

21 August 2003



The Secretary
Joint Standing Committee on Treaties
R1-109
Parliament House
CANBERRA ACT 2600

Convention for the Safety of
Life at Sea.
Submission No: 9

Dear Ms Gould,

Re: Safety of Life at Sea Convention

The Victorian Sea Freight Industry Council recognises the requirement for increased security in the shipping and port sector. The Council is supportive of the role of the IMO in providing a means for all countries to take a consistent approach to this task.

Since the Regulation Impact Statement on the ISPS Code was produced, we are aware that an Exposure Draft of the Maritime Transport Security Bill has been selectively distributed for comment to a number of our members. Their comments and concerns are also reflected in the following comments.

Outcomes based Approach

The Council is supportive of an outcomes-based approach to maritime security. The Federal Department of Transport and Regional Services has indicated to industry that costs are expected to be absorbed as part of doing business. This means that industry will require some flexibility in how it delivers security in order to seek customer benefits through existing investment, particularly in track and trace systems, existing surveillance/access control systems and information management.

Members have expressed concerns that the Exposure Draft of the Maritime Transport Security Bill, which will translate the Treaty and Code nationally, should be consistent with this outcomes-based approach and not seek prescriptive operational requirements that add cost without value.

Costs of Compliance

The Victorian Sea Freight Industry Council is concerned that the IMO model anticipates assistance from governments (generally at the national level) to support the shipping lines, port managers and terminal operators to comply. Already the US Government has discovered the funding allocation for maritime security is grossly inadequate to the task. US ports are currently unable to comply with their own Maritime Transport Security Act 2002 due to lack of funds, with the Customs and Coastguard agencies have required a doubling of funding allocations.

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The estimates of cost provided in the Treaty Regulation Impact Statement are difficult to substantiate, as no assumptions have been provided. Victorian ports and terminal operators have tackled security assessments, however, they have not yet completed Security Plans. Early estimates of likely costs far exceed the estimates provided.

Timelines for Compliance

As has been the case with the US ports, our concern is that the timeframe of July 1, 2004, for compliance, will place unrealistic expectations on port and terminal managers. Investment in infrastructure to deliver compliance may not be completed by this date, particularly when specific regulations are not expected to be available before March 2004. While ports and terminal operators will prepare and implement Security Plans, these may need to be retrofitted when regulations are enacted, creating additional costs and requiring a longer timeframe.

State port jurisdiction

The IMO model deals predominantly with ports as a national responsibility. In Australia, having State jurisdiction for ports has created some ambiguity and potential for inefficiency in delivering the ISPS Code requirements.

In Victoria, there appears to be a lack of clarity as to the boundaries of ISPS Code declared sites, and boundaries of sites deemed State Critical Infrastructure under the Victorian Terrorism Community Protection Act 2003.

Shipping lines, terminal operators, and regional port managers commonly have investment and customer responsibility along part or whole of the supply chain. The chain is focused on customer needs, not on jurisdictional boundaries, and our concern is that efficiencies for the customer will be compromised by inconsistent jurisdictional requirements along the chain. It is notable that the US President is now calling for "smart borders"¹ so as not to hinder trade, and to extend security arrangements along the supply chain from supplier to consignee.

Role of Port Managers

The ISPS Code places a range of requirements on port terminal operators responsible for individual facilities. The role of port authorities is less clear, as is the role of port security committees that bring together the port businesses. Security arrangements for port service providers, such as pilots, towage operators and bunkering operations are not included. While the Council anticipates these issues will be included in any regulations that will follow the Maritime Transport Security Bill, these important players in the ports require consideration.

Interpretation of the SOLAS ISPS Code

It is the Council's concern that the intent of the ISPS Code be maintained in translation to Federal legislation and regulation. Expansion of the scope of the Code and a prescriptive approach will create ongoing costs and burdens on industry and Australian trade. Our competitive position vis-à-vis security must not overshadow our cost competitiveness as traders in world markets.

¹ European Intermodal Association, "Security in Intermodal Transport", General Assembly 2003.

Industry participation

Industry must be encouraged to deliver pragmatic solutions to security requirements. While the national interest must be protected through participation in the international Treaty, Australia can benefit from the experience of the US in both supporting and learning from industry how to deliver security outcomes. Already, our members have identified ways in which security can be enhanced in a way that reduces costs over time, while minimising disruption and improving our trading efficiency.

Privately owned port facilities

In Victoria, a number of our ports are owned or managed by private operators. These operators are concerned that they will be required to enforce compliance with directions from the Federal transport agency, without the authority to undertake such enforcement. The Commonwealth will need to consider this situation in states where fully owned private ports operate. This issue particularly relates to times of elevated alert.

Thank you for the opportunity to comment on the SOLAS Convention ISPS Code Treaty. The Council stands ready to support industry participation in further consultation and consideration of the matter.

Yours sincerely



Bruce McGowan
Chairman

Victorian Sea Freight Industry Council

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