



WORLD SHIPPING COUNCIL
PARTNERS IN TRADE

Comments of the
World Shipping Council

Before the
United States Coast Guard

In the Matter of
Notice of Proposed Rulemaking
Long Range Identification and Tracking of Ships

USCG-2005-22612
72 Fed. Reg. 56600

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I. Introduction

The World Shipping Council (Council) is a non-profit trade association of over twenty-five international liner shipping¹ ocean carriers, established to address public policy issues of interest and importance to the international liner shipping industry. The Council's Members include the leading ocean liner companies from around the world -- carriers providing efficient, reliable, and low-cost ocean transportation for America's international trade.² The Members of the World Shipping Council are major participants in an industry that has invested over \$150 billion in the vessels, equipment, and marine terminals that are in worldwide operation today. Today, over 800 ocean-going liner vessels, mostly containerships, make more than 22,000 calls at ports in the United States each year -- more than 60 vessel calls a day. In 2005, we estimated that approximately 18 million TEUs of containerized cargo were imported into or exported from the U.S. The industry generates over a million American jobs and over \$38 billion of wages annually to American workers. The industry provides the knowledge and expertise that built, maintains, and continually expands a global transportation network that provides seamless door-to-door delivery service for almost any commodity moving in America's foreign commerce. The Council's Member lines include the full spectrum of carriers from large global lines to niche carriers, offering container, roll on-roll off, and car carrier service as well as a broad array of logistics services.

The Members of the Council have worked closely with the U.S. government to address the need for enhanced security of international maritime commerce. The industry also recognizes the importance of securing America's trade and world trade from the threat of terrorism.

The Council's comments on this Notice of Proposed Rulemaking (NPRM) for the Long Range Identification and Tracking (LRIT) regulations are made in a continued spirit of commitment to address these challenges with measures that are both meaningful and effective, and which continue to preserve the immense benefits that the American economy, American businesses and American consumers receive from the efficient and reliable flow of international maritime commerce.

With full support for the efforts of the U.S. government to establish the LRIT program while ensuring the efficient flow of commerce, we offer the following comments to this proceeding.

II. Issues Raised by the Proposed Regulations

The Council supports the development of the international LRIT system and the U.S. Coast Guard's efforts to establish a workable international system.

¹ "Liner shipping" involves vessels engaged in regularly scheduled service to U.S. ports (e.g., ships leaving particular foreign ports for particular U.S. ports on a weekly schedule) in contrast to cargo vessels that call on U.S. ports for a particular voyage when hired (e.g., tanker and bulk shipping).

² A list of the World Shipping Council's Member companies is provided as Attachment A.

The Council's primary concern arises from the uncertainty of the international LRIT system. The Coast Guard has stated it intends to implement the regulations regardless of the operating status of the international LRIT system. It is known that the Coast Guard will host temporarily the International Data Exchange (IDE) until January 1, 2010, but it is unclear what happens after that date.

What is even less clear is the status of the International Data Center (IDC) and how the potential lack of an IDC will affect some flag states' vessels compliance with the regulations.

1. What happens to the IDE after January 1, 2010?

At the recent International Maritime Organization's (IMO) Marine Safety Committee (MSC 83) meeting on October 2 – 10, it was agreed that the United States would host the IDE until January 1, 2010. This may have been a necessary move to start the system, but the end date ensures only one year of operation from the LRIT effective date of December 31, 2008.

What happens in 2010 is a concern to the industry. Without the IDE, it is unclear how the system will work after 2010. Will the national or regional data centers be able to communicate without an IDE? Knowing that at the moment this is an unanswerable question, the Council recommends the U.S. Coast Guard continue to work diligently with other governments to finalize the permanent location of the IDE.

2. How does system work without an IDC?

As of the time of submission of these comments, there is no IDC. Two proposals to build the IDC were rejected at MSC 83. The IDC was designed to be the "catch all" for vessels whose administrations did not have their own national data center or belong to a regional or cooperative data center. Many of these administrations may be smaller countries, but they appear to include countries that are large flag states.

It is unclear exactly how many countries intend to use the IDC; however, it may prove problematic to operate the LRIT system if there is no IDC and a significant number of flag states fail to establish their own data centers. Using IMO MSC 83/WP.9 as guidance, it appears that a number of countries may not have a national data center or belong to a regional or cooperative data center. Generally, only the major European, North American and Asian trading countries currently appear committed to build or belong to systems. Knowing that at the moment this is also an unanswerable concern, the Council recommends the U.S. Coast Guard continue to work diligently with other governments to establish the IDC.

