

ANNEX

QUESTIONNAIRE ON INFORMATION ON PORT AND COASTAL STATE REQUIREMENTS RELATED TO PRIVATELY CONTRACTED ARMED SECURITY PERSONNEL ON BOARD SHIPS

(The present questionnaire should be read in conjunction with MSC.1/Circ.1408 on the Interim Recommendations for port and coastal States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area¹)

1 Requirements regarding ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals when carrying firearms and/or security-related equipment and/or PCASP².

1.1 Do you require specific notification from ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals? Yes

.1 If yes,

- What information do you require? *Both U.S. and foreign-owned PCASP firearms and security equipment being temporarily imported or returned into the U.S. in conjunction with a vessel's entrance must be registered and licensed through a U.S. office of the security company well ahead of time through the State Department's Directorate of Defense Trade Controls (DDTS), and this licensure must be documented on the notice of arrival. Persons carrying, possessing, or transporting firearms aboard U.S.-flagged vessels in any location must comply with all applicable laws, including state laws, the Gun Control Act, the National Firearms Act, and International Traffic in Arms Regulations (ITAR) in 22 C.F.R. Parts 120-130.*

In most cases a vessel is required to report immediately upon its arrival and make formal entry of the vessel in a prescribed time period specified by U.S. law and regulations once within U.S. jurisdictional areas.

Prior to a vessel's physical arrival within port limits, the master or designated vessel agent must submit a hard copy or fax CBP Form 3171 (Application-Permit-Special License Unlading-Lading-Overtime Services) with all applicable data fields completed (e.g., Name of Vessel, Port, Flag, Date/Time of Arrival, Type of Operation – laden, unladen, repairs, Types of Cargo, Bond Number, etc.) Although the CBP Form 3171 is not necessary to be presented to CBP at time a vessel departs coastwise or directly foreign, other clearing documentation and notifications are required to be made by the master or designated agent in order to obtain authorization to depart.

¹ High Risk Area: an area as defined in the Best Management Practices for Protection against Somalia Based Piracy (MSC.1/Circ.1339) unless otherwise defined by the flag State.

² All references to firearms include the associated ammunition, consumables, spare parts and maintenance equipment for use by PCASP, and all references to security-related equipment includes protective and communication equipment for use by PCASP.

The CG request vessel specific information such as name, owner/operator, Flag, call sign, etc., as well as estimated time of arrival/departure, last ports of call, cargo and crew/ passenger information.

- When do you require it? In accordance with 33 CFR 160 vessels are required to submit an Advance Notice of Arrival (NOA) 96 hours prior to arrival but no less than 24 hours prior to arrival dependent upon the length of the voyage. For CBP purposes, generally, 48 hours prior to vessels arriving at a U.S. port a CBP Form 3171 is required. In circumstances where the voyage is less than 48 hours, port directors may allow submission in less time.

- To whom is it required to be sent? Vessels are required to submit the NOA to the National Vessel Movement Center. Vessels can submit the NOA through the electronic Notice of Arrival and Departure application which will satisfy CG and CBP reporting requirements for vessels greater than 300 gross tons, however for those vessels that do not meet the tonnage threshold for the NOA, the vessel can submit to the CBP vessel entrance and clearance office at the intended port of arrival or from the actual U.S. port departing from.

Note: FAL Standard 2.2, establishes the principle that the "General Declaration"(IMO FAL Form 1) shall be the document providing data required by public authorities relating to the ship.

1.2 Do you require information regarding flag State authorization for use of PCASP and/or the firearms and/or the security-related equipment for use by the PCASP from ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals? Yes.

For questions 1.2.1 through 1.3.1 the authority falls within the responsibility of multiple US Government Agencies including the Department of State, Department of Homeland Security, Coast Guard, Customs and Border Protection, Department of Justice, Bureau of Alcohol Tobacco, Firearms and Explosives.

