



Tasmania

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Submission No:21.....

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21 JUL 2003
BY: ~~14 JUL 2003~~

Ms Julie Bishop MP
Committee Chair
Joint Standing Committee on Treaties
Parliament House
CANBERRA ACT 2600

RECEIVED
29 JUL 2003

BY: Gillian Gould

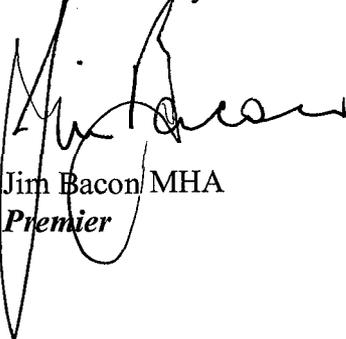
Dear Ms Bishop

Thank you for your letter of 15 May 2003 seeking comments on the treaties tabled in the Commonwealth Parliament on 14 May as part of the review process undertaken by the Joint Standing Committee on Treaties.

Please find attached the Tasmanian Government's comments on the *Amendments to the Annex to the International Convention for the Safety of Life at Sea, 1974, including consideration and adoption of the International Ship and Port Facility Security Code.*

The Tasmanian Government does not wish to comment on issues arising from the other treaties tabled on 14 May.

Yours sincerely



Jim Bacon MHA
Premier

Tasmanian Government submission to the Joint Standing Committee on Treaties review of *Amendments to the Annex to the International Convention for the Safety of Life at Sea (SOLAS)*, including consideration and adoption of the *International Ship and Port Facility Security (ISPS) Code*

Background

With Australia's agreement to the SOLAS Annex amendments it is recognised that the major Tasmanian ports will be required to significantly upgrade their levels of security by 1 July 2004. They will be required to conform with mandatory minimum criteria for preventing and suppressing acts of terrorism against ships, passengers and cargo in accordance with the new International Ship and Port Facility Security Code (ISPS) developed by International Maritime Organisation (IMO).

Implementation of enhanced shipping and port facility security arrangements is important for Tasmania given the State's reliance on a secure and efficient shipping and ports operations servicing both international and domestic trade and Bass Strait passenger travel.

The Tasmanian Government has been working collaboratively over the past 12 months with two intergovernmental/industry forums convened by the Commonwealth Department of Transport and Regional Services (DOTARS):

- the Australian Maritime Group (AMG): Maritime Security *ad hoc* Working Group, and
- the National Maritime Security Working Group (MSWG).

These forums have facilitated consultation and cooperation on maritime security issues, including development of Australia's position regarding new international security measures, between Commonwealth Government agencies (DOTARS, Australian Maritime Safety Authority, Australian Customs Service, and the Department of Immigration and Multicultural Affairs), all State Governments, national shipping, ports, off-shore exploration and production industries, and with the NZ Government.

Tasmania's Department of Infrastructure, Energy and Resources (DIER) represents Tasmania on both the AMG *ad hoc* Working Group and the MSWG.

The International Ship and Port Facility Security (ISPS) Code has ship and port aspects (with a focus on 'port facilities' rather than 'port'). It also covers all other areas of ship/port interaction including tugs, pilots, anchorages, approaches, provisioning and providedoring, stevedoring, fuelling etc.

The Commonwealth's regulatory framework for Australia's implementation of these new maritime security measures will link-in with the agreed international measures and with Australia's own national counter-terrorism measures. It is understood that Commonwealth legislation in the form of the *Maritime Transport Security Bill 2003* is intended for tabling in June 2003.

Under the new framework DOTARS will administer mandatory port/port facility risk assessments, determine classification and categorisation (according to volumes, risk and nature) of those entities, and will monitor and audit the adequacy of port/port facility security plans.

In Tasmania, DIER will continue, or develop and maintain, a role of liaison, implementation facilitation and oversight for enhanced security measures and their linkages within Tasmania, to fulfil state obligations under the National Counter Terrorism Critical Infrastructure program and other security initiatives.

