

SAINT CHRISTOPHER AND NEVIS
STATUTORY RULES AND ORDERS

No. 26 of 2004

The Minister responsible for transport, in exercise of the power conferred under section 171(5) of the Merchant Shipping Act, 2002 makes these Regulations.

1. **CITATION.** These Regulations may be cited as the Merchant Shipping (Ship and Port Facility Security) Regulations, 2004.

2. **INTERPRETATION.** (1) In these Regulations

“the Act” means the Merchant Shipping Act, No. 24 of 2002;

“Administration” means the Department of Maritime Affairs of the State, other than Saint Christopher and Nevis, whose flag the ship is entitled to fly;

“authorized person” means a person authorized in writing by or on behalf of the Director or the Designated Authority for the purposes of these Regulations;

“bulk carrier” means a ship which is constructed generally with single deck, top-side tanks and hopper side tanks in cargo spaces, and is intended primarily to carry dry cargo in bulk, and includes such types as ore carriers and combination carriers;

“certificate” means an International Ship Security Certificate or an Interim International Ship Security Certificate issued in accordance with Part A of the Code;

“chemical tanker” means a cargo ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the IBC Code;

“Coast Guard” means the department within the Government responsible for transport security, in particular port facility security and matters related thereto;

“Code” means the ISPS Code;

“Company” means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner of the ship and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the ISPS Code;

“Company security officer” means the person designated by the Company to

(a) ensure that a ship security assessment is carried out;

- (b) ensure that a ship security plan is developed, submitted for approval, and thereafter implemented and maintained; and
- (c) act as a liaison between port facility security officers and the ship security officer;

“Contracting Government” means the government of a State which is party to the International Convention for the Safety of Life at Sea;

“Declaration of Security” means an agreement reached between a ship and either a port facility or another ship with which it interfaces, specifying the security measures that each party to the agreement shall implement;

“Designated Authority” means the organization or the administration identified, as responsible for ensuring the implementation of the provisions of chapter XI-2 of the Safety Convention pertaining to port facility security and ship or port interface, from the point of view of the port facility;

“Director” means the Director of the Department of Maritime Affairs;

“gas carrier” means a cargo ship constructed or adapted for carriage in bulk of any liquefied gas or other liquid product in chapter 19 of the IGC Code;

“Government” means the Government of Saint Christopher and Nevis;

“high speed craft” means a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding: $3.7V^{0.1667}$ where V = displacement corresponding to the design waterline (m³);

“IBC Code” means the International Code for Construction of Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the Organization by Resolution MEPC.19(22), as may be amended and adopted by resolution and brought into force in accordance with the amendment procedures in MARPOL applicable to an appendix to an annex;

“IGC Code” means the International Code for the Construction of Equipment of Ships Carrying Liquefied Gases in Bulk, 1983, as amended;

“ISPS Code” means the International Code for the Security of Ships and of Port Facilities, as adopted, on 12 December 2002, by resolution 2 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 and any amendments that may be in effect for Saint Christopher and Nevis;

“mobile offshore drilling unit” means a vessel capable of engaging in drilling operations for the exploration for or the exploitation of resources beneath the sea-bed such as liquid or gaseous hydrocarbons, sulphur or salt, not on location;

- "oil tanker" means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces;
- "port facility" means a location, as determined in Saint Christopher and Nevis by the Coast Guard or by the Designated Authority, or elsewhere by the relevant governmental authority, where the ship or port interface takes place;
- "port facility operator" means any person operating a port facility or such other person as may be designated for the purposes of these Regulations as port facility operator for one or more port facilities by the Coast Guard;
- "port facility security assessment" means an assessment of the security of a port facility carried out in accordance with section 15 of Part A of the ISPS Code;
- "port facility security officer" means the person designated as responsible for the development, implementation, revision and maintenance of the port facility security plan and for liaison with the ship security officers and company security officers;
- "port facility security plan" means a plan developed to ensure the application of measures designed to protect the port facility and ships, persons, cargo, cargo transport units and ship's stores within the port facility from the risks of a security incident;
- "recognized security organization" means an organization with appropriate expertise in security matters and with appropriate knowledge of ship and port operations authorized to carry out an assessment, a verification, or an approval or a certification activity, required by this chapter or by Part A of the ISPS Code;
- "Register" means the Register of Saint Christopher and Nevis ships for the purposes of section 11 of the Act;
- "Registrar" means the Registrar of shipping and seamen appointed under section 446 of the Act.
- "restricted zone" means a zone to which access is restricted for security reasons pursuant to these Regulations;
- "security incident" means any suspicious act or circumstance threatening the security of a ship, a mobile offshore drilling unit and a high speed craft, or of a port facility or of any ship or port interface or any ship to ship activity;
- "security level" means the qualification of the degree of risk that a security incident will occur or is likely to occur;
- "ship or port interface" means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from the ship;

"ship to ship activity" means any activity not related to a port facility that involves the transfer of goods or persons from one ship to another;

"tons" mean gross tonnage, and a reference to tons in relation to a ship having alternative gross tonnages is a reference to the larger of those two tonnages.

(2) The term "all ships", when used in these Regulations, means any ship to which these Regulations apply.

