



'Going dark' is a red flag – AIS tracking and sanctions compliance

Turning off the AIS to avoid detection is having the opposite effect when it comes to authorities monitoring vessels in areas covered by sanctions.

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The Automated Identification System (AIS) was developed to counter the safety limitations of visual/VHF/Radar that were traditionally relied on for safe navigation in busy waterways. Regulation 19 of SOLAS Chapter V requires AIS is to be fitted on all ships of 300 gross tonnes and upwards engaged in international service, cargo ships of 500 gross tonnes and upwards not engaged on international voyages, and all passenger ships irrespective of size. Because vessels with AIS can 'see' each other's course and speed in real time, AIS is a critical collision avoidance tool.

SOLAS requires all ships fitted with AIS to maintain it in operation at all times except where international agreements, rules or standards provide for the protection of navigational information. For example, warships are not required to transmit AIS signals, (although following two high profile collisions, the US Navy reported in 2017 that it would turn on AIS in congested waters).

Pursuant to [IMO guidelines](#), if the master believes that the continual operation of AIS might compromise the safety or security of his/her ship or where security incidents are imminent, the AIS may be switched off. The date, location and time the AIS is switched off should be recorded in the ship's logbook together with the reason for doing so and the master should restart the AIS as soon as the source of danger has disappeared. A frequently cited example of a reason for switching off the AIS is when transiting waters prone to piracy in order to conceal the vessel's identity, location and course from pirates.

AIS and trade subject to sanctions

The landscape of sanctions legislation and regulations is complex and ever-changing, involving regimes imposed by the United Nations, European Union and United States that in certain respects include different requirements, thresholds for violations and consequences of breach.

Authorities have recently focused on patterns of shipping activity that may suggest trade in contravention of sanctions. In January 2019 all clubs in the International Group of P&I Clubs (IG) issued a [circular](#) drawing attention to measures that governments are taking to enforce sanctions on coal and petroleum cargo trading with North Korea. As noted by the IG clubs “*the interest of surveillance agencies will be heightened where it is judged that loss of the AIS signal is the result of a Master or other crew member deliberately turning off the transmitter signal in order to conceal the ship's voyage pattern and navigational activities*”.

In March 2019 the US Department of the Treasury Office of Foreign Assets Control (OFAC) released [an advisory](#) to the maritime petroleum shipping community highlighting sanctions risks related to petroleum shipments involving Iran and Syria. The advisory identified disabling AIS transponders as a deceptive shipping practice and recommended that “*ship registries, insurers, charterers, vessel owners, or port operators should consider investigating vessels that appear to have turned off their AIS while operating in the Mediterranean and Red Seas. Any other signs of manipulating AIS transponders should be considered red flags for potential illicit activity and should be investigated fully prior to continuing to provide services to, processing transactions involving, or engaging in other activities with such vessel*”.

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As mentioned above, there may be legitimate reasons for an AIS signal to “go dark”, i.e. where the master determines there is a safety risk to the vessel or crew or it happens unintentionally due to technical malfunction. There may also be AIS ‘black holes’ where no vessel signal shows up or the receipt and display of signals are blocked by jamming activities from local authorities. Whatever the reason, the lack of signal should be recorded. ‘Going dark’ in areas of heightened surveillance is a red flag to authorities and legitimate reasons may need to be evidenced to dispel suspicion of intentional avoidance of sanctions compliance.

‘Going dark’ save where necessary to preserve the safety or security of the ship, constitutes a breach of the Safety of Life at Sea Convention, putting the ship in breach of Flag State requirements, and heightening the risk of collision, damage to other ships, pollution damage and loss of seafarers’ lives at sea. As stated by the International Group in their [circular](#), “ *there will also be grounds to deny P&I cover on the basis of imprudent or unlawful trading where an owner trades his vessel in breach of sanctions, disguising its location by manipulating or withholding the transmission of AIS data.* ”

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