.1 If yes,

- What information do you require? Any foreign-owned PCASP firearms and security equipment being temporarily imported into the U.S. in conjunction with a vessel's entrance must be registered and licensed through a U.S. office of the security company ahead of time through the State Department's Directorate of Defense Trade Controls (DDTC). As part of this licensing process, DDTC will require Flag State verification of the authorization for the PCASP to carry these firearms and security equipment. In addition, compliance is required with all applicable laws, including state laws, the Gun Control Act, the National Firearms Act, and International Traffic in Arms Regulations (ITAR) in 22 C.F.R. Parts 120-130.

- When do you require it? The licensing of foreign-owned firearms and security equipment must be approved by DDTC well before a vessel's arrival, and through a registered U.S. office of the security company. Each temporary import license (DSP-61) is valid for a single instance of entry into the U.S.

- To whom is it required to be sent? *The Directorate of Defense Trade Controls completes all registration of security companies that seek temporary import licensing and would request Flag State verification as part of the licensing process.*

Note: MSC.1/Circ.1406/Rev.1 establishes the principle that "Flag States should have in place a policy on whether or not the use of PCASP will be authorized and, if so, under which conditions." This policy "may include a process for authorizing the use of PCASP which have been found to meet minimum requirements for ships flying its flag."

1.3 Do you require specific notification regarding firearms for use by the PCASP carried on board ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals? Yes

.1 If yes,

- What information do you require? *Compliance is required with all applicable laws, including state laws, the Gun Control Act, the National Firearms Act, and International Traffic in Arms Regulations (ITAR) in 22 C.F.R. Parts 120-130. Additionally, foreign-owned PCASP firearms and security equipment being temporarily imported into the U.S. in conjunction with a vessel's entrance must be registered and licensed through a U.S. office of the security company well ahead of time through the State Department's Directorate of Defense Trade Controls, and this licensure must be documented on the notice of arrival.*

U.S. owned firearms and security equipment departing the U.S. for use by PCASP must be registered and licensed by the State Department Directorate of Defense Trade Controls (DDTC) for temporary export in accordance with the International Traffic in Arms Regulations (ITAR) in the U.S. Code of Federal Regulation, Title 22, Parts 120-130.

CBP requires the vessel master to produce an inward foreign manifest comprised of several CBP forms which cover the conveyance, cargo, person's on board, and any cargo/equipment being carried on or used by the vessel during its voyage to, in and departing from the U.S. This includes, but not limited to, an entrance and clearance statement, cargo declaration (most cases advance electronic cargo data), a declaration of ship stores, a crew/passenger list, etc.

In the case of the PCASP, the CBP Form 1303, Ship Stores Declaration, which is required for capturing vessel supplies, such as food, alcohol, cigarettes and fuel types, The vessel master must provide CBP with a detailed list (quantity, type, etc.) describing all DDTC approved and licensed weapons, ammunition, and other equipment of the PCASP.

In the case of firearms, weapons, ammunition, body armor, other equipment accompanying and in use by PCASP, a State Department license will be required. Compliance is required with all applicable laws, including state laws, the Gun Control Act, the National Firearms Act, and International Traffic in Arms Regulations (ITAR) in 22 C.F.R. Parts 120-130..

- When do you require it? *The licensing of foreign-owned firearms and security equipment must be approved by DDTC well before a vessel's arrival, and through a registered U.S. office of the security company. Each temporary import license (DSP-61) is valid for a single instance of entry into the U.S.*

The licensing of U.S. owned firearms and security equipment must be approved by DDTC well before a vessel's departure. A temporary export license (DSP-73) is valid for four years per each article licensed, and requires no additional DDTC registration or licensing during this period.

For CBP purposes the State Department License and accompanying paperwork must be presented at time of formal entrance and clearance of the vessel at a U.S. port.