(3) In these Regulations where any reference is made to Part A of the ISPS Code, the guidance in Part B of the Code in relation to that matter shall be taken into account in construing Part A.

(4) For the purposes of these Regulations, references in Part A of the Code to the Administration shall in relation to Saint Christopher and Nevis ships be interpreted as references to the Director.

(5) For the purposes of these Regulations a person is permitted to have access to a restricted zone of a port facility if he is permitted to enter that zone or if arrangements exist for permitting any of his employees or agents to enter that zone.

3. APPLICATION. (1) Subject to subregulation (6), these Regulations shall apply to

- (a) the following types of ships engaged on international voyages:
 - (i) passenger ships, including high speed passenger craft;
 - (ii) cargo ships, including high speed craft, of 500 tons or more; and
 - (iii) mobile offshore drilling units; and
- (b) port facilities serving such ships engaged on international voyages.

(2) These Regulations shall also apply to any port facility specified in a Notice issued by the Coast Guard which, although used primarily by ships not engaged on international voyages, is required, occasionally, to serve ships arriving or departing on international voyages.

(3) (a) A Notice referred to in subregulation (2) shall not be issued without a port facility security assessment for that port facility having been done in accordance with section 15 of Part A of the ISPS Code.

(b) The Notice referred to in paragraph (a) shall specify the extent of application of these Regulations and the relevant sections of Part A of the ISPS Code to the facility.

(4) Any Notice issued pursuant to subregulation (2) shall not compromise the level of security intended to be provided by these Regulations and Part A of the ISPS Code.

(5) These Regulations shall not apply to –

- (a) warships;
- (b) naval auxiliaries; or

- (c) other ships owned or operated by parties to the Safety Convention and in use only on Government non-commercial service.

4. SECURITY MEASURES: RESPONSIBILITIES OF DIRECTOR.

(1) Without prejudice to any other duties under these Regulations, the Director shall:

- (a) in accordance with section 4 of Part A of the ISPS Code set security levels and ensure the provision of security level information to Saint Christopher and Nevis ships;
- (b) update, if required, the security level information when changes in the security level occur;
- (c) indicate when a Declaration of Security is required for a Saint Christopher and Nevis ship;
- (d) approve the ship security plan and relevant amendments to a previously approved plan.

(2) The Director may delegate his responsibilities under these Regulations to a recognized security organization, except for the following responsibilities:

- (a) setting of the applicable security level for ships;
- (b) exercising control and compliance measures pursuant to regulations 21, 22 and 23;
- (c) establishing the requirements for a Declaration of Security.

5. SECURITY MEASURES: RESPONSIBILITIES OF COAST GUARD.

(1) Without prejudice to any other duties under these Regulations the Coast Guard shall:

- (a) set security levels, in accordance with section 4 of Part A of the ISPS Code, and ensure the provision of security level information to port facilities within Saint Christopher and Nevis, as well as to ships prior to entering a port or whilst in a port within Saint Christopher and Nevis;
- (b) update security level information as the circumstances dictate when changes in security levels occur;
- (c) determine which of the port facility operators located within its territory would be required to designate a port facility security officer to be responsible for the preparation of the port facility security plan;
- (d) approve the port facility security plan and any subsequent amendments to a previously approved plan.

(2) The Coast Guard may delegate its duties to a recognized security organization under these Regulations, except for the following duties:

- (a) setting of the applicable security level for port facilities or ship to ship interface in Saint Christopher and Nevis territorial waters;
- (b) approving a port facility security assessment and subsequent amendments to a approved assessment;

- (c) determining the port facilities which would be required to designate a port facility security officer;
- (d) approving a port facility security plan and subsequent amendments to an approved plan;
- (e) exercising control and compliance measures pursuant to regulations 21, 22 and 23; and
- (f) establishing the requirements for a Declaration of Security.

6. REQUIREMENTS FOR COMPANIES. (1) Companies shall comply with the relevant requirements of these Regulations and of Part A of the ISPS Code. In particular, and without prejudice to any other duties under these Regulations the Company shall ensure that:

- (a) a Company Security Officer is appointed, and is properly trained and qualified in his duties and responsibilities;
- (b) a ship security officer is appointed for each of its ships and is properly trained and qualified in his or her duties and responsibilities;
- (c) each ship has a ship security plan;
- (d) the master has available on board, at all times, information through which officers duly authorized by any State can establish:
 - (i) who is responsible for appointing the members of the crew or other persons currently employed or engaged on board the ship in any capacity on the business of that ship;
 - (ii) who is responsible for deciding the manner in which the ship is to be employed; and
 - (iii) in cases where the ship is employed under the terms of charter party or parties, who are the parties to such charter party or parties.

(2) Any Company that fails to comply with this regulation shall be guilty of an offence.

7. SHIP SECURITY PLANS. (1) (a) Every ship security plan or amendment thereto shall be submitted for approval to the Director, or to a recognized security organization authorized by the Director to act on his behalf, in accordance with section 9 of Part A of the Code.

(b) A recognized security organization which was involved in the preparation of the ship security plan or an amendment to that plan shall be excluded from participation under paragraph (a).

