



*European Economic and Social Committee*

**TEN/137**

**Communication- maritime  
transport security**

**TEN/149**

**Ship and port facility security**

Brussels, 29 October 2003

## **OPINION**

of the European Economic and Social Committee

on the

**Communication from the Commission to the Council, the European Parliament, the  
European Economic and Social Committee and the Committee of the Regions on enhancing  
maritime transport security**

and on the

**Proposal for a Regulation of the European Parliament and of the Council on enhancing ship  
and port facility security**

COM(2003) 229 final – 2003/0089 (COD)

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On 2 May 2003 the European Commission decided to consult the European Economic and Social Committee under Article 262 of the Treaty establishing the European Community, on the

*Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on enhancing maritime transport security*  
COM(2003) 229 final - 2002/0089.

On 26 May 2003 the Council decided to consult the European Economic and Social Committee under Article 80 (2) of the Treaty establishing the European Community, on the

*Proposal for a Regulation of the European Parliament and of the Council on enhancing ship and port facility security*  
COM(2003) 229 final - 2002/0089 (COD).

The Section for Transport, Energy, Infrastructure and the Information Society which was responsible for preparing the Committee's work on the subject, adopted its opinion on 10 October 2003. The rapporteur was **Dr Bredima-Savopoulou**.

At its 403<sup>rd</sup> plenary session of 29 and 30 October 2003 (meeting of 29 October 2003) the European Economic and Social Committee adopted the following opinion by 122 votes for and one against.

## 1. Introduction

1.1 Following the 11 September 2001 terrorist attacks world safety and security have assumed a higher profile than ever before and have been placed at the top of policy-makers' priority lists. Subsequent events and action proved that the war on terrorism is bound to last a long time.

1.2 Maritime security has been a matter of concern for the European Community well before 11 September 2001, as proved by the Transport White Paper<sup>1</sup> which already referred to the need to enhance the security of cruise ship passengers in Europe.

1.3 On 23 April 2002, in a letter from **Ms Loyola de Palacio**, the Commission asked the European Economic and Social Committee to draw up an exploratory opinion on the Security of Transports, under Article 262 of the Treaty establishing the European Community.

1.4 At its plenary session of 24 October 2002 the EESC adopted its exploratory opinion<sup>2</sup> supporting the Commission's analysis with regard to both the nature of the subject and the solutions to

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<sup>1</sup> COM(2001) 370 of 12.9.2001

<sup>2</sup> OJ C 61 of 14.3.2003, p. 174

it. The EESC proposed a number of yardsticks to be followed in future EU action regarding security of transport.

1.5 The International Maritime Organisation (IMO) began work on maritime security in February 2002. The Commission considered it preferable to await the outcome of the discussions within the IMO rather than develop regional unilateral initiatives. On 12 December 2002, following a Diplomatic Conference, IMO adopted amendments to the International Convention for the Safety of Life at Sea (SOLAS), and in particular a new chapter entitled "Special measures to enhance maritime security", and an International Ship and Port Facility Security (ISPS) Code. The amendments of the SOLAS Convention and Part A of the ISPS Code consist entirely of mandatory provisions; Part B of the ISPS Code is made up of recommendations which contracting governments are requested to implement.

1.6 The effective implementation of maritime security measures requires intense preparations and timely action on the part of parties involved. The implementation of the IMO measures will be a huge challenge, particularly in smaller ports and developing countries. Governments will need to put in place a large number of measures by June 2004. Likewise, ships and shipping companies must comply with the new IMO security provisions.

## **2. Communication on enhancing maritime security**

2.1 The Commission considers that since the security of a transport chain depends upon its weakest link, an approach addressing the multimodal dimension in parallel will make it possible to improve the security of transport as a whole. Initially, this Communication addresses the purely maritime dimension of this chain.

2.2 The EU's maritime logistics system, including sea-borne freight transport, ports and port handling services, accounts for over two-thirds of the total trade between the Community and the rest of the world. It is therefore important that maritime transport security should be enhanced, and its competitiveness maintained, while facilitating trade.

