

Terrorism – Concerns Over Port Security

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At the time of writing this article, Colin Powell had just addressed the United Nations Security Council and a war in Iraq is conceivably mere weeks away. However this potential war is characterized, it is beyond doubt that it is inextricably linked to the attack on New York on September 11, 2001 and the resultant “War on Terrorism”. Over the last century little attention was paid to marine transportation security by governments. The enforcement of drug laws was the focus of attention on marine security matters. North America felt blissfully isolated from hot spots, war and terrorists – until September 11th. In the months following, the United States identified marine and port security as a top priority and the issue became the subject of congressional hearings and media coverage.

September 11, 2001 broadened the range of realistic potential terrorist targets with which governments and marine insurers must now concern themselves. September 11th also showed the quantum of potential costs to the economy, insurance industry and marine shipping from a significant terrorist event. This article will discuss issues of port and maritime security and consider changes currently underway which will impact Canadian ports and shipping.

Previous Maritime Terrorist Incidents

Since the Second World War there have been a number of world wide attacks against marine transportation. Maritime security concerns can be discerned from a review of some past maritime terrorist attacks.

In the well known 1985 case involving the Italian Cruise Ship “Achille Lauro” armed Palestinians high-jacked the cruise ship off the coast of Egypt with over 400 passengers and crew on board. Following Israel’s refusal to agree to the hijackers’ demands, the terrorists killed Leon Klinghoffer, a 69 year old disabled American tourist. The terrorists eventually negotiated an

escape on board an airplane but were intercepted by U.S. Navy Fighters which forced it to land in Italy. The terrorists were arrested and convicted.

In 1988 the cruise ship “City of Poros” was attacked by terrorists who stormed the ship firing machine guns and throwing grenades. Nine persons were killed and 98 injured in the attack which was directed by Abu Nidal. He was ultimately captured in 1998.

Two buses aboard a ferry in the Philippines exploded in February 2000 killing 45 passengers with scores injured. An Islamic terrorist organization was linked to the bombing.

On October 12, 2000 the American Destroyer USS Cole was attacked by terrorists in a small boat laden with explosives. The explosion while the destroyer was at anchor in Yemen killed 17 sailors and blew a forty foot wide hole in the side of the ship. Recently a French tanker was attacked by a small vessel laden with explosives in the Middle East.

Two ship explosions, although not acts of terrorism, provide grim examples of the devastation that can be wrought on to a port city from a freighter. In April 1947 in Texas City, Texas the SS Grandcap and SS High Flyer, both loaded with ammonium nitrate, exploded following a fire aboard one of the vessels. Incredible property damage resulted together with the loss of 560 persons killed and thousands injured.

The other occurrence was the well documented disaster, known as the Halifax Explosion. In late 1917 during the First World War the “Mont Blanc” took on a deadly cargo of the explosive agent lyddite, TNT, gun cotton and 35 tonnes of gasoline in drums stacked on deck. The ship was dispatched to Halifax to join a convoy crossing the Atlantic. On proceeding through the narrows outside Halifax harbour, the “Mont Blanc” collided with the vessel “Imo”. The collision started a fire which eventually ignited the explosives and the “Mont Blanc” blew up. It has been calculated the Halifax blast was the biggest man-made explosion to ever have taken place until the detonation of the Atomic Bomb. Halifax was virtually demolished with more than 10,000 people killed or injured. The blast lowered the water level in Halifax Harbour by eighteen feet which resulted in the water then rushing back into Halifax in the form of a 15 – foot high tidal wave that crashed on to shore. The “Mont Blanc” herself disappeared into fragments, one of which, a half-ton anchor shank, crashed to the earth more than two miles away.

The historic acts of maritime terrorism and accidents discussed above provide real life examples of the threats faced by the marine transportation system. The pervasive use of containers and the recognized threat of weapons of mass destruction together with the apparent intent of terrorists to find ways and means of using them, dominates the formulation of maritime security policy in the future for North America.

It is clear that the state of maritime security pre-September 11, 2001 is undergoing a major change. Indeed, for the most part ports in Canada and the United States were relatively open with rarely more than a requirement to simply leave a name at the gate. A report out of Baltimore shortly after September 11th, indicated that a reporter was able to stroll through the chemical tank farms, warehouses and cargo handling areas of a major port for six hours before he was approached and questioned.

Predictably, most of the maritime and port security initiatives have begun in the United States following September 11th. The impact of the terrorist attack on the World Trade Centre cannot be understated. Yet the sheer size of the marine transportation industry in North America, makes it clear that the overhaul of marine and port security initiated by the United States and which to a greater or lesser degree may be followed in Canada will be an important and monumental project.

Following September 11th on October 6, 2001 U.S. Coast Guard announced that all incoming vessels to the United States would be required to give a notice of arrival 96 hours in advance, rather than the 24 hours it had previously been required. U.S. Coast Guard Captains of the Port were empowered to employ additional security measures as appropriate for their area. The Office of Home Land Security was established by executive order to implement a strategy to deter, detect, prepare for, respond to and recover from terrorist attacks in the United States. Armed Sea Marshals began boarding and inspecting vessels that entered the ports of Long Beach and Los Angeles and the U.S. Congress requested 285 million dollars for emergency funding for the U.S. Coast Guard and Port Security.

