



Article published in YACHTING MATTERS magazine
Summer 2004

THE ISPS CHALLENGE

By Patrick Estebe

ISPS has quietly become law. No drums for the birth of this juggernaut. Instead it was simply considered ratified. Although it made no noise, the reverberations of its existence will be felt everywhere for a long time.

ISPS stands for *International Ship and Port Security*; it is part of SOLAS (International Convention for the Safety Of Life At Sea) chapter XI-2. It is a mandatory security protocol for all passenger ships above 500 tons. Private yachts, which do not charter, are exempt, for now, but of course the creation of a standard provides many parties with a measuring stick.

It can be expected that the enforcement of the law may not be done brutally at first. With such a powerful iron fist, authorities can afford a velvet glove, if only to get them time to get organized. There will be a “break-in” period that will allow the different enforcers to sing roughly on the same tune and to make sure international marine trade is not coming to a sudden stop.

However, the situation for the marine industry will be quite chaotic for some time. As a matter of fact, ISPS by itself is just another set of standards, of documentations, trainings and drills that are meant to protect us. That is why the administrators of all feathers cannot even start to understand the reasons why the white ships’ captains are dragging their feet. How could the industry start to explain to government officials the complex and subtle inter-related issues and their damaging ripple effects that captains have learned to manage only through years of practical experience? We all know that yachts are not white ships. Ships are a necessity of trade. Yachts exist merely because of an owner’s vision, his dream, desire to relax, have fun or need for privacy.

Eliminate anything remotely connected to those elements and there is no yacht. A prospective owner, keen on privacy, may not for instance feel comfortable with the knowledge that the layout of his yacht may somewhat be disseminated or shared with, even to a limited group, and decide against owning a yacht. No explanation: the prospective owners’ interests will simply have shifted.

The birth of yachting on a large scale in the thirties would not have been possible without the creation of the “class 12”. (The class 12 was created to exempt private yachts of



Article published in YACHTING MATTERS magazine
Summer 2004

emerging manning mandatory requirements for ships.) The late Jon Bannenberg, to whom we all owe so much, used to claim that a yacht project was about breaking the limits. A yacht's status is about being the exception. This said, let us not hold our breath until an ISPS class 12 is created: it will not happen. It really is the industry challenge to survive in an ISPS environment. An ISPS proponent summed it well: "Tough luck!"

Let us then have a look at what the ISPS is and what the industry can do to comply and survive.

The ISPS is a collective answer to a problem. The problem is not named, that way even if the problem goes away the code can stay.

As it is a collective answer, the purpose of the code is to protect the collectivity, much more than it is to protect the ship. (ISPS 1.2.5 The objectives of the code are: To ensure confidence that adequate and proportionate maritime security measures are in place.)

The code, notwithstanding its objectives, may have some advantages for the actual security of the yacht. First, it certainly brings security to the forefront and, making it mandatory, prevents any yacht to be so negligent as to destroy the reputation of the industry. Of course, yachts as a rule are much more security conscious than ships, but to ensure and reinforce this could be credited to the code. Secondly, thoroughly addressing access control, there is no denying the code will have a direct influence in somewhat improving the security of the yacht. It is on less tangible issues that captains will have to incorporate the code with its linear approach and go beyond it, to offer the owner a multidimensional security, the only sensible answer to the unnamed problem.

Slowly but surely, compliance to the code will be enforced. There are three main reasons for this:

- It is a fantastic career-building cornerstone for a few government and class society people. They have to see to it that it works.
- It is a great business opportunity for many could not even dream about getting into maritime security if it were not for the code.
- It is a powerful control tool for all governments that can only react like a diabetic who is handed a candy bar.

The only concern for yachting here is that none of these groups really care about the actual security of the yacht owners. It will be left to the captains to satisfy the governments requirements and yet be able to provide the owners the services they expect.



Article published in YACHTING MATTERS magazine
Summer 2004

Compliance often leads to complacency; this is why owners will not likely be impressed by compliance to the code.