2.3 The Communication refers to a number of areas on which action is in progress, such as on security of Community ports, enhancing the security of the logistics chain as a whole, monitoring and administration of maritime security, maritime transport risk insurance and international mutual recognition. More specifically, the Commission underlines that:

- priority should be given to passenger transport, where the consequences of a terrorist act would be the heaviest with regard to the human lives at stake;
- the scope of the work concerning maritime security at the IMO is limited to ships and to port facilities where the ship/port interface takes place;

- maritime safety depends to a large extent on the security of other feeder modes of transport. It is therefore very important that it should be possible to identify both the transported goods and those involved in handling them (suppliers and carriers) and their respective responsibilities;
- without calling into question the different administrative and economic systems for maritime and port matters, there is a need for clear and comprehensible procedures to be established at both national and Community level with regard to maritime security;
- it intends to analyse in 2003 the potential consequences in terms of insurance of enhancing maritime security in order to encourage better coverage of risk for maritime transport operators and customers.

2.4           The Commission will encourage the establishment of partnership based on mutual and reciprocal recognition of security and control measures with all its international partners, including the USA, so as to promote the harmonious and secure flow of world maritime trade. The envisaged agreement is intended to replace the bilateral arrangements that have been concluded between certain Member States and the US Customs Service and it will be based on the principles of reciprocity and non-discrimination which apply to all trade between the Community and the US.

2.5           On a legislative level, the Commission will, as necessary, launch an initiative concerning the enhancement of the security of seafarers' identification and reserves the right to present in the course of 2003 a proposal for a Directive defining additional security measures to be implemented in Community ports. Moreover, it intends to draw up emergency plans and take actions that would guarantee effective response in case of need.

### **3.       Proposal for a Regulation on enhancing ship and port facility security**

3.1           The main objective of this Regulation is to introduce and implement Community measures aimed at enhancing the security of ships used in international trade and domestic shipping and associated port facilities in the face of threats of intentional unlawful acts. The Regulation is also intended to provide a basis for the harmonised interpretation and implementation and Community monitoring of the special measures to enhance maritime security adopted by IMO. In order to achieve the above objective the Regulation:

- a) goes beyond the measures adopted by IMO in that it makes mandatory certain provisions of Part B of the ISPS Code, which have the status of recommendations, e.g. it extends the measures to passenger ships on national routes; it extends to other ships sailing nationally the requirements relating to undertaking security evaluations;
- b) calls upon Member States to conclude agreements on security arrangements for scheduled maritime traffic within the Community on fixed routes using dedicated port facilities;

- c) details the arrangements to be made by Member States for ports only occasionally serving international traffic;
- d) establishes the system of security checks prior to the entry of ships of whatever origin into a Community port, as well as that of security checks in the port;
- e) calls for a single national authority responsible for the security of ships and port facilities, and a timetable for early implementation of some of the measures it contains;
- f) provides for a process of inspections to check the arrangements for monitoring the implementation of national plans adopted pursuant to it;
- g) entrusts to the European Maritime Safety Agency the role of assisting the Commission in the performance of its tasks.

3.2 For the purpose of reaching the overall objective of maritime security the Commission proposes the extension of all the provisions of Chapter XI-2 of the SOLAS Convention and of Part A of the ISPS Code to include passenger ships engaged on domestic voyages. Moreover, it provides for a possible exemption from the obligation of security checks prior to entry into a port for ships engaged on a scheduled service within a Member State or between two or more Member States.

3.3 Each Member State will be required to adopt a national plan for the implementation of the Regulation, starting with the appointment of a single national authority by 1 January 2004 and completing with the issuing of the international ship security certificates by 1 June 2004.

3.4 The Regulation gives Member States the possibility of concluding amongst themselves bilateral or multilateral agreements for the provision of alternative security arrangements and, in particular, those necessary for promoting scheduled short-sea shipping within the Community on fixed routes between port facilities located within their territories.

