



Ship Type: All Trade Area: USA

Bulletin 353 - 03/04 - US Automated Manifest System - meaning of 'carrier'

We refer to the Club's circular (ref: 06/04) dated 19th February 2004 setting out details of the new US Automated Manifest System, and to Loss Prevention Bulletin 349 advising of a delay in enforcement of the new requirements for non-container ships from 4th March to 2nd April.

A Customs and Border Protection (CBP) seminar was held yesterday (18th March) in New Orleans, during which CBP addressed the issue of who is the 'carrier' (the party responsible for compliance) for a chartered ship.

CBP indicated that the 'carrier' would be the entity to which the following descriptions apply: (a) determining ports of call, (b) controlling of loading and discharging cargo, (c) knowledge of cargo information, (d) issuing bills of lading, (e) the entity that has typically provided the CF 1302 cargo declaration or the cargo information to prepare the CF 1302 to the vessel agent.

CBP has not provided a general ruling that the charterer will always be the carrier, nor is its guidance entirely free from ambiguity; its stance remains one of leaving it to owners and charterers to determine in each individual case who best fits the role of carrier and to ensure compliance accordingly. In case of dispute, a ruling can be sought on the facts of a particular case from CBP.

However, it is likely that in many cases it will be the time charterer, or even a voyage charterer, that is the party with responsibility for AMS compliance, including the filing of cargo information, and obtaining a SCAC number and International Carrier Bond. This is a major change from CBP's original approach under which the carrier was indicated to be the person responsible for operation and navigation of the ship.

CBP has advised that enforced compliance of the new regulations will begin for non-container ships on 2nd April for entire voyages that commence on or after this date. Owners should therefore ensure that they, or their charterers if appropriate, have made suitable arrangements for compliance as soon as possible. Work continues, in co-operation with other Clubs, on charterparty clauses, and a further update will be issued.

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