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Maritime Security: Towards a global identification.

F. Piniella[1,*], J.C Rasero[1]

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ABSTRACT

In this paper we first analyse major cases that have affected the Maritime Security before and after the terrorist attacks of 11/9, especially incidents involving vessels as 'Santa Maria', 'Achille Lauro', 'Cole', and 'Limburg'. Then we have focused on the problem of piracy at sea. Finally, in our point of discussion about the Maritime Security we have addressed the problems of identification of ships, persons and goods globally, as well as unilateral US measures on container inspections, with a special emphasis on the initiative known as CSI; and the role of international organizations: IMO, ILO and IMSO.

1. Introduction

We can say that, since 2001 in the maritime sector, two concepts have emerged from the common root of the word 'safety - security'. In some languages such as Spanish, it is the same word ('seguridad'). It has affected the application to ships of two different management codes: the already existing International Safety Management (ISM) Code and the new International Ship and Port Facility Security (ISPS) Code, which is an amendment to the Safety of Life at Sea (SOLAS) Convention (1974/1988) on minimum security arrangements for ships, ports and government agencies.

ISPS code includes security aspects from the point of view of robberies cargo, terrorism, piracy, etc. In fact the word 'security' has translated to Spanish language, using the synonym of protection ('protección'), a term associated with maritime security legislation from the terrorist attacks of September 11, 2001.

We published an article in JMR on 'Global Maritime Security and the role of Spain as a Port State' (Piniella et al., 2008), and now in this second paper we first analyse most important cases and the key dates in theses antecedents: 'Santa Maria', 'Achille Lauro', 'Cole', 'Limburg' and the specific world of piracy at sea. Finally, we will discuss about the most important proposals about the maritime security: the global identification of ships and persons.

2. Maritime Security before ISPS Code

Nowadays Maritime Security is a vital part of IMO's responsibilities. A comprehensive security regime for international shipping entered into force on 1st July 2004, following the adoption by a week-long Diplomatic Conference of a series of measures to strengthen maritime security and prevent and suppress acts of terrorism against shipping.

The concerns of society about Maritime Security has been growing in recent years, although there have been previous cases of terrorism impact on ships prior to 2001. We discuss in this article two cases in the twentieth century, beginning with the passenger ship 'Santa Maria' occurred on January 22nd, 1961.

But international concern about security has been growing during the last 40 years and some cases of terrorist attacks were carried out before 2001. Two cases will analyse in this paper, starting with the 'Santa María' on 22nd January 1961 (Figure 2). She was a transatlantic liner en route from Buenos Aires/Caracas to Lisbon/Vigo, which was hijacked for 13 days for political motives in protest against the military regimes of Generals Salazar and Franco in Portugal and Spain, respectively. The vessel was re-named the 'Santa Liberdade'. The event was carried out by 24 guerrilla fighters of the self-styled

[1]Universidad de Cádiz. Department Maritime Studies. CASEM - Campus Río San Pedro; Av. República Saharaui s/n, E-11510 Puerto Real, Cádiz, Spain.
*Corresponding author: F. Piniella. Tel. (+034) 956016044. E-mail Address: francisco.piniella@uca.es

'Directorio Revolucionario Ibérico de Liberación' (DRIL). The hijacking even led to the intervention of the US Marines. The United States assumed the role of mediator and undertook a military and diplomatic offensive to locate the vessel and neutralise the hijackers. The hijacking was ended in the Brazilian port of Recife, thanks to the President of Brazil, Janio Cuadros, granting the perpetrators the right of asylum. However, despite world public opinion having been aroused at the time, the follow-up to the event was a conspicuous silence. Margarita Ledo Andino, a film director, re-told the story in a recent documentary (Recio, 2005).