(2) (a) The amendments to an approved ship security plan or to any security equipment specified in an approved plan are not to be implemented unless the relevant amendments to the plan are approved by the Director.

(b) Any amendments made to the plan pursuant to paragraph (a) shall result in measures that are as effective or even more so than those measures prescribed in chapter XI-2 and Part A of the Code.

(3) Any Company which does not comply with subregulation (1), or otherwise fails to comply with section 9 of Part A of the Code, is guilty of an offence.

8. COMPANY SECURITY OFFICER. (1) The Company Security Officer shall perform the responsibilities and duties specified in these Regulations and Part A of the Code, in particular those listed in paragraph 11.2 of Part A.

(2) Any contravention of this regulation by the Company Security Officer shall be an offence.

9. SHIP SECURITY OFFICER. (1) The Ship Security Officer shall perform the responsibilities and duties specified in these Regulations and Part A of the Code, in particular those listed in paragraph 12.2 of Part A.

(2) Any contravention of this regulation by the ship security officer shall be an offence.

10. REQUIREMENTS FOR SHIPS. (1) Ships shall comply with the relevant requirements of these Regulations and of Part A of the ISPS Code.

(2) Prior to entering a port or whilst in a port within the territory of any other State, a ship shall comply with the requirements for the security level set by that State, if such security level is higher than the security level set by the Director for that ship.

(3) Ships shall respond without undue delay to any change to a higher security level.

(4) Where a ship is not in compliance with the requirements of these Regulations or of Part A of the ISPS Code, or cannot comply with the requirements of the security level set by the Director or by another Contracting Government and applicable to that ship, then the ship shall notify the appropriate competent authority prior to conducting any ship or port interface or prior to entry into port, whichever occurs earlier.

(5) Where there is a breach of subregulations (1) to (4) in relation to a ship then the Company and the master shall each be guilty of an offence.

11. SHIP SECURITY ALERT SYSTEM. (1) The following ships shall be provided with a ship security alert system, as follows:

- (a) ships constructed on or after 11 September 2004;
- (b) passenger ships, including high speed passenger craft, constructed before 11 September 2004, not later than the first survey of the radio installation after 11 September 2004;
- (c) oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high speed craft, of 500 tons and upwards constructed before 11 September 2004, not later than the first survey of the radio installation after 11 September 2004; and
- (d) other cargo ships of 500 tons and upward and mobile offshore drilling units constructed before 11 September 2004, not later than the first survey of the radio installation after 11 September 2004.

(2) The ship security alert system, when activated, shall:

- (a) initiate and transmit a ship-to-shore security alert to a competent authority designated by the Director, which may include the Company, identifying the ship, its location and indicating that the security of the ship is under threat or it has been compromised;
- (b) not send the ship security alert to any other ships;
- (c) not raise any alarm on-board the ship; and
- (d) continue the ship security alert until deactivated or reset or both.

(3) The ship security alert system shall:

- (a) be capable of being activated from the navigation bridge and in at least one other location; and
- (b) conform to performance standards adopted by the Organization.

(4) The ship security alert system activation points shall be designed so as to prevent the inadvertent initiation of the ship security alert.

(5) The requirement for a ship security alert system may be complied with by using the radio installation fitted for compliance within the requirements of the Telecommunications Act, No. 2 of 2000, provided all requirements of this regulation are complied with.

(6) When the Director receives notification of a ship security alert he shall immediately notify the state or states in the vicinity of which the ship is operating at the time of the alert.

(7) When the Coast Guard receives notification of a ship security alert from a ship which is not entitled to fly its flag, it shall immediately notify the relevant Administration and, if appropriate, the State(s) in the vicinity of which the ship is presently operating.

(8) Any contravention of subregulations (1) to (4) shall be an offence by the Company and the master.

12. THREATS TO SHIPS. (1) The Coast Guard shall set security levels and ensure the provision of security level information to ships operating in the territorial sea of Saint Christopher and Nevis or ships that have communicated an intention to enter the territorial sea.

(2) The Coast Guard shall provide a point of contact through which the ships referred to in subregulation (1) can request advice or assistance and to which such ships can report any security concerns about other ships, movements or communications.

(3) Where a risk of attack has been identified, the Coast Guard shall advise the ships concerned and their Administrations of:

- (a) the current security level;
- (b) any security measures that should be put in place by the ships concerned to protect themselves from attack, in accordance with the provisions of Part A of the ISPS Code; and
- (c) what security measures that the Coast Guard has put in place as may be appropriate.

13. MASTER'S DISCRETION FOR SHIP SAFETY AND SECURITY.

(1) (a) The master of a Saint Christopher and Nevis ship shall not be constrained by the Company, the charterer or any other person from taking or executing any decision which, in the professional judgment of the master, is necessary to maintain the safety and security of the ship.

(b) In maintaining the safety and security of the ship, the master may

- (i) deny access to persons or their effects (except those persons identified as duly authorized by a Contracting Government); and
- (ii) refuse to load cargo, including containers or other closed cargo transport units.

(2) (a) Where, in the professional judgment of the master, a conflict between any safety and security requirements applicable to the ship arises during its operations, the master shall give effect to those requirements necessary to maintain the safety of the ship.

