

Capability Sharing in Maritime Security: The Australian Experience

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The normalisation of maritime security

Maritime security has been a concern for as long as trading ships have been plying the seas. However, the development of an international regulatory regime for the security of trading ships – the systematisation and regularisation of maritime security – is a recent phenomenon. For the most part this has been driven by the need to respond to crime and terrorism at sea. It also simply reflects the ongoing expansion of regulatory regimes. Where the development of safety and then environmental regulatory regimes for international trading ships can be seen as a characteristic of late 20th century international cooperation, we might expect the development of security regulatory regimes, along with expansion of counter-terrorism regimes, to come to be seen as key characteristics of international cooperation at the beginning of the 21st century.

The ISPS Code

The *Achille Lauro* hijacking in October 1985 led to the development of the original *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation*, which provided a framework for addressing crimes committed at sea – *after* the event. But it was in the aftermath of September 11 2001 that the international community found new urgency in the building of a system for the *prevention* of criminal and terrorist acts against trading ships. Development of the international maritime security regime, as set out in the International Ship and Port Facility Security (ISPS) Code, was commenced in late 2001 and quickly finalised in December 2002. While detailed consideration of the Code is beyond the scope of this paper, a brief overview of the requirements of the Code is warranted – meeting those requirements has been a challenge for all states, developed and developing, and providing assistance in implementing the Code has been integral to Australia's effort to enhance the security of trading ships in our region.

The ISPS Code provides a framework for securing international trading ships, and the ports serving them. The Code requires all these ships and port facilities to undertake security risk assessments, and develop and implement security plans to address identified risks. Because the security measures implemented by each ship or port facility are in response to the security risk assessment, the measures themselves will differ from facility to facility and ship to ship. But it can be expected that these measures will include physical security measures to prevent, deter and detect unauthorised access, and organisational measures such as governance structures to manage security matters in an ongoing and sustainable fashion, and systems for training staff and managing security drills and exercises. The Code provides for three security levels, each of which reflects a different risk context, and requires that security plans set out measures appropriate to each security level, so that plans can quickly adapt to changes in the risk context.

The Code also imposes certain obligations on contracting governments.

Governments have a role in assessing and approving security plans, and auditing ongoing compliance with those plans, within the appropriate legal framework.

Governments also have broader responsibilities such as setting security levels in the light of available intelligence, and exercising control and compliance measures where appropriate. Some of these functions can be contracted to non-government organisations on a commercial basis. For example, approval of ship security plans and verification of compliance of ships with the Code can be undertaken by specialist ship classification organisations on behalf of contracting governments (although in Australia these functions are discharged by the Government). However, most key functions must be undertaken by contracting governments. For example, designation of security regulated ports, approval of port security plans, setting of security levels and exercising of control and compliance measures all remain the responsibility of the ISPS contracting government.

Implementing ISPS

As noted above, the ISPS Code was finalised in December 2002, just one year after its development had commenced. Contracting governments agreed that the Code should be implemented quickly, reflecting the high level of commitment to enhancing maritime security in the wake of September 11. An implementation date of 1 July 2004 was agreed.

For a developed country such as Australia, implementation of the code within just 18 months was a challenge. In the first instance, a completely new legislative regime, involving an Act of Parliament and a complex set of subsidiary regulations, needed to be developed. Subsequent to this, all Australian ships and, more significantly, port facilities dealing with international trading ships, needed to develop their security plans for assessment and approval by the Government in time for implementation by 1 July 2004. Australia was able to achieve this, but not without significant investment on the part of both industry and Government.

For developing countries in our region, ISPS implementation was a greater challenge. There was no lack of motivation. Many countries in our region were acutely aware of the economic impact of a terrorist attack on their maritime infrastructure. Added to this was a clear understanding that failure to implement ISPS would become a hindrance to trade. Ships which had interacted with ports which were not compliant with the Code would likely be subject to additional security measures in subsequent ports. And insurance premiums on ships and cargoes interacting with non-compliant ports would be likely to rise because of insurers' uncertainty about the adequacy of local security procedures.

But while there was no lack of motivation, in some instances there were gaps in the *capability* of maritime administrations and operators of maritime infrastructure to effectively implement the Code. Most ISPS contracting governments were able to implement some basic requirements of ISPS – such as basic physical security measures – by July 2004. However it has been recognised – in the International

Maritime Organization, in APEC, and by countries such as Australia – that more capability building work needed to be done to fully implement the Code, and ensure maritime infrastructure is appropriately protected against terrorism.

Capability sharing in maritime security

Just as concern for maritime security is not a new thing, there is nothing new about capability sharing in maritime security. Many countries in the Asia-Pacific region are dependent on seaborne trade as the driver of economic growth, and the maintenance of sea lines of communication for trade is taken seriously in the region – reflected in some cases by expanding naval forces and strongly promoted claims of sovereignty. Against this backdrop, capability sharing in maritime security for broader regional security and defence purposes has been undertaken for many years.

Maritime security capability sharing in this context is, however, dealt with elsewhere in the program for this symposium – the focus of this paper is on capability sharing for ISPS implementation.

As we have seen, the ISPS Code places obligations on both industry and government, in areas ranging from physical security measures through to governance structures and legal frameworks for control and compliance measures. Meeting this wide range of obligations requires a wide range of capabilities.

The Australian approach

The Australian Government has recognised that capability gaps are different in almost every situation, so capability sharing needs to be individually tailored to the situation to be effective. The Government has established bilateral counter-terrorism agreements with many countries in our region. These agreements have created a framework for targeted assistance, including in maritime security. The focus of the

frameworks has been partnership in addressing the economic and social threats posed by terrorism.

