The Emerging International Regulatory Framework for Managing Maritime Security - Related Risks Associated with Shipping: Vessel and Seafarer Identity in the APEC Region

Submitted by: University of Wollongong
The Emerging International Regulatory Framework for Managing Maritime Security:
Related Risks Associated with Shipping: Vessel and Seafarer Identity in the APEC Region

Professor Martin Tsamenyi, Phd.
Director
The Australian National Centre for Ocean Resources & Security (ANCORS)
University of Wollongong, Australia

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Summary
- Introduction
  - Maritime security in the APEC context
  - International Legal Regulatory framework for Maritime Security, focussing on-
    - Identity of Vessels
    - Identity of Seafarers
- Un-resolved Issues
- Some observations

Importance of Maritime Security in the APEC Region
- High level of dependence upon seaborne trade
  - Seaborne trade accounts for 80-90% of world trade
  - Energy dependence
- The sea as an important food source
- Economic reliance on the sea by many coastal communities
- Environmentally fragile marine ecosystems

Major Asia Pacific Shipping Lanes

Ship Identity Risks
- Beneficial Owners
- Crew
- History of flagging
- History of previous Ports of call
- History of beneficial ownership

Cargo Identity Risks
- Shipment Details
- Origin
- Manufacturer
- Final destination
- Point of Transit
- Shipment

Importance of Maritime Security in the APEC Region
Seafarer Identity Risks

Maritime Terrorism Risk Factors (OECD)

International Regulatory Framework for Managing Vessel Identity Risks

SOLAS Regulation 19 – Chapter V Requirements

ISPS Code Vessel Identity Requirements

LRIT Vessel Identity Requirements
Gaps in Ship Identity Risk Regulatory Framework

- Confidentiality of information
- Sharing of information
- Identifying beneficial owners of vessels
- Identifying non-SOLAS vessels
- Identifying transiting vessels
  - Freedom of navigation concerns
  - Limitations regarding enforcement action

International Regulatory Framework for SIDS

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<tr>
<td>61 Ratifications</td>
<td>Passport in addition to SIDS</td>
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<td>- SID Documents</td>
<td>No visa for shore leave</td>
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<td>- Minimal requirement for form &amp; content</td>
<td>Adopted June 2003</td>
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<td>- National electronic database</td>
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<td>- Biometrics required for transit &amp; transfer</td>
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Seafarer ID and Maritime Security Risk Concerns

- Outmoded international regulatory framework
- Lack of uniformity in seafarers’ identity documents - problems of “positive verifiable identification”
  - No background checks
  - Fraudulent documentation
- Easy for a terrorist to assume the identity of a seafarer to gain the skills required to operate a ship or to move around the world

Unresolved Seafarer ID issues

- Passports...
- Requirements for crew visa...
  - Shore leave
  - Transit and transfers
- Requirements for biometrics identifying characteristics...
  - Psychological or behavioural characteristic unique to each individual
  - Biometrics versus privacy
- Human rights context

States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular human rights, refugee and humanitarian law.

Protection of Human Rights and Fundamental Freedoms while Countering Terrorism - UN General Assembly Resolution A/RES/57/219
APEC ECONOMY APPROACHES TO VESSEL & SEAFARER IDENTITY RISK MANAGEMENT

- Vessel Tracking
  - Different national maritime security requirements and approaches becoming evident
- Seafarer ID
  - Non ratification of SID 2003 Convention
  - Individual Economy requirements for passports & crew visas

THE CHALLENGE FOR APEC

*How to strike the delicate balance between trade promotion and ensuring security required*

Danger of fragmented National Approaches to Maritime Security

THE WAY FORWARD?

- Need for closer APEC-wide responses
- Need for more comprehensive assessment of APEC Economy practices
  - Harmonised measures?
  - Adoption of best practices?

Thank You