The Council's Member lines operate many hundreds of vessels that would be affected by the system that this NPRM is seeking to create. Of particular concern are vessels flagged in countries without a data center and in the absence of an IDC. Again using IMO MSC 83/WP.9 as a starting point for which countries will build a data center,

the Council's Member lines estimate that nearly 30 to 50% of their vessels are flagged in countries that presently have not stated an intention to build their own data center or belong to a regional data center.

Compliance by our Members' U.S. flag vessels and by vessels flagged in nations or regions that will have established data centers by January 2009 would not appear to present significant issues.

As to those countries that intend to use the IDC, implementing the regulations without the IDC presents a number of difficult questions, including the magnitude, reliability and enforcement of alternative manual reporting.

3. *In the absence of the IDC, how does a vessel, whose flag administration does not have its own national data center or belong to a regional or cooperative data center, submit position reports?*

Paragraph 5 of Resolution MSC.202(81) (LRIT SOLAS Amendments) provides that "ships shall automatically transmit" the LRIT information.

In the absence of the IDC, the NPRM appears to envision the possibility that vessels without an assigned data center will transmit a position report via the Coast Guard's National Vessel Movement Center's (NVMC) existing Notice of Arrival (NOA) system. The only place this method is mentioned in the NPRM is in background section III. A. *LRIT History – International and Domestic*, which states:

"If a Contracting Government does not participate in the U.S. national or cooperative data center, or does not participate in any other data center capable of transmitting LRIT information to the U.S. national or cooperative data center, then vessels from that Contracting Government that would be required to submit position reports to an LRIT Data Center under this proposed rule, would instead be required to transmit a position report every six hours to the National Vessel Movement Center. This is the same center where notices of arrival required under 33 CFR part 160, subpart C, are sent."

It is thus unclear from the NPRM exactly what the Coast Guard is suggesting in this regard. While the above text appears in the NPRM's background section, we note that the NPRM's proposed amendments to the Code of Federal Regulations do not propose to require NOAs to become the vehicle for such transmissions. Further, the required "Regulatory Analysis" of the NPRM clearly does not envision or analyze requiring manual NOA transmissions.

In fact, the NPRM specifically notes and provides that the transmission of the relevant data is in fact to be performed by automatic transmission equipment:

“§ 169.215 How must a ship transmit position reports?”

A ship must transmit position reports using Long Range Identification and Tracking (LRIT) equipment that has been type-approved by their Administration. To be type-approved by the Coast Guard, LRIT equipment must meet the requirements of IMO Resolutions A.694(17) and MSC.210(81), and IEC standard IEC 60945.”

While the various NOA reporting methods are well known to the industry, it is unclear how the NOA system could effectively fulfill this possible role. Nevertheless, because the background text of this rulemaking does discuss this NOA possibility, and because such a possibility would raise substantial difficulties if pursued, we offer the following comments on this issue for the Coast Guard's consideration.

- Currently, a vessel sends one NOA prior to arrival. Sending a report every six hours for up to 96 hours prior to arrival would produce for a total of additional 16 reports for inbound vessels, which would be doubled for the outbound voyage, for a total of 32 or more additional reports per voyage. Reports sent while in port, if intended to be required, would also add to this total.
- Some lines instruct their vessel Masters to file an NOA well in advance of the 96-hour deadline, often several days ahead. This is done to avoid any problems at the filing deadline or operational issues that may cause the deadline to be missed. A vessel which files its NOA well in advance would disadvantage itself by then being required to submit position reports every six hours as it has "announced its intention" to enter the U.S. This is not overly problematic in an automatic scenario, but becomes a larger issue using a manual method. Setting aside the additional costs associated with the additional reports, this could also have a chilling effect on vessels submitting NOAs far in advance, something the Coast Guard would seem to want to encourage.
- A vessel currently may submit an NOA by fax or telephone. This may be done by the vessel's agent and not the vessel itself. How would this work for vessel position reports?
- LRIT transmissions from vessels are supposed to be transmitted "automatically." An NOA filing would seem to have to be a manual process requiring the vessel to transmit via e-mail, fax or phone a status message every six hours to the Coast Guard, beginning 96 hours from arrival in a U.S. port. This would be a significant and highly frustrating addition to the vessel crew's responsibilities.
- Using this manual method, the Coast Guard would not have the option to request "on-demand" information from the vessel.
- How would the NVMC handle the four additional daily NOA position reports from this universe of vessels and effectively incorporate this information into the Coast Guard's vessel tracking system?
- As this information would not be an automatic transmission from approved equipment, information reliability would be degraded and could be falsified.
- As information received via NOA transmittals would not be an automatic transmission, it would appear that the Coast Guard would need to rely on the

“honor system” for a vessel that has to report its location within 1,000 miles of the U.S. coast if the vessel is not entering a U.S. port and has not filed a NOA. Would the Coast Guard intend that vessels on foreign-to-foreign voyages, which have not filed NOAs, file their position reports via the NOA system?