- To whom is it required to be sent? *All company registrations and licensing requests must be approved through DDTC.*

Although not required, CBP encourages any vessel arriving within U.S. port limits have the vessel master or agent notify CBP that weapon(s) and other equipment of the PCASP are onboard, ensure a valid State Department License was obtained and produce any additional information upon request by CBP. By doing so the vessel master ensures the safety of inspecting CBP personnel, the crew, as well as the PCASP. For a vessel departing a U.S. port, the master or authorized agent must presented to CBP the State Department License for proper decrementation as well as filling of the Electronic Export Information (EEI).

Note: FAL Standard 2.4 establishes the principle that the "Ship's StoresDeclaration" (IMO FAL Form 3) shall be the document providing data required by public authorities.

1.4 Do you require specific notification regarding security-related equipment for use by the PCASP carried on board ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals? Yes

.1 If yes,

- What information do you require? *See the answer provided for in 1.3.1.*

- When do you require it?

- To whom is it required to be sent?

Note: FAL Standard 2.4, establishes the principle that the "Ship's Stores Declaration" (IMO FAL Form 3) shall be the document providing data required by public authorities.

1.5 Do you require specific notification regarding PCASP carried on board ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals? Yes

.1 If yes,

- What information do you require? *See the answer provided for in 1.3.1.*

- When do you require it?

- To whom is it required to be sent?

Note: FAL Standard 2.6 establishes the principle that the "Crew List" (FAL Form 5) shall be the document providing data required by public authorities.

1.6 What requirements, if any, do you have in place for ships carrying firearms and/or the security-related equipment for use by the PCASP or PCASP when transiting through your territorial seas and/or contiguous zones before arrival in or after departure from your ports, anchorages, roadstead or offshore terminals? *This authority falls within the responsibility of the USCG, the Department of State, Department of Homeland Security, Coast Guard, Customs and Border Protection, Department of Justice, Bureau of Alcohol Tobacco, Firearms and Explosives, and Other U.S. Government Agencies.*

2 Requirements regarding ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals for the purpose of embarking or disembarking firearms and/or security-related equipment and/or PCASP.

2.1 Do you allow the embarkation or disembarkation of firearms and/or the security-related equipment for use by the PCASP or of PCASP in your ports, anchorages, roadstead or offshore terminals or elsewhere in your territorial sea(s)? Yes

.1 If yes,

- What information do you require? *Foreign-owned PCASP firearms and security equipment being temporarily imported/exported through the U.S. in conjunction with a vessel's movement must be registered and licensed through a U.S. office of the security company well ahead of time through the State Department's Directorate of Defense Trade Controls (DDTC), and this licensure must be documented on the notice of arrival.*

U.S. owned firearms and security equipment departing the U.S. for use by PCASP must be registered and licensed by the State Department Directorate of Defense Trade Controls (DDTC) for temporary export in accordance with the International Traffic in Arms Regulations (ITAR) in the U.S. Code of Federal Regulation, Title 22, Parts 120-130.

If PCASP are holding valid Department of State License(s) they must present the documentation to the local CBP port office for processing.

Note: All vessel owners, operators and security companies must comply with all applicable Department of State, USCG, Other U.S. Government agency, State, Local and Port Terminal requirements when calling on a U.S. port whether embarking or disembarking a vessel. Compliance is required with all applicable firearms laws, including state laws, the Gun Control Act, the National Firearms Act, and International Traffic in Arms Regulations (ITAR) in 22 C.F.R. Parts 120-130.

- When do you require it? *The licensing of foreign-owned firearms and security equipment must be approved by DDTC well before a vessel's arrival/departure, and through a registered U.S. office of the security company. Each temporary import license (DSP-61) is valid for a single instance of entry into the U.S.*

The licensing of U.S. owned firearms and security equipment must be approved by DDTC well before a vessel's departure. A temporary export license (DSP-73) is valid for four years per each article licensed, and requires no additional DDTC registration or licensing during this period.

At embarkation the vessel master or agent should present the Department of State License prior to the vessel's departure to allow CBP to properly decrementation and ensure compliance with all Export requirements.

