

Brief

Exchange of monitored AIS data between nations

Introduction

IALA is working on a project of establishing an unclassified, civil system to exchange data between authorities in different nations. The data are monitored signals from the ships exchange of AIS data. One of the conditions of receiving data is willingness to deliver similar data to the system and thereby to other nations.

The purpose of the exchange is cf. <http://www.frv.dk/iala-net/IALA-NET%20presentation%20Final.pdf>,

- to initiate new channels of co-operation amongst maritime nations fostering a greater sense of community, through fair and equal access to the sum of information available,
- to improve maritime awareness of the inner and outer regions of any nation's EEZ,
- to take international co-operation from bilateral to a multilateral level creating mutual maritime trust between nations, and
- to demonstrate an example of how sustained collaboration may lead the way for future sharing of other unclassified information on the maritime world taking the benefits even further.

The purpose of this brief is to subject legal problems with exchange of data to an examination.

Legal matters

There is no worldwide regulation in international law of exchange of data between nations.

However

- in the report from the 79th session of IMO's Maritime Safety Committee, IMO has made a statement in which IMO condemns publication of AIS data on the world-web or elsewhere, the statement is not legally binding,
- groups of countries, e.g. the European Union, have regulated the use of data, if the data can be linked to a specified person,
- many countries have legislation of consequence for exchange of data.

The IMO statement was initiated by the fact that some private companies are publishing AIS data. There might be a risk for misuse of the data. The Danish Maritime Safety Administration has asked the Danish Security Intelligence Service about its opinion concerning the matter. In its answer the Danish Security Intelligence Service concludes, that under these special circumstances the Intelligence Service can neither recommend a prohibition against private monitoring of AIS data nor recommend encryption of the data. Instead the Intelligence Service recommends that those selected private persons, who are given access to the data, are registered.

The IALA-NET will not publish the AIS data. The IALA-NET will only exchange AIS data between IALA National Members and National Authorities responsible for Aids to Navigation. Therefore IALA-NET is not covered by IMO's statement.

The exchange of AIS data will be in accordance with principles of security, cf. the recommendation of the Danish Security Intelligence Service, because the data will only be available for national authorities and those, the authorities allow access.

Groups of countries and many individual countries have regulated use of data if the data can be linked to a person. AIS data consist of data referring to the ship, the ship's route and the ship's movements. There is no data concerning individuals.

Examples of administration of access to AIS data

Denmark is a member of the European Union and is following the EU Directives, among these the Directive 95/46/EC final on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and the Directive 2003/98/EC on the re-use of public sector information. But none of these directives are relevant for this matter because AIS data do not include personal data and because the second directive only regulates the conditions for re-use (e.g. non-discriminatory, fair and non-exclusive access), but not which data there should be access to.

In addition Denmark has national laws regulating the citizens' access to information kept in the public administration and regulating the legality of monitoring radio signals and the re-use of these. But these laws are irrelevant too, because they only regulate situations where the data either will be used as a foundation for an official decision or is made in connection with considerations of matters concerning the field of responsibility of the authority.

Denmark finds it unrealistic to prevent monitoring unencrypted data. Instead the Danish Maritime Safety Administration offers selected AIS data to ship-owners, harbours etc. if they can make

probable that they has a legitimate need for the data. The principles for non-governmental authorities and private companies are therefore:

1. It should be made probable that the user has a legitimate need for the information.
2. The user will only get the information it has a need for (e.g. if the user do not need real time data, the user will only get delayed data; and if the user only need information of own ships, the user will only get information on own ships).
3. The user will be registered.

Conclusion

There is no international regulation which forbids the exchange of AIS data.

The IMO statement, which discourages those who make data available for publication, is not discouraging the exchange of data between authorities.

AIS data do not include information about individuals.

The exchange of data between authorities will not violate the security.

Therefore there are no legal reasons, no conflicts to international recommendations, and no significant security reasons against exchange of AIS data between authorities from different nations for the purpose of enhancing safety.