Figure 1: Santa María

Source: Díaz Lorenzo, 2011

Achille Lauro was the fifth of six children of the ship-owner Gioacchino and Laura Cafiero, and was in turn, the owner and founder of the Lauro Fleet. He gave his name to one of the cruise ships that became famous in the world communications media, for being hijacked on 7^{th} October 1985 in Egyptian waters while sailing between Alexandria and Port Said. The hijacking was carried out to demand the release of 50 Palestinian prisoners held in Israel. The event was made horrific by the cold-blooded assassination of a paralysed Jewish American passenger, Leon Klinghoffer, 69 years of age, who was shot and pushed overboard in his wheelchair by the hijackers; the perpetrators were four members of a group headed by Abu Abas, belonging to the 'Popular Front for the Liberation of Palestine'. After three days, Egypt allowed free passage to the hijackers after negotiations for the release of the 450 passengers of the vessel. The hijackers escaped in an airliner that was intercepted by a US military aircraft and forced to land in Italy. Subsequently, four men were sentenced to prison, but Abu Abbas escaped and was condemned in his absence to life imprisonment. Almost twenty years later, in the middle of the US invasion of Iraq, Abu Abbas was captured in Baghdad in 2003 ((Cassese, 1989, 1987; Halberstam, 1988)).

3. Maritime Security after ISPS Code

The Conference, held at the London headquarters of the International Maritime Organization (IMO) from 9^{th} to 13^{th} December 2002, was of crucial significance not only to the international maritime community but the world community as a whole, given the pivotal role shipping plays in the conduct of world trade. The measures represent the culmination of just over a year's intense work by IMO's Maritime Safety Committee and its Inter-session Working Group since the terrorist atrocities in the United States in September 2001.

Figure 2: Achille Lauro

Source: Official Lauro Lines postcard of the liner 'Achille Lauro'

The fear that Al Qaeda could use terrorist methods in ships and port facilities for the new century became evident in cases of ships 'Cole' and 'Limburg' (Daly, 2003). The fear of Al Qaeda's method of maritime terror attack in the new 21^{st} century was evident in the cases of the 'Cole' and the 'Limburg'. (Daly, 2003)

The USS 'Cole' was attacked on 12^{nd} October 2000 in the port of Aden by a suicide terrorist cell, on board of an inflatable pneumatic craft loaded with explosives. The attack killed 17 crew members and injured another 36 persons. The USS 'Cole' is an Arleigh Burke-class 'Aegis' guided missile destroyer, with a crew of 350. It was in the port of Aden for a simple refuelling operation; the ship was en route from the Red Sea to the Persian Gulf, where it would undertake maritime interception missions in support of the embargo against Iraq, as part of the combat group of the carrier USS 'George Washington'. According to witnesses, the boat came alongside, and the two occupants stood to attention when the explosion occurred. The boat was packed with a large quantity of explosives sufficient for the impact to breach the hull and cause the engine room to flood.

The French oil tanker Limburg left Iran with almost 400,000 barrels of petroleum on board. Al-Qaeda was the organisation that claimed responsibility for the assault on this French tanker off the south eastern coast of Yemen (port of Al Mukalah) where it was headed to load another 150,000 barrels. In the attack, one Bulgarian seaman was killed, twenty more were injured and the vessel sustained considerable damage. In the subsequent investigation, the fibre-glass remains of a boat that had rammed the tanker and residues of TNT were found; this evidence plus the fact that the plates around the resulting hole were deformed inwards by an external explosion confirmed that the ship had been the objective of a terrorist assault (a conclusion initially denied by the Yemen authorities). The explosion and fire resulted in the spillage of 90,000 barrels of crude oil causing great ecological damage.

4. Piracy at sea

Piracy at sea, which seemed to be phenomena reserved to films and literature at the start of the century, have been considered serious threats to which the IMO itself has given relative priority, especially since the United Nations Convention on the Law of the Sea (UNCLOS, 1982). Its Article 101 defines piracy as any of the following acts:

(a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
  (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
  (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

At the present time, piracy at sea, exercised this in a systematic manner has become more concentrated in small countries or failed states of the Third World, like Somalia, Indonesia or Malaysia. In any case, acts of maritime piracy should not be considered, to our way of thinking, as acts of maritime terrorism, since the motives for piracy are usually economic in origin, in contrast to acts of terrorism, which are usually intended to pressure Governments in respect of their social, economic or religious policies. (Birnie, 1987; Ong-Webb, 2006; Yun-Yun, 2007).

