

Maritime Security in Samoa by Peter Heathcote

The Regional Maritime Legal Advisor, Captain Dr. Peter Heathcote was in Samoa from 29 November to 04 December to assist the Ministry of Works, Transport and Infrastructure, the Samoa Shipping Corporation (SSC) and the Samoa Ports Authority (SPA) implement the recent amendments to the SOLAS Convention dealing with Maritime Security and the new International Ship and Port Security (ISPS) Code. During this short visit, an enormous amount of work was accomplished. Saturday morning saw the drafting of the necessary preparatory documentation for the Maritime Security Committee (MSC) Meeting on Monday morning. Early on Sunday morning the RMLA and the Principal Surveyor of the Marine Division conducted an inspection of the port area, as well as two self-propelled landing-craft type vessels owned by SSC, the "*Forum Express*" and the "*Fotu O Samoa*". Also noted was the passenger/cargo vessel "*Tokelau*" that operates between Samoa and Tokelau, which will also have to complete similar security measures. The next three days were consumed with meetings and inspections, and the evenings filled with drafting regulations and developing security plans.

Why all the activity? Since the events of 11 September 2001 and President Bush's declaration of war on terror, security around the globe has increased dramatically. In addition to the atrocities in the United States, terrorists have struck in East Africa, Morocco, Istanbul and even closer to home in Bali where Australians were targeted. It was said that a terrorist plot against the US embassy in Suva, Fiji, was thwarted.

In any event, politicians and their advisors in the United States, the United Kingdom, Europe, Australia and New Zealand have concluded that while another attack using civilian aircraft cannot be discounted, the next terrorist attack may come via ships, ports and containers. Containers are anonymous and can be used to conceal terrorists, and/or asylum seekers or to carry nuclear devices, biological and chemical agents or conventional weapons. Although ships bring containers to ports, the benefit of containerisation is that the container is then on-delivered to inland destinations. A disadvantage is that a controlled explosion could be triggered when the container is in a city far from the coast. Even a ship could be used as a weapon to target significant bridges that are icons to Americans, such as the Golden Gate Bridge in San Francisco or the Verrazano Narrows Bridge in New York or even the Statue of Liberty itself.

Recognising the potential threat via the maritime transportation sector and the relatively lax security in and around ports, the United States made a proposal to the International Maritime Organization (IMO) that appropriate measures be taken to counteract terrorism and enhance the security on ships and in ports. A Diplomatic Conference was held in December 2002, which resulted in significant amendments to the International Convention on the Safety of Life at Sea, (SOLAS) and a new International Ship and Port Security (ISPS) Code. This Code prescribes the steps that governments, shipowners and ports authorities must take to improve their security against terrorists' threats. These measures come into force on 1 July 2004 and the official position is that there will be no extensions and no exemptions. Therefore all States should be fully compliant by that date.

A State has several obligations under the Amendments and the ISPS Code, including the requirement to assess and establish various levels of security and to implement

appropriate measures depending on the level so determined; to enact legislation and/or regulations incorporating the provisions into their national laws in order that the provisions may be enforced; and to issue certificates of compliance for ports and/or International Ship Security Certificates for ships flying their flag.

Given that Samoa is a member of IMO and a Contracting Party to SOLAS, it is, by means of the “tacit amendment procedure” a Party to the SOLAS Amendments and the ISPS Code. Samoa is served, at relatively frequent intervals, by vessels that engage in international voyages. Most States in the Pacific and on the Pacific Rim have taken steps to comply with the provisions of the ISPS Code in their ports and on ships flying their flag. This will mean that almost all ships visiting Samoan ports will have a Ship Security Plan and will carry an International Ship Security Certificate. The owners and master of the ship will wish to know that every port the ship visits has a Port Facility Security Plan in place that complies with the provisions of the ISPS Code. If a “secure” ship enters an “insecure” port, its own security is compromised, and it will have to be re-inspected to ensure that its security provisions are intact. Therefore the owners of “secure” ships will not want their ships to enter “insecure” ports. If Samoa does not comply with these internationally agreed provisions in respect of its port, then many shipping companies may simply decide not to serve Samoa any longer. Ships that fail to comply with the provisions can expect to be denied entry to certain ports or detained for long periods of time until local officials have confirmed that they do not represent a threat to a “secure” port. Therefore, it is in the interest of Samoa to comply.

Shipping companies that have ships registered in Samoa, which engage in international voyages, will have to appoint a Company Security Officer (CSO), and each ship will need to have a Ship Security Officer (SSO). The CSO and the SSO will have to develop a Ship Security Plan. This plan will, when satisfactory, be approved by the Maritime Administration of the Flag State, and will issue the ship with an International Ship Security Certificate. Those ships that do not comply with the provisions of the ISPS Code by the deadline of 1 July 2004, will in all probability be detained by Coastal States until a security inspection has been carried out, or denied access to the port entirely.