(b) If a conflict of the kind referred to in paragraph (a) arises, the master may implement temporary security measures and shall forthwith inform the Director and, if appropriate, the Contracting Government in whose port the ship is operating or intends to enter.

(c) Any such temporary security measures as referred to under paragraph (b) of this regulation shall, to the highest possible degree, be commensurate with the prevailing security level, and upon identification of such cases of conflict, the Director shall ensure that such conflicts are resolved and that the possibility of recurrence is minimized.

14. **VERIFICATION FOR SHIPS.** (1) All Saint Christopher and Nevis ships to which these Regulations apply shall be subject to initial, renewal and intermediate verifications in accordance with paragraph 19.1.1 of Part A of the Code.

(2) The verification of ships shall be carried out by an officer authorized by the Director, or by a recognized security organization if the officer entrusts the verification to that organization.

(3) The security system and any associated security equipment of the ship after verification shall be maintained to conform with the provisions of paragraph 19.1 of Part A of the Code and of the approved ship security plan. After any verification under subregulation (1), no changes shall be made in the security system and in any associated security equipment or the approved ship security plan without the sanction of the Director.

(4) Any contravention of subregulation (1) or (3) shall be an offence by both the Company and master.

15. **ISSUE, ENDORSEMENT, DURATION AND VALIDITY OF CERTIFICATE.** (1) When an initial or renewal verification is satisfactorily completed pursuant to regulation 13 the Director or a recognized security organization acting on his behalf shall issue or, as the case may be, endorse an International Ship Security Certificate to that effect.

(2) The International Ship Security Certificate shall be drawn up in a form corresponding to the model given in the Appendix to Part A of the Code.

(3) The duration and validity of an International Ship Security Certificate shall be in accordance with section 19.3 of Part A of the Code.

16. ISSUE AND ENDORSEMENT OF CERTIFICATES BY ANOTHER GOVERNMENT. (1) The Director may request another Contracting Government to verify the ship and, if satisfied that the provisions of section 19.1.1 of the Code are complied with, to issue or authorize the issuance of an International Ship Security Certificate to the ship and, where appropriate, endorse or authorize the endorsement of that Certificate on the ship, in accordance with the Code.

(2) A Certificate issued pursuant to subregulation (1) shall contain a statement to the effect that it has been issued at the request of the Director and it shall have the same effect as if it had been issued by the Director.

17. CERTIFICATE ISSUED OR ENDORSED ON BEHALF OF ANOTHER GOVERNMENT. (1) The Director may at the request of another Contracting Government verify a ship and, if satisfied that the provisions of section 19.1.1 of the Code are complied with, issue or authorize the issuance of an International Ship Security Certificate to the ship and, where appropriate, to endorse or authorize the endorsement of that Certificate on the ship, in accordance with the Code.

(2) A Certificate issued pursuant to subregulation (1) shall contain a statement to the effect that it has been issued at the request of that Contracting Government and it shall have the same effect as if the Certificate was issued or endorsed by that Government and not by the Director.

18. INTERIM CERTIFICATION. (1) After September 11, 2004, either the Director or a recognized security organization, when so authorized, may cause an Interim International Ship Security Certificate to be issued, in the prescribed form set out in the Appendix to Part A of the Code for the purposes of:

- (a) ship without a Certificate, on delivery or prior to its entry or re-entry into service;
- (b) the transfer of a ship from the flag of another Government to the Saint Christopher and Nevis register; or
- (c) a Company assuming the responsibility for the operation of a ship not previously operated by that Company until the Certificate referred to in regulation 15(1), 16(1) or 17(1) is issued.

(2) An Interim International Ship Security Certificate shall only be issued if the Director or a recognized security organization acting on his behalf, is satisfied that the conditions specified in section 19.4.2.1 to section 19.4.2.7 of Part A of the Code are met.

(3) An Interim International Ship Security Certificate may be issued by the Director or by a recognized security organization authorized to act on his behalf.

(4) An Interim International Ship Security Certificate shall be valid for 6 months, or until the Certificate required by regulation 15(1), 16(1) or 17(1) is issued, whichever comes first, and may not be extended.

(5) No subsequent, consecutive Interim International Ship Security Certificate shall be issued to a ship if, in the judgment of the Director or the recognized security

organization, one of the objectives of the ship or a Company in requesting such certificate is to avoid full compliance with these Regulations beyond the period of the initial Interim Certificate as specified in subregulation (1).

(6) For the purposes of regulations 21, 22 and 23 the Coast Guard may, prior to accepting an Interim International Ship Security Certificate as a valid Certificate, ensure that the requirements of sections 19.4.2.4 to 19.4.2.6 of Part A of the ISPS Code have been met.

19. PROHIBITION ON PROCEEDING TO SEA WITHOUT AN APPROPRIATE CERTIFICATE. (1) Subject to regulation 18(1) no Saint Christopher and Nevis ship required to be verified under these Regulations shall proceed, or attempt to proceed to sea unless there is in force a valid International Ship Security Certificate or an Interim International Ship Security Certificate in respect of that ship.