The Government has also recognised that Australia is not alone in wanting to work with countries in our region to enhance maritime security, so we seek to take a coordinated approach – complementing other capability sharing countries, rather than competing with them.

Within this broad framework of tailored and coordinated capability sharing, we are seeing the emergence of an identifiably Australian approach.

Australia focuses on building *partnerships* – personal, professional and institutional partnerships with governments, inter-governmental organisations, industries and individuals – rather than establishing a donor / recipient approach. And we focus on working with *people* rather than equipment – recognising that it is people, with the right knowledge and training, that can make the biggest difference to security outcomes.

This is not to say that equipment is not important – the appropriate physical security infrastructure is, as we have noted, a key requirement of ISPS implementation. Rather it reflects the reality that in many cases the key obstacles to effective implementation are the lack of the appropriate legal framework, the lack of supporting administrative structures, limited inter-agency coordination, and budget constraints.

We work to build capability sharing partnerships both bilaterally with key countries in our region, and multilaterally through institutions such as the International Maritime Organization, the G8, the Secretariat of the Pacific Community, and APEC. We are active at Ministerial level – for example, Minister Truss led Australia's delegation to the Ministerial Conference on International Transport Security in Tokyo

in January this year, where capability sharing for maritime security was a key item considered by Transport Security Ministers from the G8 and key Asia-Pacific countries. And Australia will be hosting an APEC Transport Ministers meeting in March next year, for which Minister Truss proposes a focus on transport security, as a pre-condition for global trade.

Practical examples of capability sharing

We are also active on the ground. For example, the International Maritime Organization has run a number of workshops in key regions, with the objective of empowering participants to raise the awareness of the ISPS Code and maritime security generally for government officials and port facility operators within their home countries. Australia has led or contributed to a number of these workshops within our region.

Likewise, APEC has initiated a number of maritime security capability building projects. Prime Minister Howard joined with other APEC leaders in November 2004 to announce the APEC ISPS Implementation Assistance Program. This program provides a framework for APEC member states to assist each other in achieving ISPS compliance. The Program uses tools such as the IMO's voluntary self-assessment guidance and tailored seminars to help participants identify gaps within their respective systems, and develops workshops to bring participants together with relevant experts to build the capability required to address the identified gaps.

Singapore and Australia have also developed an APEC port security capability building seminar series, which is targeted specifically at middle-managers in APEC region ports.

These multilateral initiatives have been well received in the region, and represent a substantial investment on Australia's part in developing capability to improve ISPS

implementation in our region. But Australia is also making more direct capability building efforts with key partners in our region.

The Government has provided DOTARS with funding to post Transport Counsellors to our embassies in Jakarta and Manila. These officers are focused on building relationships with transport security officials in governments across Asia, so that they are able to assist in identifying opportunities for capacity building projects in maritime security, and transport security more generally.

We have also posted a maritime security specialist into Papua New Guinea, as part of the PNG enhanced co-operation package. And we have appointed a Pacific Maritime Security Liaison Officer to work with the countries of the South Pacific on maritime security matters. These appointments represent a significant commitment to enhancing ISPS compliance in our region through building trusting partnership-focused relationships as the basis for capability sharing in maritime security.

To date Australia's most significant ISPS implementation capability building project has been with the Philippines.

The Philippines-Australia Port Security Capacity Building Project

This project involves working with the Philippines Office for Transportation Security (OFTS) to assist the Philippines to achieve ISPS compliance for its international ports, and to implement a similar security regime for domestic ports and ships, with an emphasis on domestic passenger ferries and ports located on the southern island of Mindanao. The project is funded by the Australian Government, through AusAID, and represents a commitment of some \$3.5 million.

Initially the project assisted OFTS in the preparation of a Maritime Transport Security Program. This document serves as a blueprint for OFTS, outlining its roles and

responsibilities in relation to maritime security. From this document OFTS will develop a legal framework that will detail the obligations of government and private maritime industry participants, and include penalties for non-compliance by industry.

The project has also:

- Provided equipment and furniture to enable OFTS to carryout its functions;
- Funded the development of an OFTS website to facilitate communication between OFTS and other government and non government organisations;
- Trained 1,680 port facility security officers and OFTS staff in the development and implementation of port facility security plans; and
- Trained 586 local trainers and OFTS staff in assessment, verification and audit of port security plans. The local trainers are now equipped to impart these skills to port security officers in their local areas.

The extension of the Project to cover domestic shipping and port security is the major focus of the Project in 2006. Priority attention is being given to a number of key maritime security risks including:

- Major ports in Mindanao, especially Davao, Zamboanga, Cagayan de Oro and General Santos, where domestic ports are adjacent to international ports;
- Ports managed by the Autonomous Region of Muslim Mindanao such as ports located in Cotabato, Basilan, Sulu and Tawi-Tawi.

The Project also conducted a National Threat Assessment workshop and a Concept of Operations workshop in June 2006. These workshops were aimed at providing OFTS with the opportunity to identify key threats to maritime transport security and to develop a national response to a significant terrorist incident.

The partnership approach exemplified by this project has yielded extraordinary results. Members of the Philippines Congress and Senate have recognised the work Australia has done to develop the capability of the Philippines Office for Transportation Security, and are now openly lobbying within Congress to secure an ongoing funding arrangement for that Office.

Conclusions

While the international regulatory regime for the security of trading ships and the ports serving them is still relatively new, the framework for capability sharing to enhance implementation of that regime, and maritime security more generally, is now becoming well established.

Australia's approach, bringing together ongoing multilateral cooperation, and our own bilateral partnership-based projects, has been well received across the region.

The challenge for ISPS implementation now, a few days out from the Code's second anniversary, is the same challenge faced by any preventive regime developed in response to extraordinary circumstances: maintaining momentum in the perceived vacuum of motivation created by success.