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PORT SECURITY MEASURES: ONE YEAR AFTER THE ENTRY INTO FORCE OF THE INTERNATIONAL SHIP AND PORT FACILITY SECURITY CODE (ISPS CODE)

This issue of the FAL Bulletin presents information relating to the implementation in Latin American and Caribbean countries of the International Ship and Port Facility Security Code (ISPS Code) of the International Maritime Organization (IMO), one year after its entry into force on 1 July 2004. Information is included on the charges associated with the security measures, in the world and in Latin America, together with an analysis of compliance with the measures in a group of countries from the Southern Cone of the region.

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ABOUT THE INTERNATIONAL SHIP AND PORT FACILITY SECURITY CODE

The ISPS Code was developed by the Maritime Safety Committee of the International Maritime Organization (IMO), and approved by Conference resolution 2 of the International Conference on the Safety of Life at Sea (SOLAS), which was held in London on 12 December 2002. The code includes the main points of the United States Maritime Transportation Security Act 2002^[1] and is intended to offer the Contracting Governments of SOLAS^[2] a standardized programme or framework for risk assessment, enabling governments to respond to security risks in maritime transport and at port facilities.

In short, IMO has placed the obligation on the international maritime community to implement the ISPS Code at each port, ship and ship-port interface operation which is involved in international maritime transport. This Code includes a requirement to adopt security plans, in order to establish the degree of vulnerability of facilities, ships and operations, to adopt measures to minimize the

risks, and to define the appropriate security levels.

The Code was developed in view of the need to prevent terrorist attacks and other activities of a criminal nature (arms trafficking, drug trafficking, illegal immigration, etc.), to maintain the internal security of nations and to ensure the safe transport of goods and persons.

Goals

In order to achieve the objectives of the Code, it contains various operational requirements, which include, but are not limited to, the following:

- (a) To gather and assess information on threats to maritime security and to exchange such information with interested Contracting Governments.
- (b) To require the maintenance of communication protocols for ships and port facilities.
- (c) To prevent unauthorized access to ships and port facilities and to their restricted areas.
- (d) To prevent the introduction of unauthorized weapons and incendiary devices or explosives to ships or port facilities.
- (e) To provide means for raising the alarm in relation to security threats or security incidents.
- (f) To require ship and port facility security plans based upon security assessments.
- (g) To require training, drills and exercises to ensure familiarity with security plans and procedures.

Scope of the ISPS Code

The ISPS code applies to:

1. The following types of ships engaged on international voyages:
 - (a) Passenger ships, including high-speed passenger craft
 - (b) Cargo ships, including high-speed craft, of 500 gross tonnage and upwards
 - (c) Mobile offshore drilling units
2. Port facilities serving such ships on international voyages.

Definitions

In order to clarify the various requirements for implementation of the Code, as well as the main actors, there follows a brief definition of each one of them:

1. "Ship Security Plan": a plan to ensure the application of measures on board the ship to protect the persons on board, the cargo, transport units, ship's stores or the ship from the risks of a security incident.

2. "Port Facility Security Plan": a plan designed to ensure the application of measures to protect the port facility and ships and the persons, cargo, transport units and ship's stores on board within the port facility from the risks of a security incident.
3. "Ship Security Officer": the person on board the ship who is responsible to the Captain, designated by the company as responsible for ship security, including implementation and compliance with the ship security plan and coordination with the Company Security Officer and the Port Facility Security Officers.
4. "Company Security Officer": the person designated by the company to ensure that the Ship Security Assessment is carried out and that the Ship Security Plan has been prepared and submitted for approval and subsequently implemented and maintained, and to coordinate the work with the Port Facility Security Officers and with the Ship Security Officer.
5. "Port Facility Security Officer": the person designated as responsible for the preparation, implementation, review and updating of the Port Facility Security Plan and for coordination with Port Facility Security Officers and with Company Security Officers.
6. "Security level 1": the level at which appropriate minimum security measures should be maintained at all times.
7. "Security level 2": the level at which additional appropriate security measures should be taken for a period of time as the result of an increase in the risk of a maritime security incident occurring.
8. "Security level 3": the level at which more specific security measures should be taken for a limited period of time when a maritime security incident is probable or imminent, although it may not be possible to establish the specific target.

Implementation of the ISPS Code in some countries of the region

This section contains information on the status of implementation of the measures provided for by the International Ship and Port Facility Security Code.

In February 2005, IMO estimated that a total of 145 countries had implemented the ISPS Code, and that it had therefore been applied to around 9,600 port facilities (about 97% of the total) and about 95% of the total world shipping fleet. At that time a total of 718 port facilities in Latin America and the Caribbean had implemented the Code and received certification.

