

Marine Security

Professor Stuart Kaye
Faculty of Law
University of Wollongong



Maritime Security Environment

- Al'Qaeda has demonstrated an intent and capability to attack ships - eg. MV Limburg and USS Cole
- Al'Qaeda has previously made specific references to possible attacks on western energy sources
- Merchant ships may face significant threats in some international waters - Middle East; North Africa and South East Asia



Maritime Security Environment



Relatively few examples of terrorism at sea, but other forms of criminal activity, such as piracy in international waters, are prevalent

Methods and means of piracy are potentially available to terrorists

Shipping and Counter-terror Initiatives

- IMO
 - SOLAS Amendments
 - International Ship and Port Security Code
- SUA Convention
 - New protocol and amendments



ISPS Code

- International Ship and Port Facility Security Code
 - Implemented as part of SOLAS
 - 155 contracting parties representing over 98% of world tonnage
 - Applies to ships and ports



International Ship and Port Security Code (ISPS Code)

- Mandatory provisions covering responsibilities of Contracting Governments, appointment of security officers for shipping companies, ships, and port facilities, security assessments and plans, training, verification/certification for ships



ISPS Code

ISPS code applies to:

- The following types of ships engaged on international voyages:
 - Passenger ships, including high-speed passenger craft;
 - Cargo ships, including high-speed craft, of 500 gross tonnage and upwards; and
 - Mobile offshore drilling units



ISPS Code

- Port facilities serving such ships engaged on international voyages.
 - Date for compliance: July 2004
 - Implemented in the *Maritime Transport and Offshore Facilities Security Act 2003 (Cth)*

NOTE: Code does not apply to warships, naval auxiliaries, fishing vessels and Contracting Government ships used on non-commercial service



Ship Costs of IMO ISPS Code

- Estimates of initial investment by ship operators is of USD 1.3 billion with ongoing annual operating costs of USD 730 million
 - 46,000 ships, over 500 gross tonnes, subject to IMO ISPS Code
 - 13,000 ship operators
 - over 1 million officers and ratings manning the merchant fleet
 - Costs related to security-related equipment, development of plans and training of officers



Port Costs of IMO ISPS Code

- Cost estimates (2003):
 - Costs of Port Facility Security Assessments USD \$28 million initial, with ongoing annual operating costs of USD \$0.8 million
 - Port Facility Security Plans (same as above)
 - 2,800 international cargo ports subject to IMO ISPS Code, in over 131 countries around the world
 - 6,500 terminal facilities subject to IMO ISPS Code



MTOFSA

- *Maritime Transport and Offshore Facilities Security Act 2003 (Cth)*
- Implements the ISPS Code in Australian ports and on Australian ships and installations
 - Maritime security levels
 - Maritime security plans
 - Offshore security plans
 - Maritime security zones



MTOFSA

- Binds the Crown in all capacities
- Does not apply to:
 - Warships; customs vessels; vessels used in law enforcement
 - Ships owned, leased or controlled by Commonwealth, State or Territory Governments used for wholly non-commercial activities
 - Port or part of a port under the exclusive control of the ADF



MTOFSA

- Applies to:
 - Australian ships (inter-state or overseas passenger; or, 500+ gross tonnes)
 - Australian ports
 - Certain foreign ships (as for Australian ships but also in Australian waters or bound for an Australian port)
 - Territorial sea and internal waters
 - Offshore facilities on the Australian EEZ or continental shelf
- This presentation will concentrate on ports and offshore facilities in the context of spatial issues



MTOFSA

- Definition of a port:
 - (1) A **port** is an area of water, or land and water (including any buildings, installations or equipment situated in or on that land or water) intended for use either wholly or partly in connection with the movement, loading, unloading, maintenance or provisioning of ships.
 - (2) A **port** includes:
 - (a) areas of water, between the land of the port and the open waters outside the port, intended for use by ships to gain access to loading, unloading or other land-based facilities; and
 - (b) areas of open water intended for anchoring or otherwise holding ships before they enter areas of water described in paragraph (a); and
 - (c) areas of open water between the areas of water described in paragraphs (a) and (b).



MTOFSA

- By Gazette notice, areas of a port can be security regulated
 - Such “notice must include a map of the port that shows the boundaries of the security regulated port”.



Maritime Security Plans

- Maritime security plans
 - Port operator
 - Port facility operator
 - Port facilities are land and water (including buildings or equipment) used in the loading or unloading ships
 - Other prescribed participants



Maritime Security Plans

- Maritime security plans
 - Must include a security assessment
 - Set out measures to be adopted at Maritime Security Level 1, 2 or 3
 - Follows three levels used in ISPS Code
 - Contact details for the security officer
 - Provision for declarations of security
 - Content must demonstrate maritime security outcomes
 - Must include a map of any port security zones under the plan



Port Security Zones

- Secretary DoTARS can by written notice create a port security zone
 - Must include a map of the port showing the boundaries of the zone
 - Must notify affected industry participants who control an area within the zone
 - Must provide a map with such a notice
 - Map must be of a size and scale that clearly shows the boundaries of the port, and permits Secretary DoTARS to gazette the port boundaries



Port Security Zones

- Purposes for which different types of port security zones may be prescribed include:
 - (a) controlling the movement of people or ships or any other thing within security regulated ports;
 - (b) restricting access to areas within security regulated ports;
 - (c) providing cleared areas within security regulated ports;
 - (d) preventing interference with ships;
 - (e) preventing interference with people or goods that have been, or are to be, transported by ship;
 - (f) ensuring the security of the following:
 - (i) fuel storage areas;
 - (ii) cargo and baggage handling facilities;
 - (iii) navigational aids;
 - (iv) critical installations.



Port Security Zones

- Port security zone regulations can include:
 - (a) access to port security zones (including conditions of access, the issue and use of security passes and other identification systems);
 - (b) the identification or marking of port security zones;
 - (c) the movement, management or operation of ships and other vessels and vehicles and other things in port security zones;
 - (d) the maintenance of the integrity of port security zones;
 - (e) the management of people and goods (including the management of unaccompanied, unidentified or suspicious goods) in port security zones;
 - (f) the management (including the sale or disposal) of ships, other vessels, vehicles or goods abandoned in port security zones



Offshore Security Zones

- Secretary DoTARS can issue a notice to establish an offshore security zone
- The zone must comply with international law
 - Limits size to no more than 500 metres radius
- The information that must accompany an offshore security plan for an offshore facility operator must:
 - (a) show the location (including the geographical coordinates) of each facility in a way that enables the Secretary to gazette the location of the facility; and
 - (b) include a diagram of a size and scale of each facility and surrounding water that shows the layout of the facility and of any offshore security zone.



Offshore Security Zones

- Offshore security zone regulations can include:
 - (a) limiting contact with security regulated offshore facilities;
 - (b) controlling the movement of people within a security regulated offshore facility;
 - (c) controlling the movement of ships and other things within and around a security regulated offshore facility;
 - (d) providing cleared areas within and around security regulated offshore facilities;
 - (e) preventing interference with security regulated offshore facilities;
 - (f) preventing interference with people or goods (including petroleum) that have been, or are to be, transported to or from security regulated offshore facilities.