- The LRIT system is explicitly designed so that the cost of reporting is borne by the administration. The LRIT SOLAS Amendments state that the “[c]ontracting [g]overnments shall bear all costs associated with any [LRIT information] they request and receive.” Manual vessel position data transmission would result in communication crew time and costs for the vessel, whether sending an e-mail or fax to the NVMC or calling its agent to fax an update. How would the Coast Guard intend to reimburse vessels for the costs of compliance with such NOA reporting?

The Council recommends that the Coast Guard should not give further consideration to using the NOA system for this purpose.

4. *The Need to Consider Alternative Approaches*

We fully appreciate the Coast Guard’s desire to obtain the LRIT data for all vessels destined for the U.S., and we understand the dilemma regarding how to obtain it if a flag state does not have an operating data center of its own. The NPRM’s background discussion notes:

“If IMO LRIT implementation dates are pushed back, the Coast Guard would establish a national data center, the equivalent of an LRIT Data Center as described in section III.C below. This data center would be for U.S. flag ships and would make that data center available to other SOLAS Contracting Governments as a cooperative data center on an interim basis on the condition that those Contracting Governments that choose to take advantage of this offer arrange for their ships to pay for the communications and associated costs of transmitting the four positions reports per day required by the performance standards in Resolution MSC.210(81).”

We support the Coast Guard’s offer to make its data center available to other governments.

Further analysis of options would need to be undertaken in the event a flag state does not have an operational data center, and has not decided to make use of the U.S. system as offered above.

5. *Are LRIT reports necessary when in Automatic Identification System (AIS) range?*

How will the LRIT system interface and/or overlap with AIS?

The U.S. government will receive AIS data when a ship is in range of its receivers. The U.S. could also receive LRIT data at the same time from the vessel’s flag state via the IDE.

We have several questions in this regard. Does the government need both sets of data? Will the Coast Guard request LRIT transmissions while in AIS range? Also, does the Coast Guard need LRIT data while the ship is in port or not underway?

This would be a concern in the situation where an IDC is not built and those “orphan” vessels are manually reporting to the NVMC. Is there a need for those “orphan” vessels to report via NOA while the Coast Guard is receiving more-detailed AIS data?

6. *Estimated equipment upgrade costs*

To date, information from Member lines indicates a range of estimated compliance costs. One line noted compliance costs did not seem problematic as existing equipment can be used to meet reporting requirements. Another line estimated its compliance costs to be between \$2,000 and \$5,000 per vessel, depending on the option. A third line estimated its compliance costs to be between \$5,000 and \$15,000 per vessel, depending on the option.

III. Conclusion

The World Shipping Council and its Members support the Coast Guard’s objective to establish effective maritime security mechanisms. The Council and its Member lines are willing to work with the service to help them meet the government’s LRIT requirements.

The United States has the right and duty to protect itself and its trade from terrorism risks. At the same time, because it is the largest trading nation affecting economic activities around the globe, significant adjustments to its trading laws should be undertaken in a manner that all of its government and commercial trading partners can clearly understand and reasonably adapt to when necessary.

We hope these comments and suggestions are helpful. Since September 11, the Members of the World Shipping Council have supported the U.S. Government’s efforts to address the current security risks through both words and deeds. They will continue to work with the Government in the same spirit to support the implementation of these proposed rules in a manner that is clear, workable, and as accommodating to the movement of American commerce as is practicable.

Attachment A

Member Companies of the World Shipping Council

APL
A.P. Møller-Maersk (including Maersk Line and Safmarine)
Atlantic Container Line (ACL)
China Ocean Shipping Company (COSCO)
China Shipping Group
CMA-CGM Group
Compania Sud-Americana de Vapores (CSAV)
Crowley Maritime Corporation
Dole Ocean Cargo Express
Evergreen Marine Corporation
Great White Fleet
Hamburg Sud (including Alianca)
Hanjin Shipping Company
Hapag-Lloyd Container Line
Höegh Autoliners, Inc.
Hyundai Merchant Marine Company
Kawasaki Kisen Kaisha Ltd. (K Line)
Malaysia International Shipping Corporation (MISC)
Mediterranean Shipping Company (MSC)
Mitsui O.S.K. Lines
NYK Line
Orient Overseas Container Line, Ltd. (OOCL)
United Arab Shipping Company
Wan Hai Lines Ltd.
Wallenius Wilhelmsen Logistics
Yangming Marine Transport Corporation
Zim Integrated Shipping Services, Ltd.