This study considers the progress made in terms of port security by the following countries in the south of the region: Argentina, Brazil, Chile and Uruguay. The analysis is focused on the progress achieved in terms of compliance with the requirements of the ISPS Code over the period from the time of its entry into force to the present.

ARGENTINA

The Argentine Republic ratified the above Convention through the enactment of Law 22.079, and the Argentine Coast Guard (PNA) is the authority responsible for implementation of the Convention and any subsequent amendments at the national level.

At the time of entry into force of the Code, it applied to port facilities in 30 Argentine ports. A total of 110 port facilities had submitted their Port Facility Security Assessments (PFSA), and 84 of those facilities had presented their Port Facility Security Plans (PFSP)^[3] for evaluation and approval.

Both private and public port facilities, together with the competent authority in the area, are working on a continuous improvement plan, as requested by the supervisory authority, which will facilitate, in the context of the requirements of these complementary measures, rapid progress towards the goal of improving the approved facilities.

BRAZIL

Brazil ratified SOLAS 74 on 22 May 1980 and on 20 November 1985. The national implementing authority for the ISPS Code is the National Public Safety Commission for Ports and Navigable Waterways (COMSEPORTO), in its capacity as maritime and port authority, in addition to being the counterpart organization of the International Maritime Organization.

One month after the entry into force of the ISPS Code, it applied to a total of 257 ports and port facilities in Brazil (33 ports and 224 port facilities). Risk assessment and safety plans had been presented for 218 facilities, plans had been approved by the implementing authority for 57 facilities, and the Statement of Compliance had been certified for 35 ports and port facilities.

One year later, Brazil has continued to make progress in implementing the Code in the ports, with 185 safety plans approved and 68 port facilities with a certified Statement of Compliance.

CHILE

Chile is one of the countries which played an active role in IMO in the process of amending the International Convention for the Safety of Life at Sea (SOLAS), which gave rise to the ISPS Code. The designated authority is the Department of the Maritime Territory and the Merchant Marine (DIRECTEMAR), an agency of the Chilean Navy.

Although the official implementation date for the measures was July 2004, the Chilean maritime authority designed a process for introducing the measures and putting them into practice in advance of that date.

In the case of port security, Chile has 16 maritime departments which have 64 port facilities which receive international shipping traffic. All of the port facilities participated in the process of certification in accordance with the standards of the code, and they were all inspected and approved.

The main Chilean ports now have security systems that use modern electronic and digital equipment to control the access of persons, surveillance systems with closed-circuit television, controlled vehicle access, guards, barriers, etc.

URUGUAY

The ISPS Code entered into force in Uruguay through the enactment of Law No. 14.879 of 23 April 1979, which adopted the amendments to the International Convention on the Safety of Life at Sea, 1974 (SOLAS 74) and the 1978 Protocol, which was amended by Law No. 17.504 of 18 June 2002

on special measures to increase maritime security and safety.

Chapter XI-2 of the above Convention refers to the International Ship and Port Facility Security (ISPS) Code and requires that ships, companies and port facilities comply with the relevant provisions of part A of the Code.

The implementing authority for the maritime and port area is the National Coast Guard, which is the national maritime authority and the counterpart of IMO; it is an agency of the Uruguayan Navy.

When the ISPS Code entered into force, it applied to seven Uruguayan ports. At these ports, 20 port facilities submitted the corresponding security assessment plan, and 19 of those had an approved Port Facility Security Plan.

PROGRESS MADE

Table 1 below contains figures that show the progress made towards complying with the ISPS Code in the countries considered.

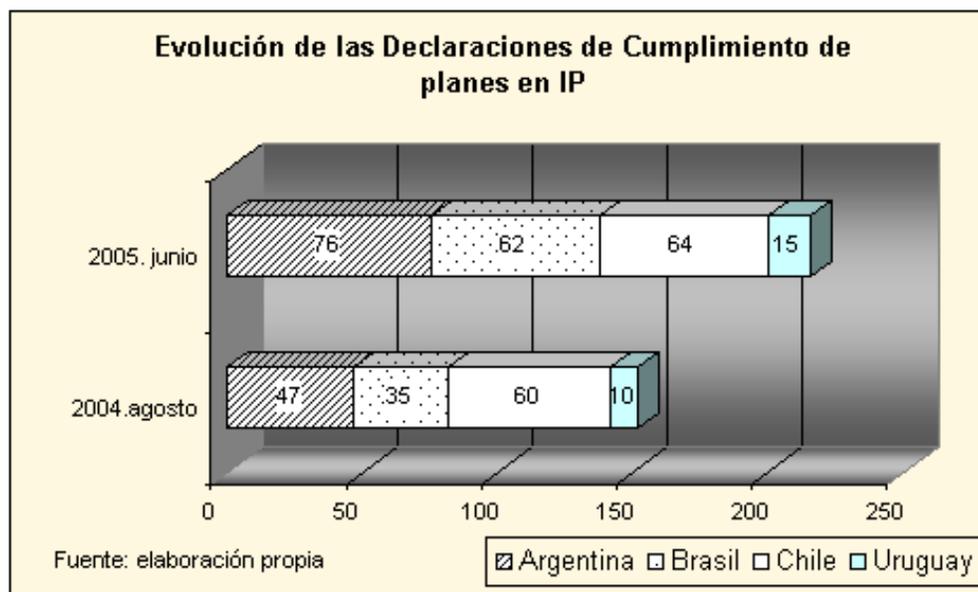
Table 1: **Compliance with ISPS in some countries of Latin America**