(2) Where a ship proceeds, or attempts to proceed to sea in contravention of subregulation (1) the Company and the master shall be guilty of an offence.

20. RESPONSIBILITIES OF THE REGISTRAR. The Registrar shall record details of the certificates issued pursuant to regulations 15, 16, 17 and 18, in the Register and shall liaise with any recognized security organization concerning the issuance of an International Ship Security Certificate.

21. CONTROL OF SHIPS IN PORT. (1) (a) For the purpose of these Regulations, every ship to which these Regulations applies is subject to control when in a port in Saint Christopher and Nevis by officers duly authorized by the Coast Guard, who may be officers appointed under section 411 of the Merchant Shipping Act, 2002.

(b) Such control shall be limited to verifying that there is a valid Certificate on board, which shall be accepted, unless there are clear grounds for believing that the ship is not in compliance with the requirements of these Regulations or Part A of the ISPS Code.

(2) (a) When there are clear grounds as referred to in subregulation (1) paragraph (b), or where no valid Certificate is produced when required, the duly authorized officers shall impose any one or more control measures in relation to that ship as provided for in subregulation (3).

(b) The control measures imposed pursuant to paragraph (a) imposed shall be proportionate, taking into account the guidance given in Part B of the ISPS Code.

(3) The applicable control measures are as follows:

- (a) inspection of the ship;
- (b) delaying the ship;
- (c) detention of the ship;
- (d) restriction of operations including movement within the port; or
- (e) expulsion of the ship from port;
- (f) other lesser administrative or corrective measures which may be applied additionally or alternatively to the measures taken under

paragraphs (a) to (e).

22. SHIPS INTENDING TO ENTER PORTS. (1) The Coast Guard may require that ships intending to enter ports in Saint Christopher and Nevis provide the following information to duly authorized officers to ensure compliance with these Regulations prior to entry into port with the aim of avoiding the need to impose control measures or steps:

- (a) that the ship possesses a valid Certificate and the name of its issuing authority;
- (b) the security level at which the ship is currently operating;
- (c) the security level at which the ship operated in any previous port where it has conducted a ship or port interface within the timeframe specified in subregulation (3);
- (d) any special or additional security measures that were taken by the ship in any previous port where it has conducted a ship or port interface within the timeframe specified in subregulation (3);
- (e) that the appropriate ship security procedures were maintained during any ship to ship activity within the timeframe specified in subregulation (3); or
- (f) other practical security related information, with the exception of the details of the ship security plan, taking into account the guidance given in Part B of the ISPS Code.

(2) Where a request is made by the Coast Guard, the ship or the Company shall provide confirmation, acceptable to the Coast Guard, of the information required pursuant to subregulation (1).

(3) Every Saint Christopher and Nevis ship to which these Regulations applies, and which intends to enter the port of another Contracting Government, shall provide the information described in subregulation (1) on the request of the officers duly authorized by that Government but the master may decline to provide such information on the understanding that failure to do so may result in denial of entry into port.

(4) The ship shall keep records of the information referred to in subregulation (2) for the last ten calls at port facilities.

(5) (a) Where, after receipt of the information described in subregulation (1), officers duly authorized by the Coast Guard have clear grounds for believing that the ship is not in compliance with the requirements of these Regulations or Part A of the ISPS Code, such officers shall attempt to establish communication with the ship and its Administration in order to rectify the non-compliance.

(b) Where the information referred to in paragraph (a) does not result in rectification, or if the officers have clear grounds otherwise for believing that the ship is not in compliance with the requirements of these Regulations or Part A of the ISPS Code, such officers may take steps in relation to that ship as provided in subregulation (5). Any such steps taken must be proportionate, taking into account the guidance given in Part B of the ISPS Code.

(6) The steps referred to in paragraph (b) are as follows:

- (a) a requirement for the rectification of the non-compliance;
- (b) a requirement that the ship proceed to a location specified in the territorial sea or internal waters of Saint Christopher and Nevis;
- (c) inspection of the ship, if the ship is in the territorial sea of Saint Christopher and Nevis; or
- (d) denial of entry into port.

(7) Prior to initiating the steps referred to in subregulation (5), the Coast Guard shall inform the ship of its intentions and upon receipt of that information the master may withdraw the intention to enter that port, thereby dispensing with the requirement for further compliance with this regulation.

23. ADDITIONAL CONTROL AND COMPLIANCE PROVISIONS.

(1) In the event:

- (a) of the imposition of a control measure, other than a lesser administrative or corrective measure, referred to in regulation 20 subregulation (3); or
- (b) that any of the steps referred to in regulation 21 subregulation (5) are taken,

an officer duly authorized by the Coast Guard shall forthwith inform the Administration in writing specifying which control measures have been imposed or steps taken and the rationale behind the particular decision.

(2) When any such control measures referred to in subregulation (1) have been imposed or steps taken, the officer shall also notify both the recognized security organization which issued the Certificate relating to the ship concerned as well as the Organization.

(3) (a) When entry into port is denied or the ship is expelled from a port in Saint Christopher and Nevis, the Coast Guard shall communicate the appropriate facts to the authorities of the State of the next appropriate ports of call, when known, and any other appropriate coastal States, taking into account any guidelines developed by the Organization.