At the end of the nineties saw an increase in piracy attacks: Alondra Rainbow, Tenyu, Cheung Son (1998). Prior to the twenty-first century IMO reported in the last ten years 1,587 attacks by pirates on ships around the world. Over the years IMO has carried out a series of meetings about piracy at sea. These IMO projects started in 1998 that piracy have developed a Regional Co-operation Agreement on Combating Piracy and Armed Robbery against ships in Asia (RECAAP), which was concluded in November 2004 by 16 countries in Asia. RECAAP Information Sharing Centre (ISC) for facilitating the sharing of piracy-related information. It has also initiated a program of sub-regional meetings to promote regional action to address piracy and armed robbery against ships in the wider context of maritime security: Sana'a, Yemen, in April 2005 for States in the Red Sea and Gulf of Aden areas, with a follow-up held in Oman in January 2006; a meeting on the Straits of Malacca and Singapore in September 2005; and further initiatives under this programme have taken place in the Caribbean, South Asia, Asia Pacific and West and Central Africa in the coming years. There have been many circulars regarding piracy at sea: revised circular MSC/ Circ.622, 623, 1109, 1072, 1073, 1155.

Lately the news has highlighted the fact of piracy in Somalia. On 2nd December 2008, the United Nations Security Council adopted Resolution 1846, which states that for 12 months from 2nd December 2008, States and regional organizations co-operating with the Somali Transitional Federal Government (TFG) may enter Somalia's territorial waters and use 'all necessary means' to fight piracy and armed robbery at sea off the Somali coast, in accordance with relevant international law.

Due to improved anti-piracy measures the success of piracy acts on sea decreased dramatically by the end of 2011. The London Somalia Conference, hosted by the Government of the United Kingdom, in London on 23rd February 2012, focused on resolving issues that have arisen in Somalia in the wake of the civil war, in order to break the piracy business model.

5. The identification of Risks

The situation resulting from the terrorist attacks has been favourable to the interests of the United States and its hegemonic character has permitted the unilateral establishment of a large number of economic measures (King, 2005). A new policy has been designed that has gradually been imposed on maritime transport on the world scale. Then analyze these US measures in detail, with a series of programs intended to detect terrorist threats in the cargo of vessels.

5.1. 'CSI' Acronym of Container Security Initiative Program

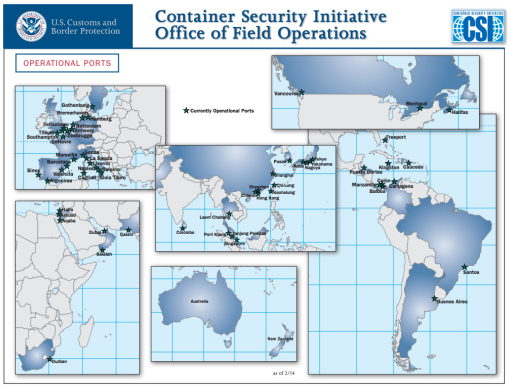
It was launched in 2002 by the U.S. Bureau of Customs and Border Protection (CBP), an agency of the Department of Homeland Security, with the aim of improving the safety of maritime container, seeking to prevent the cargo transported in these can be turned into an easy terrorist target. CSI tries to extend the zone of security outward so that American borders are the last line of defence, not the first. This initiative includes various aspects such as the design of containers, procedures for identifying high-risk containers and the ability to monitor containerized cargo at US ports and the largest ports in the world (Figure 3). The CSI has four main elements: identification of container; inspection prior to loading; programs of improvement in the utilisation of technology for inspection; and utilisation of more efficient containers.