Compliance in each country	Argentina		Brazil		Chile		Uruguay ^[4]		Total 2005
	2004	2005	2004	2005	2004	2005	2004	2005	
Total No. of ports covered	30	30	33	33	16 ^b ^[5]	16	7	7	
P.F. w/ security assessment submitted	110	111	218	218	60	64	20	20	413
P.F. w/ security plan	84	111	218	218	60	64	19	20	413
P.F. w/ security plan approved	69	94	157	185	60	64	19	20	363

Source: the author, on the basis of data from ECLAC, IMO, LAIA, PNA, COMSEPORTO, the National Port Administration of Uruguay and the Maritime Chamber of Chile.

Table 1 shows the progress achieved in relation to port safety in the four countries included in the study. In these countries, a total of 413 port facilities are affected by the Code. Of this total, 53% have a certified Statement of Compliance, while 363 port facilities have an approved security plan, which is equivalent to an 88% level of compliance with the Code, as at the beginning of June 2005.

Figure 1: **Statements of Compliance with plans at port facilities**



June 2005

August 2004

Source: the author.

Figure 1 shows the level of compliance of countries in terms of the port facilities which have reached the maximum level of security established by IMO, the Certification of the Statement of Compliance. The figures shown are for August 2004 (one month after the deadline set by IMO) and June 2005.

SPECIFIC CHARGES FOR PORT SECURITY

One of the most controversial issues in relation to port activity, after the introduction of new security measures, has been the appearance of port security charges.^[6] These charges are intended to recover the costs of introducing new security equipment and systems.

Port security charges vary significantly around the world. Even where a number of ports have had to make additional investments, the amount of investment has depended on prior developments in terms of security issues, and this could explain why Latin America has higher charges than any other region in the world. This is shown by table 2, which contains the average figures for ports in different regions of the world, although the conditions do vary from port to port. The ports in the most developed regions have had to recover the costs of electronic scanning of containers, which is not a common practice in Latin America and the Caribbean. Nevertheless, the average charge in Latin America and the Caribbean is US\$ 11.84 per container, compared to a world average of US\$ 9.07, US\$ 3.88 in Australia, US\$ 4.00 in the United States, US\$ 10.05 in Europe and US\$ 6.47 in Asia. The highest individual port facility charge is also found in Latin America and the Caribbean, US\$ 27 per container, although in this particular case it is due to the cost of a scanner. Even excluding this isolated case, the average charge would still be US\$ 10.16, the highest regional average in the world.

Table 2: Charges for port security, June 2005

Region	Ports in the sample	Average per container, US\$
Australia	5	3.88
United States	37	4.00
Latin America and the Caribbean	27	11.84
Europe	34	10.05
Asia	4	6.47
Total for the sample:	107	9.07

The most frequently encountered charging criteria are as follows: the charge is generally by container rather than by TEU; there are only two cases recorded of a unit value per ship and one other in which the charge is a percentage of the merchandise value; the charges are applied to imports and exports but not to transshipments; import and export charges are usually different at the same port; the charges are sometimes lower for regional transport and sometimes there is no charge for feeder services.

OTHER BILATERAL MEASURES

The Container Security Initiative (CSI)

According to the survey conducted, two countries in the region have very recently signed agreements for implementation of CSI^[7]: Argentina and Brazil. This involves the launching of the effective implementation process, with installation of scanners in the main ports with container cargo destined for the United States, together with the rest of the relevant measures. So far, none of the four countries included in this study have such equipment.