3.5 The Commission proposes that six months after the date of application of the Regulation, in cooperation with the national authorities and assisted by the European Maritime Safety Agency it shall initiate a series of inspections to verify the means of monitoring implementation of the national plans adopted pursuant to this Regulation. Member States concerned will be informed in good time before inspections. However, departments responsible for monitoring port facilities, companies and ships may be inspected without advance notice.

#### **4. General comments**

##### **4.1 Comments on the Communication**

4.1.1 Maritime transport by its very nature is open to attack. The sector is characterised by an extremely diverse international labour force, transporting a vast range of goods whose provenance,

description and ownership are often left vague. As most characteristically said “The very things that have allowed maritime transport to contribute to economic prosperity also render it uniquely vulnerable to exploitation by terrorist groups<sup>3</sup>”.

4.1.2 The EESC reiterates<sup>4</sup> that security is an issue where, par excellence, all links in the transport chain should be involved in order to achieve tangible results. In the short term a security culture should be developed by all participants in the transport chain. Measures aimed at fighting terrorism should be coupled with measures aimed at fighting traditional security problems (organised crime, piracy, fraud, smuggling and illegal immigration). The EESC invites the Commission as a matter of urgency to tackle traditional security problems, and in particular piracy and armed robbery, in its future policymaking, if it is not feasible to cover them under the present Regulation. The EESC notes that the Council has asked the Commission to carry out a feasibility study concerning controls at maritime borders aimed at the improvement of checks and surveillance at maritime borders. It also notes that maritime transport security will be one of the five vital sectors where the future fight against terrorism by the recently created action group of the G8 will focus.

4.1.2.1 With the advent of the EU enlargement, the Mediterranean Sea acquires an enhanced role. Its vicinity to areas from where potential security problems might arise emphasises the need for a Mediterranean dimension to maritime transport security policy. The Motorways of the Sea Agreement between five Mediterranean EU Member States (5-6/7/2003) stressed the importance of developing short sea shipping services in the Mediterranean along with the security services.

4.1.2.2 In light of the above considerations, the EESC welcomes the Commission Communication on the development of a Euro-Mediterranean Transport Network<sup>5</sup> and the incorporation of security of shipping in its common transport policy objectives. It agrees that it is essential that the Mediterranean Partners strengthen international security by incorporating equivalent rules into their national laws and introducing efficient means of enforcement. The setting-up of a Euro-Mediterranean institute for Safety and Security is considered as a first step towards this goal.

4.1.3 The EESC considers that trade is a major factor for world prosperity and underlines that its disruption will have serious consequences for national economies and consumer prices. Therefore, attention needs to be paid to the medium-term consequences of terrorism. Measures to reduce risks and the economic consequences of further attacks should be both security-effective and growth friendly. The recent OECD Study<sup>6</sup> indicates that the cost of implementing security-related measures will be high, but the financial cost of not taking every opportunity to reduce the risk and the incidence of terrorist attacks may be considerably higher. It is hoped that the implementation of the measures (as suggested in paragraph 4.1.1) and the expected beneficial effect of the enhanced

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<sup>3</sup> OECD: Security in Maritime Transport-Risk Factors and Economic Impact (July 2003)

<sup>4</sup> OJ C 61 of 14.3.2003, p. 174

<sup>5</sup> COM(2003) 376 final

<sup>6</sup> OECD: Security in Maritime Transport-Risk Factors and Economic Impact (July 2003)

surveillance and controls in port areas in reducing or eliminating traditional criminal activities and security problems, in the long run will largely off-set the costs of implementing security measures. Indeed, the same OECD study points to potential savings, such as “reduced delays, faster processing times, better asset control, fewer losses due to theft or fraud”.

4.1.4 The EESC supports the determination of the Commission to resist any unilateral measure which might not only affect international trade but also be incomplete or run counter to the objectives with regard to security, which necessitate global solutions. In this regard, the EESC welcomes the authorisation of the Commission by the Council to negotiate on matters within the Community's sphere of competence in order to reach an agreement between the Community and the US customs authorities concerning the development of an export control system, which takes account of the need for security in international container-based trade. It further welcomes the decision to invite the relevant stakeholders to preparatory meetings of the Joint EU/US working party on transport security.