The provisions of the ISPS Code represent a significant change in the approach of the international maritime community to the issue of security in the maritime transport sector. It is recognized that they may place a significant additional burden on governments and the maritime industry. Implementation of the provisions will require continuing effective co-operation and understanding between all those involved with, or using, ships and port facilities, including ship’s personnel, port personnel, passengers, cargo interests, ship and port management and those in national authorities with security responsibilities.

Existing practices and procedures will have to be reviewed and changed if they do not provide an adequate level of security. In the interests of enhanced maritime security, additional responsibilities will have to be carried out by the shipping and port industries and by national authorities.

One of the tasks a State has to undertake is an overall Security Risk/Threat Assessment, the main elements of which are:

- **Establish the Context**
- **Identify Risks – what can happen and how can it happen?**
- **Analyse Risks – determine likelihood and consequence**
- **Evaluate Risks – set risk priorities**
- **Treat Risks – determine preventive security strategies.**
- **Communicate and Consult**
- **Monitor and Review**

This Security Assessment is best carried out by a Maritime Security Committee (MSC), and in Samoa, this comprised representatives from: the Ministry of Works, Transport and Infrastructure, Samoa Shipping Corporation, Samoa Ports Authority, Samoa Shipping Services, Foreign Affairs, Police, Customs, Immigration, Fisheries, Agriculture (Quarantine), Bulk Fuel Distributor, Civil Aviation, Crown Law, Public Health and ship's agents. By taking the collective experience of persons from these functions, effective security plans can be developed by ports and shipping companies that will comply with the new international requirements and withstand international scrutiny to allow Samoa trade and commerce to proceed uninterrupted.

This MSC met for the first time on 1 December 2003 on a *ad hoc* basis, but now needs to be given official approval by Cabinet so that:

- (a) Its recommendations and decisions can be given official recognition and sanction;
- (b) Its members' contributions can be recognised;
- (c) Other States will be convinced that all possible resources have been brought to bear so that a realistic Security Assessment can be carried out for Samoa, and for the port facility in particular. This is particularly important in the event of future, external audits.

After the National Security Assessment had been completed, the next step in the Security Assessment Process was to identify strategic assets in the port facility. In the case of Samoa, there are two ports of entry that accept foreign-going ships. These are Apia on Upolu and Asau in Savaii. In the port of Apia, strategic assets were identified, their criticality and vulnerability assessed, and a Port Security Assessment carried out. There was not time to go to Asau to carry out the same process, but the largest and most complex port has been completed.

Members of the MSC were invited to take part in the assessment, which took place on Monday 1st December. The form developed by the RMLA of SPC for the assessment of present security measures at the port facility was used. On the basis of the Port Facility Assessment, a Port Security Plan has been developed for Apia. This was presented to the MSC on Wednesday 3rd December 2003, and approved. Now the Minister can issue a Certificate of Compliance, in accordance with the Maritime Security Regulations, indicating that the Port of Apia has fully and completely complied with the Amendments to SOLAS and the ISPS Code. This Certificate would be available for inspection by the owners and masters of international ships visiting the port. It would also comprise one of the documents to be assessed by external security auditors when determining whether or not Samoa had met its international obligations in respect of maritime security.

There are three ships registered in Samoa that are engaged in international voyages and need to have a Ship Security Assessment carried out. These are the “*Lady Naomi*”, the “*Samoa Express*” and “*Fotu O Samoa*”. On the basis of this survey, a Ship Security Plan was developed for each ship. The Samoa Shipping Company nominated a Company Security Officer and appointed a Ship Security Officer for each ship. The Ship Security Plans must now be approved by the Ministry of Works, Transport and Infrastructure, and when so approved, the Minister may then issue an International Ship Security Certificate, as prescribed in the *Shipping (Maritime Security) Regulations*.

To provide the necessary legal authority to implement and give force to these measures, the RMLA has developed model Maritime Security Regulations. This model was used for the Samoan regulations, rather than those being developed for Australia and New Zealand, where ports are far different from those in Pacific Island Countries.

While the IMO have developed model courses for Port Facility Security Officers, Company Security Officers and Ship Security Officers, the Regional Maritime Programme of the Secretariat of the Pacific Community of SPC would be able to provide some of the necessary training. Alternatively, lecturers from the Maritime Training School could attend a regional training workshop and deliver training packages for security personnel in Samoa as necessary.