At disembarkation the PCASP will request the vessel master and/or agent to make the necessary arrangements to contact the local CBP port to obtain entry instructions, to include decrementation of the Department of State License, on filing an entry or arranging to move the weapons, ammunition, or other equipment in-bond. It is at the discretion of each CBP Port Director to determine if an inspection is required.

- To whom is it required to be sent? All company registrations and licensing requests must be approved through DDTC.

At embarkation, the local CBP port Outbound/Exodus Office or other location as designated by the CBP Port Director.

At disembarkation the local CBP port office designated by the Port Director.

2.2 Do you require information regarding flag State authorization for use of PCASP and/or the firearms and/or the security-related equipment for use by the PCASP from ships intending to enter in or depart from your ports for the purpose of embarking or disembarking firearms and/or the security-related equipment for use by the PCASP or PCASP? Any foreign-owned PCASP firearms and security equipment being temporarily imported/exported through the U.S. in conjunction with a vessel's entrance must be registered and licensed through a U.S. office of the security company ahead of time through the State Department's Directorate of Defense Trade Controls (DDTC). As part of this licensing process, DDTC will require Flag State verification of the authorization for the PCASP to carry these firearms and security equipment.

This authority falls within the responsibility of the Department of State's Directorate of Defense Trade Controls (DDTC), which implements defense trade controls under the ITAR program. CBP is authorized to enforce these and other export control laws.

.1 If yes,

- What information do you require? See previous question for response.

- When do you require it? The licensing of foreign-owned firearms and security equipment must be approved by DDTC well before a vessel's arrival/departure, and through a registered U.S. office of the security company. Each temporary import license (DSP-61) is valid for a single instance of entry into the U.S.

Again, guidance is provided for owners, operators and security teams on methods for placing firearms, ammunition and other equipment on board vessels in accordance to ITAR as administered by the Department of State.

- To whom is it required to be sent? *All company registrations and licensing requests must be approved through DDTC. See previous question for response.*

Note: MSC.1/Circ.1406/Rev.1 establishes the principle that "Flag States should have in place a policy on whether or not the use of PCASP will be authorized and, if so, under which conditions." This policy "may include a process for authorizing the use of PCASP which have been found to meet minimum requirements for ships flying its flag."

2.3 What requirements, if any, do you have in place in connection with the import or arrival in and/or export or departure from your territory of firearms and/or security-related equipment for use by PCASP? *See the answer provided for in 2.1.1*

2.4 What requirements, if any, do you have in place in connection with the storage, security or control of the firearms and/or security-related equipment for use by the PCASP prior to their embarkation or after their disembarkation? *The authority falls within the responsibility of multiple US Government Agencies including the Department of State, Department of Homeland Security, Coast Guard, Customs and Border Protection, Department of Justice, Bureau of Alcohol Tobacco, Firearms and Explosives.*

Prior to bringing the firearms into the United States the owner of the firearms would have to ascertain whether a legal exception applied to the general restrictions on importation. The Gun Control Act generally bars importation of firearms, subject to certain exceptions, see 18 U.S.C. §§ 922(l) and 925(d), and the National Firearms Act forbids the importation of certain firearms, including machineguns, short-barrel rifles, short-barrel shotguns, silencers, and destructive devices. There are also restrictions on importing surplus military firearms, non-sporting firearms, and firearms from proscribed countries (18 U.S.C. § 925(d)(3); 27 C.F.R. § 447.52). Compliance is required with all applicable laws, including state laws, the Gun Control Act, the National Firearms Act, and International Traffic in Arms Regulations (ITAR) in 22 C.F.R. Parts 120-130.

