures for crew should be reviewed to ensure that the ship's fire-fighting teams are prepared to respond to a fire occurring in these balcony areas;
3. passengers and crew should be advised not to leave towels and personal belongings on balconies when they are not in their cabins;
4. housekeeping staff should be instructed to place personal articles left on balconies by cabin occupants back in the cabin during their last visit of the day to the guest cabin and to observe balconies during other visits to the cabin;
5. fire safety should be re-emphasized in communications to passengers and crew, including the distribution of appropriate informational pamphlets or other alternative media;
6. passengers and crew should be reminded of the hazards associated with throwing any items over a ship's side from balconies or other external areas;
7. passengers and crew should be reminded of the hazards of not properly extinguishing smoking materials where smoking is authorized and never to leave lit or smoldering smoking materials unattended; and
8. passengers and crew should be reminded of the hazards associated with the use of unauthorized heating elements such as electrical heating coils used in cups or mugs and open flames such as candles.

IMO – SHIP SECURITY OFFICER TRAINING



The IMO issued a Circular forwarding an amendment to the STCW Code relating to training of persons to be assigned as ship security officers. If a person holding a certificate of proficiency as a ship security officer is temporarily unavailable, the Administration may permit a seafarer having an understanding of the ship security plan to serve as the ship security officer until the next port of call or for a period not exceeding 30 days, whichever is greater. In such circumstances, the Company should inform the competent authorities of the next port(s) of call of the arrangements in place. The amendment comes into effect on 1 January 2008. [STCW.6/Circ.9](#)

EC PUSHES IMPLEMENTATION OF ILO CONVENTION

The European Commission (EC) issued a press release stating that it adopted a draft Council Decision proposing that Member States ratify the ILO Maritime Labor Convention by December 2008. The EC will

also consult with social partners to examine the possibility of integrating provisions of the Convention into European law. This is particularly important for those ships flying an "open register" flag that is connected to a member-state of the European Union. Early implementation may be mandatory before entry-into-force by the IMO.

[IMO – BUNKER DELIVERY NOTE AND FUEL OIL SAMPLING](#)

The IMO issued a Circular urging all Member States (whether or not they are party to the 1997 Protocol) to require fuel oil suppliers in their ports to comply with the requirements of regulation 18 of MARPOL Annex VI and resolution MEPC.96 (47) regarding provision of a bunker delivery note and a representative fuel oil sample to the receiving ship. This is also a requirement for shipboard personnel to ensure compliance with the new International Air Pollution Prevention (IAPP) certificate, as appropriate.



[CANADA – BALLAST WATER MANAGEMENT REGULATIONS](#)



Transport Canada published its ballast water management regulations in the month of June. The regulations are harmonized as much as possible with US Coast Guard requirements and with the International Convention for the Control and Management of Ship's Ballast Water and Sediments. One difference from the US regime is that these regulations establish offshore locations in Canadian waters in which ballast water may be exchanged when a high-seas ballast water exchange is impracticable. Ships have six months in which to develop and implement ballast water management plans. Canadian ships must submit their plans for government approval.

PORT STATE CONTROL

[ANTI-BUSH GRAFFITI IN CARGO SHIP HOLD DISRUPTS OPERATIONS AT PORT HUENEME](#)

A message about nitroglycerin and President Bush found scrawled in the hold of a cargo ship just in from Guatemala shut down the Southern California deep-water port for several hours last month, but federal investigators found no explosives. The harbor in Ventura County was closed just before noon after a dockworker discovered the writing in the hold of the ship, which was carrying a load of bananas. Federal authorities said it was written in English and read: "Nitro + glycerin my gift for G. W. Bush and his Jewish gang." The message, scrawled in marker on a container guide, was being investigated by the FBI, Secret Service, and local officials. FBI spokespersons said no nitroglycerine or other explosives were found during a thorough search. Divers inspected surrounding waters. About 20 people were evacuated from the 30,000-ton refrigerated vessel, identified as the *WILD LOTUS*. Workers already outside the port were kept out during the closure, though anyone inside was allowed to remain. The port reopened around 3:30 p.m. and workers resumed unloading two other ships while the investigation continued. The 135-acre port, located northwest of Los Angeles, consists of two terminals. It is the only deep-water port between Los Angeles and San Francisco.



[CANADA – APPEAL DENIED IN PORT STATE CONTROL CASE](#)

Transport Canada announced that the Supreme Court of Canada has declined to consider the appeal of the ship owner in a case challenging the decision of Canadian port state control inspectors to detain a ship for an extended period. The Federal Court of Appeals (FCA) of Canada had ruled that the government is not liable for the extended detention of a ship based on an allegedly negligent port state control (PSC) inspection. In the instant case, a Canadian PSC boarding officer determined after a somewhat cursory

inspection that certain frames on the foreign ship were excessively wasted and must be replaced before the ship could depart port. The trial court determined that the detention was not in accordance with requirements of the SOLAS Convention and the Tokyo MOU. Damages were awarded in the amount of C\$4,344,859.47, plus prejudgment interest in the amount of C\$1,624,212.75. The Government of Canada appealed. The FCA ruled that the trial court did not grant sufficient deference to the decisions of the federal agency charged with administering the PSC program. While the period of detention of the ship (April 5-August 13, 1997) was found to be excessive, the FCA ruled that the actions of the agency were not so egregious as to justify payment of damages. Canada v. Berhad, 2005 FCA 267 (August 4, 2005).