Under the CSI program, the screening of containers is conducted by teams of CBP officials, deployed to work in concert with their host nation counterparts. This initiative has generated certain criticism, or at least controversy, in the countries of the European Union and in the International Chamber of Shipping (ICS) itself, for what it could represent in terms of interventionism in world free trade, to the advantage of the USA. It should be remembered that the Container Security Initiative obliges the ports of the world to incorporate agents of the Department of Customs of the United States, and sophisticated inspection equipment (X rays, gamma) (Willis and Santana, 2004; ECMT, 2005; Cook, 2007).

5.2. Megaport

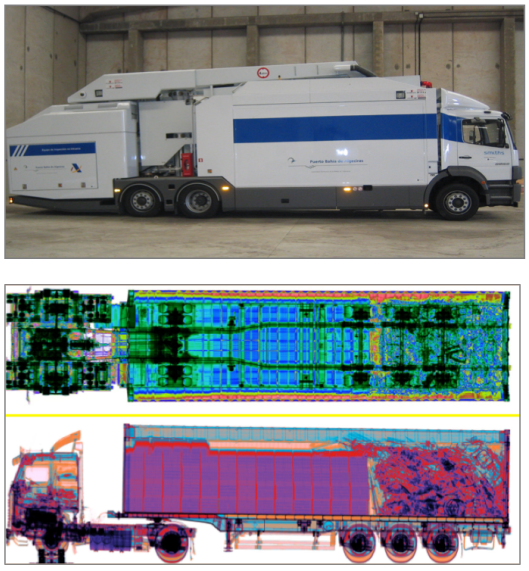
The Megaports Initiative works with foreign customs, port authorities, port operators, and other relevant entities in partner countries to systematically enhance detection capabilities for special nuclear and other radioactive materials in containerized

Figure 3: CSI Ports



Source: U.S. Customs and Border Protection

Figure 4: CSI Operations



Source: Port of Algeciras Bay

cargo transiting the global maritime shipping network. This is another initiative that arose after the attacks of 11/9 in New York. It really is a joint initiative of the U.S. Bureau of Customs and Border Protection (CBP) and the National Nuclear Security Administration (NNSA), promoted by the Department of Energy (DOE), which seeks, above all, the detection of radioactive or nuclear material in those cargoes to US ports. Like CSI, the CBP has been responsible for reaching an agreement to collaborate with DOE, and this American government that is committed to the establishment and maintenance of Megaport temporary facilities. Since the start of the Megaports Initiative in fiscal year 2003, NNSA has completed installations at more than ninety ports. The Spanish port of Algeciras is the first State-owned port system in which these initiative is being implemented. (Figure 4).

5.3. '24-Hours' Rule

The purpose of the rule is to enable CBP to analyse container content information twenty hours before a container is loaded and thereby in advance decide on its loading/no loading status. The rule is administered by CBP. In case of non-compliance with the rule, the most serious consequence would be the halting of loading or unloading and a consequent disruption of cargo flows and supply chains. Furthermore, CBP imposes fines or other penalties on the carriers and other parties responsible for the submission of cargo declarations.

The 24-Hour Advance Vessel Manifest Rule applies to: all vessels due to call at a U.S. port and all cargo destined for the U.S. or carried via U.S. ports to a non-U.S. destination. The rule applies whether the load port is a Container Security Initiative (CSI) port or not. The rule does not apply to: Feeder or transhipment vessels that are not calling at the U.S. However, the 24-Hour Advance Manifest Rule does apply when the cargo is transhipped onto a vessel that calls at the U.S.

The information consists of a precise description of the cargo or the 6-digit Harmonized Tariff Schedule (HTS) number under which the cargo is classified and the weight of the cargo.

5.4. 'C-TPAT' Customs - Trade partnership against terrorism

C-TPAT is another initiative that is part of the self-awareness of companies on the subject of the terrorist threat. It is a voluntary supply chain security program led by CBP and focused on improving the security of private companies' supply chains with respect to terrorism. The companies signed an agreement with the U.S. Customs with a series of commitments to self-protection, which they commit to themselves perform a self-evaluation in the procedure and safety recommendations developed jointly by Customs and companies themselves. The program was launched in November 2001 with seven initial participants, all large U.S. companies. As of December 1st, 2014, the program has 10,854 members (C-TPAT). The 4,315 importers in the program account for approximately 54% of the value of all merchandise imported into the U.S.

