

Good Day valued clients ,

Please refer to below update, with regards to above subject matter.

Please also inform/update yr security divisions.

South Africa: Guns and ammunition on ships calling at South African ports

Vessel operators who choose to use armed guards as protection against piracy must meet a number of important requirements, one of which is to ensure compliance with port state requirements. In June 2010 we published a Security Alert from lawyers Shepstone & Wylie regarding difficulties experienced by some vessels in South African ports. We have now received a further report on this subject from our Durban Correspondents P&I Associates (Pty) Ltd. which contains important information for owners whose vessels may have firearms or ammunition on board during calls at South African ports.

Due to the upsurge in piracy activity in the Indian Ocean region, there has been a large increase in the number of merchant vessels that are carrying security guards, guns and ammunition. Often, the security guards disembark the vessel after the vessel has transited the "hotspot" area off East Africa but the guns remain on board, only to be removed at final destination. The issue of guns and ammunition remaining on board vessels is creating problems for Owners and this week, in South Africa, two masters were arrested and charged under the South African Firearm Control Act.

The South African Police require that 21 days before a vessel arrives at a South African port that an application must be made to the relevant authority for a permit. This application must be duly accompanied by a number of documents.

- The application must be made on the South African Police (SAP 520) form
- Copy of the applicants passport on which the photo and passports details are reflected
- Copy of the legal licence, permit, authorization or any other documentary proof confirming lawful possession of the firearm
- Documentary proof of knowledge of safe use and handling of a firearm, i.e training certificate
- Written authorization, which permits the export of the firearm from the country of origin
- Equipment list, firearm description and serial numbers and number of ammunition
- Documentation giving proof of last port of call and destination

Once the permit has been granted and the vessel berths in South Africa, the master can make arrangements for the guns and ammunition to be removed from the vessel and taken to a police locker for safekeeping and then these will guns and ammunition will be returned to the vessel one hour before departure. It is now very clear that the South African Police will arrest the master and charge him with an offence and non conformance under section 120 and section 73 of Firearm Control Act, Act 6 of 2000. The question which we have addressed to the South African police is the why one has to make an application prior to 21 days before arrival in South Africa. One of the points that we have made, is that South African ports are often used as bunkering ports as vessel transit the South African coast and that this period appears to be excessive when one considers that the sailing time from Mombasa, Kenya to Durban, is less than 7 days. We have also made the point that often Owners do not know that the vessel's will be stopping in South Africa and therefore if they have guns on board, will now have to wait 21 days in order to make the application, before arrival.

The ISPS clearance period is 96 hours and we have made representations to the Police Colonel to questioning this 21 day period and whether this period can be reviewed. We attach the letter received from the South Africa Police setting out their requirements. We are busy checking to see whether these are requirements derive from regulations attached to the Act and if so, were these regulations gazetted and therefore brought into force under South African law. Please can you urgently circulate this notice amongst your members and advise them that at the moment, in South Africa, in order for a vessel to enter a South African port with guns and ammunition on board that the vessel has a permit from the South African police. If there are guns and ammunition but no South African permit, then the master will be arrested and charged resulting in delays to the vessel. The master will be charged and fined and may be imprisoned depending on the severity of the offence. The fines vary from R50,000 to over R100,000 and the master will be prosecuted and will have a criminal record. As advised, we are busy researching whether the requirements set out by the police are a legal one and whether they have the legal rights to enforce these requirements. Until we have obtained clarity, we suggest that your members act under the above requirements and if they have any doubts or concerns then they must please feel free to contact us.