At the beginning of June 2005, there were 35 ports actually implementing the initiative, and none of them are located in a Latin American or Caribbean country. The current list comprises^[8]: Halifax, Montreal, and Vancouver, Canada (3/2002); Rotterdam, Netherlands (2/2002); Le Havre, France (2/2002); Marseilles, France (7/2005); Bremerhaven, Germany (2/2003); Hamburg, Germany (9/2003); Antwerp, Belgium (2/2003); Zeebrugge, Belgium (10/2004); Singapore (10/2003); Yokohama, Japan (3/2003); Tokyo, Japan (5/2004); Hong Kong (5/2003); Gothenburg, Sweden (5/2003); Felixstowe, Great Britain (5/2003); Liverpool, Thamesport, Tilbury, and Southampton, Great Britain (11/2004); Genoa and La Spezia, Italy (06/2003); Livorno, Italy (12/2004); Naples, Italy (9/2004); Gioia Tauro, Italy (10/2004); Pusan, Korea (8/2003); Durban, South Africa (12/2003); Port Klang, Malaysia (3/2004); Tanjung Pelepas, Malaysia (8/2004); Piraeus, Greece (7/2004), Algeciras, Spain (7/2004), Nagoya and Kobe, Japan (8/2004); Laem Chabang, Thailand (8/2004); Dubai, Arab Emirates (3/2005); and Shanghai, China (4/2005).

United States Customs-Trade Partnership Against Terrorism (C-TPAT)

In March 2005, a total of over 7,000 enterprises took part in the C-TPAT initiative. These included the three large global port operators PSA Corporation Ltd., Hutchison Port Holdings, and P&O Ports, of which the last two have a significant presence in Latin America and the Caribbean. They have jointly launched a pilot project for container transport between Singapore, Hong Kong and Seattle/Tacoma, in the United States, using a system of intelligent electronic seals, although the procurement and operation costs are rather high for more widespread use.

From the point of view of the small and medium-sized enterprises participating in C-TPAT, clearer and more specific details are still needed concerning the security requirements covered by this initiative. As of May 2005, the probability of the United States authorities carrying out physical inspections of incoming containers was one in 306 for C-TPAT members, and one in 47 for non-members of C-TPAT.^[9]

Port safety and trade facilitation

The concept of trade facilitation includes any intentional action, whether unilateral or negotiated, which tends to simplify operational procedures and to reduce or eliminate the transaction costs that affect or impede international economic exchanges and movements.^[10] According to the World Trade Organization (WTO), trade facilitation is the simplification and harmonization of the procedures that govern international trade, which are the activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade. The security and safety measures for ports and ships may very well be complemented by facilitation measures as they are closely related and both can bring significant benefits for the international community.

It may be noted that apart from compliance with the security measures referred to, which are of interest to society as a whole at the various levels (local, national, regional and international), it is increasingly evident that authorities and corporations are rapidly moving to participation in the security initiatives and are establishing better conditions for reducing the levels of risk and vulnerability to terrorist threats. They will thus be able to compete in increasingly demanding markets and be able to avoid losing a client or market.

It is recommended that, in the future, any new security measures be discussed in advance by all the interested or affected parties and that they be implemented in a multilateral sphere, such as IMO (as in the case of the ISPS Code), so that there is full participation and support from the international community.

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^[9] Head of Operations of Exolgan Container Terminal. International Master's Degree in Port Management, Polytechnic University of Catalunya, Barcelona, Spain.

^[2] Asociación Internacional de Profesionales de Puertos y Costas (international association of port and coast professionals).

^[1] Legal rule of a federal nature approved by the United States Congress after the events of 11 September 2001.

^[2] International Convention for the Safety of Life at Sea.

^[3] The Port Facility Security Plan is intended to ensure the implementation of measures to protect the port facility, ships, persons, cargo, transport units and on-board provisions in the port facility from the risks of an event which may affect maritime safety.

^[4] The data on the Statement of Compliance for the Uruguayan ports are estimates.

^[5] The figure refers to the number of maritime departments, as there is more than one port in each department.

^[6] Although the present study focuses on consideration of port charges, similar charges are applied by the shipping companies. For more details please contact the authors.

^[7] Through CSI, major ports around the world that send cargo to the United States authorize its customs officials to pre-screen shipments bound for the United States prior to their departure from the port facilities.

^[8] The implementation date is included in parentheses.

^[9] *American Shipper*, "Congress puts C-TPAT, CSI under microscope", July 2005, p 30.

^[10] Miguel Izam, "Facilitación del comercio: un concepto urgente para un tema recurrente", *Comercio internacional series*, No. 19 (LC/L.1680-P), Santiago, Chile, Economic Commission of Latin America and the Caribbean (ECLAC), December 2001. United Nations publication, Sales No. S.01.II.G.218.