Companies who achieve C-TPAT certification must have a documented process for determining and alleviating risk throughout their international supply chain. This allows companies to be considered low risk, resulting in expedited processing of their cargo, including fewer Customs examinations.

5.5. S.O.S. - Sail Only if Scanned Act of 2006

Jerold Nager, representative of U.S. Congress proposed this Act, literally: *'to prohibit the entry of ocean shipping containers into the United States unless such containers have been scanned and sealed before loading on the vessel for shipment to the United States, either directly or via a foreign port.*

An ocean shipping container may enter the United States, either directly or via a foreign port, only if:

- *the container is scanned with equipment that meets the standards and a copy of the scan is provided to the Secretary*
- *the container is secured with a seal that meets the standards established*

before the container is loaded on the vessel for shipment to the United States.'

This is an initiative similar in its imperative character to the 24 Hours Rule but applicable exclusively to containers; thus all the containers destined for US ports must be scanned utilising the best technology possible. The image obtained with the scanner will be reviewed by US security personnel before the container is loaded on a vessel. Once scanned, the container will be fitted with a security lock that allows any possible manipulation of the lock to be verified. This requirement has evident repercussion on the time needed for all the port operations and is an added cost that is perhaps the most important repercussion of all these policies and initiatives made by the USA; curiously it does not have retroactive character when the containerised merchandise originates in that country and is destined for Europe or elsewhere in the world.

5.6. Other measures

Although perhaps not so important, they have been implemented with respect to the security of the logistics chain and affecting all modes of transportation, among these: CIP 'Carrier Initiative Program'; and private level agreements as SCIA 'Super Carrier Initiative agreement', ACSI 'Americas Counter Smuggling Initiative', and the BASC 'Business Alliance for Secure Commerce'. All these initiatives are non-profit organizations and they were created to promote secure international trade in cooperation with governments and international organizations.

6. Global Identification

The second part of the identification policies were the exhaustive control of all the persons who intervene in the transport of merchandise by sea. As part of the need to identify all the agents who intervene in maritime affairs, a series of measures have been developed that we can call global identification, both of persons and of vessels and port facilities. Thus in Chapter XI-1 new measures were included such as the requirement for ship to be issued with a 'Continuous Synopsis Record' (CSR) and for the vessel to have its identification number permanently marked in visible places such as on the sides of the vessel, the deck, certain bulkheads, etc. Although this latter measure had already been approved in the year 1987 as the IMO Ship identification number scheme (IMO Res. A.600(15)), it had not been implemented, and the Conference of 2002 had to try again to enforce compliance. In the case of passenger ships, this measure includes the obligation that the vessel should have its IMO number visible from the air. The task of assigning the IMO numbers was given exclusively to Lloyd's Register - Fairplay, in the process of construction, and the identification number comprises the three letters 'IMO' followed by a seven-digit number. In general this number is obligatory for all the merchant vessels of mechanical propulsion, larger than 100 GT in size, with the exception of fishing vessels with no means of propulsion, recreational vessels, barges, special boats, warships, wooden ships, etc. The number must never be reassigned to another ship, and will be reference of the vessel in all certificates.

About the record of the history and information on the ownership of the vessel, it has been modified, and vessels are now required to maintain a CSR. The objective is to provide a record to be available on board, of the history of the vessel, which should include information on the Flag of registration, date of registration, name and IMO number of the vessel. It would also contain information on the registered owner or owners, charterer or charterers, classification societies, and documentation for the ISM Code. In addition, information must be facilitated on the person who recruited the crew (manning agencies), the person who determines the utilisation of the ship, and the person who signs the contract of charter in the name of the owner.