(b) The Coast Guard shall ensure that in communicating facts pursuant to paragraph (a), that confidentiality and security of such notification is observed.

(4) Denial of entry into port, pursuant to regulation 22(4) and (5), or expulsion from port, pursuant to regulation 21(1) to (3), shall only be imposed where the duly authorized officers have clear grounds to believe that the ship poses an immediate threat to the security or safety of persons, or of ships or other property and there are no other appropriate means for removing that threat.

(5) The control measures referred to in regulation 21(1) and the steps referred to in regulation 21(5) shall only be imposed, pursuant to regulations 21 and 22, until the non-compliance giving rise to the control measures or steps has been corrected to the satisfaction of the Director, taking into account actions proposed by the ship or the Administration or the Director, if any.

(6) When control is exercised under regulation 21 or steps taken under regulation 22:

- (a) all possible efforts shall be made to avoid a ship being unduly detained or delayed and if a ship is thereby unduly detained, or delayed, it shall be entitled to compensation for any loss or damage suffered; and
- (b) necessary access to the ship shall be permitted for emergency or humanitarian reasons and for security purposes.

24. PORT FACILITIES: COAST GUARD RESPONSIBILITIES. (1) The Coast Guard shall ensure that:

- (a) port facility security assessments are carried out, reviewed and approved in accordance with the provisions of Part A of the ISPS Code; and
- (b) port facility security plans are developed, reviewed, approved and implemented in accordance with the provisions of Part A of the ISPS Code.

(2) The Coast Guard shall designate and communicate to the port facility operator and the port facility security officer the measures required to be addressed in a port facility security plan for the various security levels, including when the submission of a Declaration of Security will be required.

25. PORT FACILITIES: DUTIES OF PORT FACILITY OPERATOR.

(1) The port facility operator shall ensure that port facilities comply with the relevant requirements of these Regulations and Part A of the ISPS Code.

(2) (a) In particular the port facility operator shall appoint a suitably qualified port facility security officer, and ensure that he receives appropriate training, as specified in section 18.1 of Part A of the Code.

(b) The port facility operator shall provide the port facility security officer with the resources, assistance and support necessary to enable him to carry out his duties.

(3) The port facility operator shall ensure that port facility personnel having specific security duties have appropriate knowledge and receive appropriate training as specified in section 18.2 of Part A of the Code.

(4) The port facility operator shall ensure that other port facility personnel have appropriate knowledge as specified in section 18.3 of Part A of the Code.

26. PORT FACILITY SECURITY OFFICERS. A port facility security officer shall carry out the duties and responsibilities placed upon him by these Regulations and Part A of the Code, in particular those listed in section 17.2 of Part A of the Code.

27. DRILLS AND EXERCISES. (1) To ensure the effective implementation of the port facility security plan, drills shall be carried out at appropriate intervals, taking into account all types of operation of the port facility, port facility personnel changes, the type of ship the port facility is serving and other relevant circumstances, taking into account guidance given in Part B of the Code.

(2) The port facility security officer shall ensure the effective co-ordination and implementation of the port facility security plan by participating in exercises at appropriate intervals, taking into account the guidance given in Part B of the Code.

(3) Any contravention of subregulation (1) shall be an offence by the port facility operator and the port facility security officer.

(4) Any contravention of subregulation (2) shall be an offence by the port facility security officer.

28. ALTERNATIVE SECURITY ARRANGEMENTS. (1) The Coast Guard may, when implementing these Regulations and Part A of the ISPS Code, conclude bilateral or multilateral agreements with other Contracting Governments.

(2) The agreements referred to in subregulation (1) shall be in respect of alternative security arrangements where a ship is travelling on

- (a) short international voyages; and
- (b) fixed routes between port facilities located within territories of the Contracting Governments.

(3) Any agreement concluded under subregulation (1) shall not compromise the level of security of other ships or of port facilities not covered by the agreement.

(4) No ship covered by such an agreement shall conduct any ship to ship activities with any ship not covered by that agreement.

(5) The agreements made pursuant to subregulation (1) shall be reviewed periodically, taking into account the experience gained as well as any changes in the particular circumstances or the assessed threats to the security of the ships, the port facilities or the routes covered by the agreement.

29. EQUIVALENT SECURITY ARRANGEMENTS. (1) The Director may allow a particular ship or group of Saint Christopher and Nevis ships to implement other security measures equivalent to those prescribed in this chapter or in Part A of the ISPS Code, provided such security measures are at least as effective as those prescribed in this chapter or Part A of the Code. The Director, where he allows such security measures, shall communicate to the Organization particulars thereof.

(2) (a) When implementing these Regulations and Part A of the Code, the Coast Guard may allow a particular port facility or a group of port facilities located within its territory, other than those covered by an agreement concluded under regulation 28, to implement security measures equivalent to those prescribed in these Regulations or in Part A of the Code, on the condition that such security measures are at least as effective as those prescribed in these Regulations or Part A of the ISPS Code.

(b) The Coast Guard, where it allows equivalent security measures, shall communicate to the Organization the particulars of these measures.