2.5 What requirements, if any, do you have in place in connection with the storage, security or control of the firearms and/or security-related equipment carried on board for use by the PCASP after their embarkation or prior to their disembarkation, when the ship is in your port, anchorage, roadstead or territorial waters? *The authority falls within the responsibility of multiple US Government Agencies including the Department of State, Department of Homeland Security, Coast Guard, Department of Justice, Bureau of Alcohol Tobacco, Firearms and Explosives, Customs and Border Protection.*

Prior to bringing the firearms into the United States the owner of the firearms would have to ascertain whether a legal exception applied to the general restrictions on importation. The Gun Control Act generally bars importation of firearms, subject to certain exceptions, see 18 U.S.C. §§ 922(l) and 925(d), and the National Firearms Act forbids the importation of certain firearms, including machineguns, short-barrel rifles, short-barrel shotguns, silencers, and destructive devices. There are also restrictions on importing surplus military firearms, non-sporting firearms, and firearms from proscribed countries (18 U.S.C. § 925(d)(3); 27 C.F.R. § 447.52). Compliance is required with all applicable laws, including state laws, the Gun Control Act, the National Firearms Act, and International Traffic in Arms Regulations (ITAR) in 22 C.F.R. Parts 120-130.

2.6 What requirements, if any, do you have in place for ships carrying firearms and/or the security-related equipment for use by the PCASP or of PCASP (which they have embarked your anchorages, roadstead or offshore terminals) when transiting through your territorial seas and/or contiguous zones after departure from your ports, anchorages, roadstead or offshore terminals? *The authority falls within the responsibility of multiple US Government Agencies including the Department of State, Department of Homeland Security, Coast Guard, Department of Justice, Bureau of Alcohol Tobacco, Firearms and Explosives, Customs and Border Protection.*

Prior to bringing the firearms into the United States the owner of the firearms would have to ascertain whether a legal exception applied to the general restrictions on importation. The Gun Control Act generally bars importation of firearms, subject to certain exceptions, see 18 U.S.C. §§ 922(l) and 925(d), and the National Firearms Act forbids the importation of certain firearms, including machineguns, short-barrel rifles, short-barrel shotguns, silencers, and destructive devices. There are also restrictions on importing surplus military firearms, non-sporting firearms, and firearms from proscribed countries (18 U.S.C. § 925(d)(3); 27 C.F.R. § 447.52). Compliance is required with all applicable laws, including state laws, the Gun Control Act, the National Firearms Act, and International Traffic in Arms Regulations (ITAR) in 22 C.F.R. Parts 120-130.

3 Reporting of security-related incidents in territorial seas.

3.1 What do you consider to constitute a security incident in your territorial sea(s)? *Any incident which is considered a threat to the National Security of the United States (e.g., Terrorist Related, Weapons of Mass Effect/Destruction, Narcotics, Stowaways, Smuggling, Pest Infestation, Crew/Passenger Incidents, etc.), specific to Strategic and Tactical Enforcement Operations, acts contrary to National and Local enforcement Policy and Strategy, in addition to Conveyance, Cargo, Immigration, Agriculture and other U.S. Government violations of laws enforced by CBP.*

Transportation security incident (TSI) means a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area.

3.2 Do you require information regarding security-related incidents occurring in your territorial sea(s)? Yes

.1 If yes,

- What information do you require? *CBP personnel will solicit information from the vessel master, agent, on the circumstances/details of incident at the time of formal entrance processing at the next U.S. port of arrival.*

Any person or entity is also encouraged to report activities that may result in a transportation security incident to the National Response Center the following toll free telephone: 1-800-424-8802, direct telephone 202-267-2675, or TDD 202-267-4477. Callers to the National Response Center should be prepared to provide as much of the following information as possible:

- (1) Their own name and contact information;*
- (2) The name and contact information of the suspicious or responsible party;*

- (3) The location of the incident, as specifically as possible; and*
- (4) The description of the incident or activity involved.*

- When do you require it? As soon as possible after the discovery or security incident takes place.

- To whom is it required to be sent? The CBP Port Director or other designated point of contact as designated. National Response Center the following toll free telephone: 1-800-424-8802, direct telephone 202-267-2675, or TDD 202-267-4477.