4.1.5 The EESC welcomes the intention of the Commission to fill the security gap by presenting in the course of 2003 a proposal for a Directive defining additional security measures to be implemented in Community ports and its intention to draw up emergency plans.

## **4.2 Comments on the Regulation**

4.2.1 In its exploratory opinion the EESC urged the EU to initiate a dialogue with the US and other countries with a view to establishing a global system in the interest of all. Assuming such a leading role over security issues would offer the EU the opportunity to show a higher profile internationally. It is therefore gratifying to see a year later that indeed the EU has followed the above suggested course of action.

4.2.2 The EESC notes with satisfaction the EU coordinated position in the decision-making international fora and at the EU level in order to avoid possible inconsistencies between international and prospective Community rules. It also welcomes the comprehensive analysis by the Commission and the proposed action for the timely and harmonised implementation of the IMO international measures.

4.2.3 The effect of tightening of security on the cost of trading internationally is likely to be asymmetrical. Shipping must continue to serve the flow of international trade effectively and efficiently and, to ensure this, ships, port facilities and their respective personnel must be prepared adequately for the possibility of encountering terrorist attacks or other forms of criminal intentions. If security procedures become too stringent the efficiency of the business of transporting goods could be severely hampered, which would give terrorists the success they were seeking. Therefore, it is encouraging to note that the Commission has launched a study to assess the consequences of enhancing maritime security.

4.2.4 The scope and level of measures should take into account any adverse implications on the performance of the human element (fatigue, stress). European philosophy and culture sustains a strong respect for the human rights and any reaction to threats of terrorism should not disregard these long cherished principles. The scope of any security screening of personnel should be relevant to its potential involvement in terrorist activities and should not lead to unwarranted employment exclusions. Furthermore, there is an increasing danger of imposing upon ship's crews and on port authorities, directly or indirectly, policing responsibilities that normally fall upon governments. Unless a security culture is instilled across the board, it would be unrealistic to expect ship's crews to protect their ships against sophisticated terrorist threats. Finally, the safety and working conditions of crews should not be put at risk when dealing with their additional security duties.

4.2.5 The EESC reiterates that the implementation of security measures should be of such a nature as to avoid deflection of traffic in favour of some ports to the detriment of other ports, "imposing disproportionate bureaucracy or costs and charging to the industry costs that fall properly to governments"<sup>7</sup>. In perspective, the EESC has good reasons to be concerned that governments may be reluctant to assume the corresponding responsibilities for their Agencies and ports. On the other hand, there are legitimate concerns that security considerations will override safety considerations and needs to facilitate trade.

4.2.5.1 The cost of compliance with the measures adopted by IMO and proposed by the Commission will be significant for most ports and huge for the big ones<sup>8</sup>. Unavoidably, the enhancement of security will involve costly arrangements in terms of hardware (infrastructure and equipment) and software (manpower and training). Some of the anticipated costs can be calculated fairly reliably – others, notably those associated with shore side security – less so. It is estimated that security costs will increase the overall annual operational costs of shipping companies by 10%<sup>9</sup>. In accordance with a recent OECD Study<sup>10</sup> "the initial burden on ship operators is estimated to be *at least* US\$ 1,279 million (€1,460 million) and US\$ 730 million (€833 million) annually thereafter. Estimates on port-related security costs are extremely difficult to derive as it is yet uncertain what the impact of IMO measures will be on hiring of new security personnel and if so, what will be the applicable rates". By way of comparison, maritime security costs in the EU are expected to be higher than in the US for geographical reasons due to the larger number of EU ports. Moreover, the non-federal structure of the EU and the fragmentation of authorities involved will exacerbate the problems of implementation of the security measures in the EU.