30. COMMUNICATION OF INFORMATION. (1) The Government shall, not later than 11th September 2004 communicate to the Organization and shall make available for the information of Companies and ships, the locations within

Saint Christopher and Nevis covered by the approved port facility security plans as well as the names and contact details of the following:

- (a) its national authority or authorities responsible for ship and port facility security;
- (b) the person or organization designated to be available to receive and act upon the ship-to-shore security alerts, referred to in regulation 12 subregulation (2);
- (c) the person or organization designated to be available at all times to receive and act upon any communications from Contracting Governments exercising control and compliance measures; and
- (d) the person or organization designated to be available at all times to provide advice or assistance to ships and to whom ships can report any security concerns, referred to in regulation 9(2);

and thereafter update such information as and when changes relating thereto occur.

(2) The Government shall, not later than the date referred to in subregulation (1), communicate to the Organization the names and contact details of any recognized security organizations authorized to act on its behalf together with details of the specific responsibility and conditions of authority delegated to such organizations. Such information shall be updated as and when changes relating thereto occur.

(3) The Coast Guard shall, not later than the date referred to in subregulation (1), communicate to the Organization a list showing the approved port facility security plans for the port facilities located within its territory together with the location covered by each approved port facility security plan and the corresponding date of approval and thereafter shall further communicate when any of the following changes take place:

- (a) changes in the location covered by an approved port facility security plan are to be introduced or have been introduced. In such cases the information to be communicated shall indicate the changes in the location covered by the plan and the date when such changes are to be introduced or were implemented prior to notification;
- (b) an approved port facility security plan, previously included in the list submitted to the Organization, is to be withdrawn or has been withdrawn. In such cases, the information to be communicated shall indicate the date on which the withdrawal will take effect or was implemented and the communication shall be made to the Organization as soon as is practically possible; and
- (c) additions are to be made to the list of approved port facility security plans.

(4) In the event that any of the cases referred to in subregulation (3) occurs, the information to be communicated shall indicate the location covered by the plan and the date of approval.

(5) The Government shall, at five year intervals after 11th September 2004, communicate to the Organization certain information as follows:

- (a) a revised and updated list showing all the approved port facility security plans for the port facilities located within Saint Christopher and Nevis;
- (b) the location covered by each approved port facility security plan;
- (c) the date when each port facility security plan was approved;
- (d) if the plan is amended, the date of approval of the relevant amendment which shall supersede and replace all information communicated to the Organization, pursuant to subregulation (3), during the preceding five years.

(6) The Coast Guard shall notify the Organization that an agreement under regulation 27 has been concluded and the notification shall include the following details:

- (a) the names of the Governments which have concluded the agreement;
- (b) the port facilities and the fixed routes covered by the agreement;
- (c) the periodicity of review of the agreement;
- (d) the date of entry into force of the agreement; and
- (e) information on any consultations which have taken place with other Governments.

(7) Once the notification of the agreement referred to in subregulation (6) is made, if the agreement is subsequently amended or comes to an end then the Coast Guard shall notify the Organization of the fact as soon as possible.

(8) If under the provisions of regulation 28, the Director permits any equivalent security arrangements to be made with respect to a ship entitled to fly its flag or with respect to a port facility located within its territory, he shall communicate to the Organization particulars thereof.

31. REQUIREMENT TO PROVIDE INFORMATION. (1) Without prejudice to regulation 22, but subject to sections 9.8 and 9.9 of Part A of the ISPS Code, the Coast Guard may, by notice in writing, require the following persons on which it is served, to provide the Coast Guard with specific information under these Regulations

- (a) the owner, charterer, manager or master of any ship which is in, or appears to the Coast Guard to be likely to enter, a port facility;
- (b) a port facility operator;
- (c) any person who carries on operations in a port facility; and
- (d) any person who is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him.

(2) A notice under subregulation (1) shall specify a date before which the information required by notice is to be furnished to the Coast Guard.

(3) Any such notice may also require the person on whom it is served, after he has provided the Coast Guard with the information required by the notice, to inform the Coast Guard if at any time the information previously given to the Coast Guard, is rendered inaccurate by any change of circumstances.

(4) A reference to information that was previously given to the Coast Guard under subregulation (3) also includes information that was requested in the notice itself in accordance with subregulation (1).

(5) In so far as such a notice requires further information to be furnished to the Coast Guard in accordance with subregulation (3), it shall require that information to be given to it before the end of such period as is specified in the notice for the purposes of this subregulation.

(6) A notice served on a person under subregulation (1) may at any time –

- (a) be revoked by a notice in writing served on him by the Coast Guard; or
- (b) be varied by a further notice under subregulation (1).

(7) The Director may in like manner require the owner, charterer, manager or master of any Saint Christopher and Nevis ship to provide him with information, and subregulations (1) to (5) shall apply as if references to the Coast Guard were references to the Director.

(8) Any person who

- (a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this regulation; or
- (b) in providing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, commits an offence.

