



Ship Type: All Trade Area: USA

## **Bulletin 532 - 07/07 - Human smuggling in cargo containers - USA**

**The US Customs and Border Protection (CBP) is placing increased emphasis on prompt reporting should stowaways be discovered and is taking enforcement action against carriers who submit delayed reports.**

The Department of Homeland Security (DHS) Office of Inspector General (OIG) issued a redacted report on responses to recent incidents of Chinese human smuggling in maritime cargo containers. The report focuses on incidents that occurred in Los Angeles (January & April 2005) and Seattle (April 2006) when 32 and 29 Chinese nationals respectively were found emerging from containers.

As a result of these incidents, Customs and Border Protection (CBP) broadened Customs-Trade Partnership Against Terrorism (C-TPAT) minimum security criteria compliance to its members' non-C-TPAT partners and is negotiating expansion of the Container Security Initiative (CSI) to ports at which the containers were landed.

Enforcement activities are being increased and ship operators will mainly be affected where they and/or their clients are members of the C-TPAT programme. The following two points explain the changes that have been made in response to the DHS report.

### **CBP Strengthened the Customs-Trade Partnership Against Terrorism Programme as a Result of Incidents**

CBP gathered lessons learned from the three incidents and used those lessons to make modifications that enhanced the C-TPAT programme. After the April 2005 incident, it was determined that the programme needed standard procedures for responding to members implicated in human smuggling incidents. CBP established requirements that C-TPAT members involved in a human smuggling incident must satisfy to maintain their membership, including:

- Pay a fine;
- Conduct an assessment of security gaps; and,
- Submit to CBP an action plan for correcting security lapses.

CBP will revoke the membership of companies that fail to comply. Additionally, CBP updated the C-TPAT minimum-security criteria, which in turn required C-TPAT members to ensure that their business partners met the C-TPAT minimum-security requirements.

### **C-TPAT Programme Leveraged C-TPAT Membership to Improve Security**

Partly as a result of the January 2005 incident, CBP issued updated minimum security criteria for C-TPAT members with a new requirement that leveraged C-TPAT sea carriers' membership to improve the security of non-member business partners and customers. CBP required C-TPAT sea carriers to screen their business partners who provide transportation services. Similarly, CTPAT sea carriers must screen new customers to determine whether they are a legitimate business or otherwise pose a security risk. Sea carriers must also ensure that nonvessel-operating common carriers commit to the C-TPAT security recommendations. CBP gives C-TPAT members 90 days to comply.

The full DHS report, a Review of CBP and ICE Response to Recent Incidents of Chinese Human Smuggling in Maritime Cargo Containers (Redacted) is publicly available and can be viewed at the following website. [www.dhs.gov/xoig/assets/mgmt/rpts/OIG\\_07-40\\_Apr07.pdf](http://www.dhs.gov/xoig/assets/mgmt/rpts/OIG_07-40_Apr07.pdf)

Source of information:

The report was brought to the Club's attention by Dennis Bryant of the law firm Holland & Knight LLP. Members wishing to discuss this matter further with the Club should contact Pat Bush of our New Jersey office.