In May 2005, the IMO also adopted a similar numbering scheme but at the level of the shipowner; this was known as the 'IMO company and registered owner identification number', (Rule XI-1/3-1), and will enter into force on 1st January 2009, as had been requested by Resolution MSC.160(78), especially for the certificates to be issued under the ISM and ISPS Codes. This will mean that any official document of the vessel (all its certificates) will carry the IMO number of the vessel and the IMO number of the company owning it. (LR, 2006). Another important step in the direction of global identification concerns the persons who are going to be on board a particular vessel. One result of the ISPS Code has been that in many ports, prohibitions have been imposed on the passage and even the shore visits of the crew members of ships. In fact many organisations concerned with the defence of seamen's interest have complained about this, as the Apostleship of the Sea (Rodríguez, 2004). One way of resolving this situation may be the new Convention adopted at the 91st session of the International Labour Conference (in June 2003): the Convention on Seafarers? Identity Documents, which is to replace the ILO Convention, which had been adopted in 1958. The new Convention establishes a more rigorous identity regime for seafarers with the aim of developing effective security from terrorism and ensuring the freedom of movement necessary for their well-being and for their professional activities and, in general, to facilitate international commerce (ILO, 2003). It means, in many cases, a lack in the confidentiality of the data of people through some identity cards, including biometric data.

In May 2006 the Maritime Safety Committee decided to include in Chapter V of the SOLAS the obligatory requirement for particular types of vessel to be fitted with the new LRIT (Long range identification and tracking) system of identification that will enable the identification and monitoring of vessels at long distance in any part of the world, bearing in mind that the existing AIS System is limited in scope to coastal zones.

The LRIT gives coastal States access to information about the vessels that are en route to their ports and other installations or that are simply in transit sailing off their coasts, but logically with limitations preventing them obtaining without permission confidential data on all the vessels that are sailing the world; a coastal State would have access to information on:

- vessels of its own flag.
- vessels that had notified their intention of entering a port or place under the jurisdiction of that country

- any vessels that are sailing at a distance from its shores not greater than 1000 km (provided such vessels are not in internal waters situated within the base lines of another State, and always provided that the vessel is not in the territorial waters of the contracting State whose flag the vessel is authorised to fly).

The LRIT will provide confidential information that must not be used commercially, and will be protected against unauthorised access and disclosure. The Governments will be responsible for meeting all the costs of identification and long-term monitoring, at no cost to the vessels. The search and rescue services will be entitled to receive this information free of charge.

Initially the IMO has decided that the 'International Organisation for Mobile Telecommunications by Satellite' (IMSO) will be the appropriate body to take on the functions of LRIT Coordinator. In any case, each Government must decide and notify the IMO regarding the LRIT data centre to which the vessels with the right to fly its flag should transmit the LRIT information, and each Government must provide to the LRIT data centre selected the information in respect of each of its vessels. All this information, in turn, must be sufficiently up-to-date in the event of a change of flag, in order for the monitoring to be effective. The last meeting of the MSC at the IMO has agreed that the LRIT International Data Exchange (IDE) should have its base in the USA. Although this decision is only temporary, it again demonstrates the leadership of the US in matters of maritime security. At IMO - Maritime Safety Committee meeting (83^{rd} session: 3^{rd} – 12^{th} October 2007), the Organisation accepted the contingency offer of the United States to host, build and operate, on an interim and temporary basis, the International LRIT Data Exchange (IDE).

7. Conclusion

In this paper we have analysed the security on ships and port facilities; our objective was to determine the impact in this regard were prior to 2001, as has been proved by the cases reviewed in the first part of the article. This leads us to believe that the attacks of 9/11 that were really created the atmosphere of concern and in some cases of true hysteria, which forced the positions of the United States imposed unilateral protection policies that have ended by imposing a system of identification of goods and people that did not exist until then. As established at the time the publisher of the journal Maritime Policy & Management: The problems caused by security will almost always involve considerable delays and expense with seldom the possibility of any increase in revenue. Few customers will be enthusiastic to pay more for what seems to be a less efficient service. (MP&M, 2002) The future will decide whether these measures have been wasteful and if they are more the result of the desperation of a country or a historical period marked by former President George W. Bush where one country has imposed on the rest, even the officials who should control the security of containers loaded onto ships.

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