32. POWERS OF INSPECTION. (1) An authorized person shall have power, on production of his credentials, if required, to inspect any

- (a) Saint Christopher and Nevis ship;
- (b) other ship while in a port facility;
- (c) part of a port facility; or
- (d) land outside a port facility which is occupied for the purposes of a business by a person who
 - (i) carries on or appears to the authorized person to be about to carry on harbour operations in a port facility for the purposes of that business; or
 - (ii) is permitted or appears to the authorized person to be about to be permitted to have access to a restricted zone of a port facility for the purposes of the activities of that business.

(2) An authorized person inspecting a ship or any part of a port facility or any land outside a port facility under subregulation (1) above shall have power:

- (a) to subject any property found by him on the ship or, as the case may be, to subject that part of the port facility or any property found by him there or on that land, to certain tests;
- (b) to take such steps
 - (i) to ascertain what practices or procedures are being followed in relation to security; or

- (ii) to test the effectiveness of any practice or procedure relating to security; or
- (c) to require the owner, charterer, manager or master of the ship, the port facility operator or the occupier of the land to provide him with such information,

as the authorized person may consider necessary for the purpose for which the inspection is carried out.

(3) Subject to subregulation (4), an authorized person, for the purpose of exercising any power conferred on him by subregulation (1) or (2) in relation to a ship, a port facility or any land outside a port facility, shall have power for the purpose of inspecting

- (a) a ship, board it and to take all such steps as are necessary to ensure that it is not moved;
- (b) any part of a port facility, to enter any building or works in the port facility or enter upon any land in the port facility; or
- (c) any land outside a port facility, to enter upon the land and to enter any building or works on the land.

(4) The powers conferred by subregulation (3) shall not include power for an authorized person to use force for the purpose of boarding any ship, entering any building or works or entering upon any land.

(5) Any person who

- (a) without reasonable excuse, fails to comply with a requirement imposed on him under subregulation (2)(c); or
- (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, commits an offence.

33. FALSE STATEMENTS RELATING TO BAGGAGE, CARGO OR STORES. (1) Subject to subregulation (3), a person commits an offence if he makes a statement or recklessly makes a statement which he knows to be false in a material particular, as it relates to the following matters

- (a) concerning any baggage, cargo or stores that is intended for carriage by sea
 - (i) by a Saint Christopher and Nevis ship; or
 - (ii) by any other ship bound for or departing from Saint Christopher and Nevis; and
- (b) a question that is put to him for purposes of these Regulations by
 - (i) any of the persons mentioned in subregulation (2);
 - (ii) an employee or agent of such a person in his capacity as employee or agent; or
 - (iii) a constable.

- (2) The persons referred to in subregulation (1)(b) above are
- (a) a port facility operator;
 - (b) the owner, charterer or manager of any ship; and
 - (c) any person who
 - (i) is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him; and
 - (ii) has control in that restricted zone over the baggage, cargo or stores to which the question relates.

(3) In this section –

“cargo” includes mail;

“ship” does not include a ship used in naval, customs or police service; and

“stores” means any goods intended for sale or use in a ship, including fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

34. FALSE STATEMENTS IN CONNECTION WITH IDENTITY DOCUMENTS. (1) Subject to subregulation (4), a person commits an offence if –

- (a) for the purpose of, or in connection with, an application made by him or another for the issue of an identity document to which this subregulation applies; or
- (b) in connection with the continued holding by him or another of any such document which has already been issued, he makes to any of the persons specified in subregulation (2), to any employee or agent of such a person or to a constable, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a constable, a statement which is false in a material particular.

(2) Subregulation (1) shall apply to any identity document which is to be or has been issued by any of the persons following for the purposes of a ship security plan or a port facility security plan

- (a) a port facility operator;
- (b) the owner, charterer or manager of any ship; and
- (c) any person who is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him.

35. UNAUTHORIZED PRESENCE IN RESTRICTED ZONES. (1) A person shall not

- (a) go onto or into any part of a restricted zone of a port facility whether driving, sailing or on foot, except with the permission of the port facility operator or a person acting on behalf of the port facility operator and in accordance with any conditions subject to which that permission is for the time being granted; or

- (b) remain in any part of such a restricted zone after being requested to leave by the port facility operator or a person acting on behalf of the port facility operator.

(2) Subregulation (1)(a) does not apply unless it is proved that, at the material time, notices stating that the area concerned was a restricted zone were posted so as to be readily seen and read by persons entering the restricted zone.

- (3) A person who contravenes subregulation (1) is guilty of an offence.

36. **OFFENCES RELATING TO AUTHORIZED PERSONS.** A person who

- (a) intentionally obstructs an authorized person acting in the exercise of a power conferred on him by or under these Regulations; or
 (b) falsely pretends to be an authorized person, commits an offence.

37. **PENALTIES, DEFENCES.** (1) A person guilty of an offence under these Regulations is liable

- (a) on summary conviction, to a fine not exceeding \$50,000;
 (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(2) It shall be a defence for a person charged under subregulation (1) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) Where an offence under this section is committed, or would have been committed save for the operation of subregulation (2), by any person due to the act or default of some other person, that other person is guilty of an offence, and a person may be charged with and convicted of an offence by virtue of this subregulation whether or not proceedings are taken against the first mentioned person.

Dated the 8th day of December 2004.

EARL ASIM MARTIN
Minister responsible for Transport