PURPOSEFUL AVAILMENT AND PERSONAL JURISDICTION

The US Court of Appeals for the Sixth Circuit ruled that where a defendant has purposefully availed itself of the forum state, it may be subject to personal jurisdiction for court actions brought in the state. In the instant case, defendant Norwegian ship owner entered into a long-term charter that included the obligation to carry cargoes to and from various ports in the Great Lakes, including Toledo, Ohio. Its ships were rigged specially to travel to the Great Lakes, with the option to crop and replace the masts in order to safely trade to Toledo. Ships owned by the defendant made numerous voyages to the Great Lakes. While the ship was on a voyage from Europe to Toledo, seawater entered the hold and the cargo of steel coils incurred severe rust damage. The insurer of the cargo sued the ship owner in federal court in Ohio. The ship owner asserted that it was not subject to the personal jurisdiction of the court. On appeal, the court found that the ship owner had purposefully availed itself of the benefits of the forum state when it agreed to undertake specific obligations to trade to the Great Lakes in general and Toledo in particular. Further, delivery of the cargo in Toledo was sufficient to show that the cause of action arose in the forum state. Under the circumstances, exercise of personal jurisdiction over the foreign ship owner by a federal court in Ohio was found to be reasonable. Fortis Corporate Insurance v. Viken Ship Management, No. 05-3792 (6th Cir., June 8, 2006).



WASHINGTON STATE – REVISED OIL TRANSFER RULES PROPOSED



The Washington State Department of Ecology released proposed revisions to its oil transfer rules. A new regulation on Facility Oil Handling Standards would consolidate four existing chapters. The proposed Vessel Oil Transfer Standards would amend the current bunkering operations chapter. The proposed rules would require advance notice of oil transfers, increased communications, personnel training, and other oil spill prevention measures. In addition, certain persons delivering oil would be required to deploy spill containment equipment prior to the transfer of oil, as well as employ alternative measures if pre-booming is not safe and effective.

LOUISIANA – MARITIME SAFETY AGREEMENT WITH USCG

Governor Kathleen Babineaux Blanco issued a document stating that the State of Louisiana and the US Coast Guard signed a memorandum of agreement (MOA) setting forth the framework and procedures by which Louisiana law enforcement officers working with the US Coast Guard in the enforcement of safety and security zones will have authority to stop, board vessels, and take enforcement action against persons found to be violating those zones.

DRUNKEN SAILOR, NO PROBLEM. WHAT DO YOU DO WITH A DRUNKEN DRIVER?

The US Coast Guard issued a press release discussing an incident involving an apparent drunken driver who boarded a Washington State Ferry on Bainbridge Island. The driver became abusive with crewmembers and locked himself in his car. The crew blocked the tires of the car and the Master called the State Police, who met the ferry when it arrived in Seattle, and arrested the driver.

[COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2006](#)

The final legislative version of the Coast Guard and Maritime Transportation Act of 2006 (H.R. 889) has been posted. A Conference Report intended to resolve differences between the two versions became controversial when a provision was inserted giving the Governor of Massachusetts authority to veto construction of a planned wind farm in federal waters of Nantucket Sound. Finally, a compromise was reached giving the Commandant of the Coast Guard authority to specify reasonable terms and conditions to provide for navigational safety. The bill is now on its way to the White House for approval and signature. Among the more interesting provisions in the long-delayed legislation are the following:

1. Developers of LNG import facilities will get a higher priority if they agree to be supplied by US-flag LNG vessels;
2. Only US-flag vessels will be allowed to engage in any activity performed in connection with the mooring or unmooring of a mobile offshore drilling unit (MODU) located over the US outer continental shelf or the transportation of personnel or merchandise to or from a point in the United States from or to such MODU;
3. Use of foreign citizens as riding gangs would be allowed under certain conditions on US-flag vessels when US citizens or residents are unavailable to complete the work, but for not more than 60 days each calendar year;
4. Monies are authorized for development of an alternative AIS transponder/wireless maritime data device and the FCC is encouraged to finalize its rulemaking on licensee use of AIS frequency bands;
5. Persons who release into a waterway an object that creates an obstruction to navigation would be required to promptly notify the Coast Guard;
6. Limits of liability for oil spills from vessels would be increased – for single-hull tankers to \$3,000 per gross ton or \$22 million – for double-hull tankers to \$1,900 per gross ton or \$16 million – for other vessels to \$950 per gross ton or \$800,000; and
7. Application of the oil spill response plan requirement to nontank vessels has been clarified.

LEARNING OPPORTUNITES

[INTEGRATED MARITIME AUDITOR \(ISM & ISPS\)](#)

This three-day classroom course, which is a combined ISM Code familiarization, ISPS Code familiarization, and internal auditor course will help students develop a practical approach to the interpretation and application of the International Safety Management (ISM) Code and International Ship and Port Facility Security (ISPS) Code. It is a highly participatory combination of presentations, group discussions, and case studies, plus individual and syndicate exercises. The specific Safety Management System and Ship Security Plan requirements of various companies are incorporated into the course, along with the regulatory requirements of the flag administrations. Upon completion of this course, students will have the necessary theoretical knowledge to conduct simultaneous ISM Code and ISPS Code internal audits.

Fort Lauderdale, Florida, USA: July 12-14, 2006.



[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 do not 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.

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