Ongoing activities that will need to be undertaken by DIER include:

- participation in national forums (AMG and MSWG), as necessary, to finalise policy framework and implementation issues, analyse and discuss legislation implications, and act as 'information conduit' for the ports and maritime transport industry and other affected stakeholders;
- oversight Port actions to meet the deadline of June 2004 to implement new security measures:
 - establish a Port Security Committee,
 - appoint a Port Security Officer,
 - conduct a Security Risk Assessment in accord with DOTARS guidelines,
 - ensure all port facility operators with ship/port interfaces have completed and maintain Port Facility Security Plans in accord with approved processes,
 - obtain DOTARS review/audit/accreditation of assessments and plans;
- liaise with the ports and DOTARS to monitor ports' security compliance activity and performance;
- monitor and analyse changes to the maritime security environment and the impact of these on maritime operations. Regular monitoring of information sources. Analysis of changes and liaison with ports and stakeholders on impact of proposed/actual changes;
- keep relevant Tasmanian Ministers informed of progress with compliance and respond to any major changes required to the maritime security environment; and

- provide input to the Standing Committee On Transport (SCOT) and the Australian Transport Council (ATC) on Tasmanian ports' compliance and the impact of proposed changes.

Comments

The Tasmanian Government is committed to working with DOTARS and other jurisdictions and industries on enhancing transport security outcomes, and is a strong supporter of the proposed security model where port owners/authorities take a facilitation role in managing the port security outcomes.

Tasmania has been closely involved with developing and agreeing Australia's position regarding the formulation of IMO's new security determinations for maritime security and agrees to and is supportive of the intended international agreement through the amendments proposed for SOLAS.

At this time however the proposed coverage within the national implementation of the ISPS Code over (and the primary security jurisdiction for) SOLAS vessels operating on intrastate and interstate voyages remains uncertain.

DOTARS has acknowledged at a recent meeting of SCOT that the Commonwealth will have security jurisdiction on intrastate voyages. However this view is not reflected in the DOTARS National Interest Analysis paper (paragraph 23) where distinction is made between Australian and foreign flag vessels and the nature of the voyage that the vessel is engaged on.

The issue is significant for the effectiveness of the final security outcomes for the Australian maritime and ports sector. Optimal security coverage can only be achieved through identifying the key security risks and applying necessary and appropriate counter-measures, including appropriately drafted legislation.

There is an increasing usage of foreign flag vessels in Australian coastal trades carrying Australian domestic cargo on both interstate and intrastate voyages.

A foreign flag SOLAS vessel on multi-port calls will be covered by the ISPS Code and fall under the Commonwealth legislation given the nature of its continuing international voyage (e.g. a container ship on a voyage calling at Fremantle, Melbourne and Sydney then on to overseas destinations).

However a foreign flag vessel operating in the Australian coastal trade under a Single or Continuous Voyage Permit issued under the Commonwealth *Navigation Act 1912* appears not to have coverage by the Commonwealth and it is unclear who would have accountable jurisdiction for security oversight in line with the spirit and intent of the ISPS Code. SOLAS vessels, both foreign flag and Australian flag, operating on an intrastate voyage also appear to fall outside the coverage of Commonwealth jurisdiction.

No doubt the States will have on-going security responsibility for non-SOLAS vessels if the ISPS Code is extended over time to provide increased coverage of ports and essential facilities, and the States have indicated an acceptance of the application of the code to the port sector in the fashion proposed by the DOTARS.

Coverage for shipping as indicated in paragraph 23 of the National Interest Analysis remains an issue area to be clarified and agreed with the State jurisdictions.

To divide jurisdiction based on "voyages" provides opportunity for confusion to arise and for potential gaps in overall security within the framework.

The subset of SOLAS vessels that would be 'outside' the proposed Commonwealth coverage is small compared to the total of Australian and foreign vessels to which the ISPS Code will apply through the Commonwealth legislation.

Optimal security outcomes would be achieved through the Commonwealth accepting primary security responsibility for all SOLAS vessels in Australian waters. It seems unreasonable to expect the States to accept operational and legislative responsibility for these vessels considering the Commonwealth has in place the resources, competence and expertise to accept coverage and manage this security risk.

Clarification and a final agreed decision on this issue is required.