The problem with complying with Standard Operating Procedures is that true, relaxed and choiceless alertness is replaced by mere attention to follow the procedures and log the results. Certainly routine does not inspire intuition and any written procedure can only become routine after a certain period of time.

A tragic example of this lack of intuition while performing procedures is the hostage crisis in the Japanese Embassy in Peru in 1996. The terrorists posed as waiters and managed to pass through the Embassy's security and its metal detectors, with their weapons.

Another tragic example, closer to us since it happened on the water is the attack on the USS Cole.

It is very difficult for any individual to follow procedures and yet avoid being conditioned by them.

While the understandable purpose of the ISPS is to protect the community at large, its implementation actually diminishes the effectiveness of the best security device: instinct. The challenge for yacht captains will be to demonstrate that they do have the required linear security and convince owners that notwithstanding the regulations they are still in a position to provide them with an effective multidimensional security.

Fortunately owners are more discriminating than government employees. Instead of trying to avoid risks like safety trained public servants, owners get to their position because they understand the risks. Understanding the risks will always beat trying to avoid them. Of course, he who understands the risks does not enjoy wasting his time and energy trying to avoid it. The captain's challenge will therefore be to demonstrate to his flag government that he seriously tries to avoid the risk, thus complies to the ISPS, and yet to the owner that he does not become complacent, for he also, understands the risks.

Possibly the most annoying aspect of the captain's predicament with the code is the denial of trust. The ISPS concept is that everything has to be auditable. The captain's word will not stand, nor the mere production of a plan; it must be auditable. Here of course it is standard operating procedures for governments; no policeman will trust that you have a driving license until he can see it! However in the very sensitive area of security, it may present a very subtle paradox with ripple effects that may be hard to



Article published in YACHTING MATTERS magazine
Summer 2004

evaluate. The amazing situation is that while the owner trusts his captain with his privacy, his investment, and, importantly, with his security, no one else does.

The end of trust is the end of any relationship. Captains will have to pick their security consultants the way they would pick an attorney; someone who will squarely stand by them to enforce their interests, as well as the owner's, while advising on the consequences of the law. The captains or owners who will have chosen someone too close to the prosecution team to ensure a smooth ride to certification, may not be so happy about the long-term consequences.

The captains who will end up in a constant situation of defendant, being denied any trust, will have to choose very carefully who they trust themselves.

On the other hand, of course the same entities that deny any trust, are asking for an inordinate amount of trust when asking for such a gathering of sensitive information about the yachts. Interestingly there is no measure in the code that defines the security procedures for dealing with the yachts security procedures...There is no auditing of the auditors. Given the track records of any government about confidentiality or computer security, it is quite another paradox, which may help the governed remember that in a democratic environment, governments are chosen by the governed.

The entropy law, against which yacht crew are fighting every day, may bring interesting results in time, when turn over of employees ie; Company Security Officers (CSO shore based), Ship Security Officers (SSO crew member designated to assist the Master onboard the ship) and even members of Recognized Security Organizations (RSO security companies or consultants assisting the flag states or the class society with security expertise) will start affecting the confidentiality of the records.

Of course marine trade will survive all this, but will the owner's pleasure survive this, tough luck?

Finally, a couple years from now, when all ships, yachts, ports and anchorages are ISPS, when owners are given a list for all secure and tame destinations, will there still be a dream? A vision?

For, even if one seldom sails to far away places, isn't the dream of doing such a voyage one of the reasons to own a yacht? If there is no more Amazon or Indonesia, no more tinge of unknown or adventure, will there still be a reason to have a yacht?

While governments do their best on our behalf to protect us, let us keep in mind that one of the most important element of happiness is risk. No one knows it better possibly than a yacht owner : most of those I know are in fact risk takers.



Article published in YACHTING MATTERS magazine
Summer 2004

Patrick Estebe trained as a Police Lieutenant and a Captain in the French Infanterie de marine (Marines) and is highly qualified in martial arts. 25 years of real field experiences in the world's worst hot spots and ocean travels beyond civilization have convinced him of the superiority in a soft approach to security.