The amount of U.S. Legislation introduced since September 11, 2001 which, when enacted, will affect maritime and port security is significant. This new legislation includes the Aviation and Transportation Security Act of 2001; the Port and Maritime Security Act of 2001; the Port Threat

and Security Act; the Port Security and Terrorism Prevention Act; the Enhanced Border Security and Visa Reform Act of 2002; the United States Security Act of 2001; the Marine Transportation Antiterrorism Act of 2002; the Ship, Seafarer, and Container Security Act; the Port Terrorism Prevention Act of 2002; and the Reducing Crime and Terrorism at America's Sea Ports Act of 2002. This wide-ranging legislation is designed to permanently improve maritime and port security in the United States. It includes a significant increase in new technology including cargo screening and detection equipment, while involving other concepts such as the use of Sea Marshals and identification cards at port facilities.

One significant initiative by the U.S. Customs Service is called Customs-Trade Partnership Against Terrorism (C-TPAT). This program is focused on importers, ocean carriers, air carriers and railroads and is expected to include trucking companies and port authorities. The program requires importers, carriers and others to agree to take measures to voluntarily meet security guidelines established by U.S. Customs. U.S. Customs has stated that companies participating in this voluntary program will be considered "low-risk" and their cargo would be processed at a faster rate than companies which decline to participate.

Nevertheless, the fact is that less than 2% of all cargo containers entering North American ports were inspected before September 11th. Reportedly that number has risen, but only slightly. Yet the U.S. government has stated that one of the most significant threats of terrorism is a weapon hidden in a marine container. Although unimaginable, such a weapon could be programmed to self-detonate in a port or even at a later location anywhere in North America. Increased port security, non-intrusive screening and better tracking all work to reduce such a threat. The U.S. government has identified that these efforts must be combined with security measures at foreign load ports. International cooperation will be required to implement point-of-origin security measures. Pilot programs are underway in Canada, Singapore and other countries. U.S. Customs agents reportedly have been deployed at some twenty of the top container ports around the globe, including Halifax, Montreal and Vancouver to pre-screen marine containers for possible weapons of mass destruction (see below).

A more aggressive unilateral measure is the U.S. requirement for inbound ships to comply with strict documentation requirements. Under the Code of Federal Regulations, the U.S. Customs

service has implemented what is known as the “24 Hour Manifest Rule”. Under this requirement, which was effective December 2, 2002 with a 60 day grace period, detailed information on all cargo to be loaded to a ship in a foreign port which is to call at a U.S. port must be declared to U.S. Customs 24 hours before being laded on board at the foreign port. This includes freight remaining on board (FROB). Among other things, information that must be reported to U.S. Customs include the actual shipper’s name and address, the actual consignee’s name and address, the country of destination of the goods, the weight of the shipment and the H.S. code of the commodity.

The 24-hour FROB rule has an immediate impact in Canada exports loaded at Canadian ports must be declared to U.S. Customs 24 hours before loading, regardless of their country of destination. Some segments of the Canadian maritime industry have raised issues in connection with the public disclosure of sensitive and detailed commercial information about Canada’s overseas exports that will occur. As well, legitimate Canadian exports to countries presently, or in the future, embargoed by the United States could be compromised or subject to U.S. seizure when the vessel calls at U.S. ports.

On December 6, 2002, a consultation session was held in Vancouver to update information on the U.S. Container Security Initiative. The consultation session included speakers from both Canada and U.S. Customs with the thrust of the U.S. Custom’s position being that it wished to see the Canadian government adopt the same 24 Hour Rule.

U.S. Customs and Canadian Customs have implemented an initiative called the Shared Border Accord Joint In-Transit Targeting Initiative. The objective is to target and pre-screen containers before the container reaches its port of final destination (i.e. in the United States). The initiative was commenced on February 21, 2002 in response to September 11th. U.S. Customs Inspectors were dispatched to Vancouver, Halifax and Montreal and Canada Customs Inspectors were stationed in Seattle and Newark ports. The mandate is for both teams to jointly target containers for inspection. Both Customs’ services are to work together to establish security criteria for identifying hi-risk containers.

U.S. Customs has developed a risk management based targeting system which encompasses the following:

- Specially trained personnel
- Requires advance automated information
- Employs automated targeting systems
- Uses law enforcement data bases and intelligence

The U.S. Coast Guard Automated Targeting System (ATS) is stated to be a key to the process. ATS combines and sorts information in order to identify high risk shipments.

U.S. Customs efforts to enhance U.S. targeting systems include:

- (a) Enhanced data collection (notably the 24 Hour Manifest Rule);
- (b) Pre-screening shipments at foreign ports; and
- (c) Expand the use of non-intrusive inspection equipment.

From the Canadian side Canada Customs has agreed to pass in-transit data to U.S. Customs and use the ATS for in-transit shipments. This will require voluntary compliance of carriers and freight forwarders and technical data capture options will need to be worked out.

Clearly, U.S. Customs is bringing pressure to bear on the Canadian government to adopt U.S. initiatives and otherwise work with the programs that are being put into place. The question whether Canada will adopt the 24 Hour Manifest Rule is perhaps moot given that most shipping lines will likely implement the 24 hour rule for Canadian bound cargo to avoid any problems should the ship be diverted to a U.S. port before calling in Canada. Further, the Canadian government, while having concerns about sovereignty, is aware that a North American perimeter strategy could avoid a breakdown of what had previously been a rather streamlined processing at Canada/U.S. border points.

In conclusion, the tragic events of September 11th have largely been viewed as another aviation-related terrorist incident. Yet governments and industry have begun to recognize that the most serious threat of a significant terrorist event in North America could be linked to maritime transportation rather than aviation. When only two percent of containers entering North America are opened or screened, then the monumental task of increasing maritime security to an acceptable level is evident. While acknowledging Canadian concerns for sovereignty and commercial privacy the risks are real. Increased funding together with creative and dedicated efforts toward a cooperative framework establishing a viable and enforceable North American maritime security policy must be undertaken.

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