4.2.5.2 Although part of the increased security costs will be passed on to customers, governments are also expected to bear some of the costs to counter terrorism, since terrorism is a

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<sup>7</sup> OECD: The Economic Consequences of Terrorism, 17.2.02 Economic Department Paper No. 34: OECD Transport Security and Terrorism Council of Ministers, 2.5.2002

<sup>8</sup> A container scanner in the port of Rotterdam costs €14m.

<sup>9</sup> Drewry Report, 2003

<sup>10</sup> OECD: Security in Maritime Transport-Risk Factors and Economic Impact (July 2003)



reaction to policies of governments<sup>11</sup>. The US government has already earmarked security grants to private companies and ports amounting to US\$ 105m (€120m) after disbursing US\$ 93m (€106m) in similar grants last year. Unless similar action is taken by EU governments, European ports and companies will be disadvantaged, and more importantly, ports may fail to meet the security criteria and qualify as compliant ports, with far reaching repercussions in terms of competitiveness. Consequently, the EESC invites the Commission, recognising the origins of the problem and the real targets of terrorism, to devise an EU scheme for commensurate financing of the implementation of the measures incumbent upon ships, crews and ports.

4.2.5.3 In the aftermath of 11 September, insurance implications in maritime transport were tremendous. Terrorism insurance became either unavailable or unattainable. For instance, following the attack on the tanker "Limburg" (October 2002) underwriters tripled insurance premia for vessels calling on Yemeni ports, reaching as much as US \$300,000 (€342,390) per vessel and US \$250 (€285) per container. Insurance cover for inevitable delays resulting from the intense security measures as well as for the highly sophisticated high tech scanning equipment has to be considered. According to estimates<sup>12</sup> hull and machinery insurance for ships (tankers/bulk carriers) is expected to rise by 9% and P&I insurance to rise by 10%.

## 5. Specific comments

### 5.1 Comments on the Regulation

5.1.1 The Automatic Identification System (AIS) required to be fitted on ships has a security benefit only if signals can be received ashore, analysed and acted upon. Member States should be required to comply with Article 9 of the Directive 2002/59/EC of 27 June 2002 establishing a Community vessel traffic monitoring and information system by 1-7-2004. Furthermore, the EESC welcomes the intention of the Commission to support technological research and the promotion of satellite radio navigation applications (GALILEO and GPS) which will make it possible not only to enhance security but also safety, navigation and management in this area. The early implementation of the GALILEO system was suggested in the exploratory opinion of the EESC as a means of facilitating the enhancement of increased security.

#### 5.1.2 Article 3 (Joint measures and scope)

5.1.2.1 The EESC agrees that the radical measure of fully applying the voluntary Part B of the ISPS Code would be unnecessary and supports in general the proposal to make mandatory certain of its provisions. The extension of the scope of the IMO measures to domestic shipping needs to be clarified. There is no indication of the size of Class A ships or indeed of sizes of other classes of

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<sup>11</sup> EESC Opinion – OJ C 61 of 14.3.2003, p. 174

<sup>12</sup> Drewry Annual Review of Ship Operating Costs, 18/6/2003

passenger ships referred to in the second paragraph of paragraph 2 (presumably it may cover any ship engaged in any voyages, even short ferry crossings).

5.1.2.2 Effective access control would require a photo ID for all persons boarding a ship in a port. The EESC welcomes the inclusion of paragraph 4.18 of Part B of the ISPS Code in the list of the mandatory provisions. However, and in order not to compromise ship security, the requirement to issue appropriate identification documents should be extended to cover not only government officials but also other persons involved with the operation of the ships in ports.

5.1.2.3 The EESC notes with satisfaction that the proposal does not infringe on the terms of ILO 108 Convention 1958. Hence, seafarers can continue to be exempt from normal visa requirements for the purpose of shore leave or for transit to and from their ships. In this connection it welcomes the successful outcome of the work of the International Labour Organisation (3-19/6/2003) concerning the enhancement of the security of seafarer's identification and the EESC invites the Commission to take proper action for the timely implementation by the Member States of the new Seafarers Identification Documents Convention, and to dispense with any unwarranted visa requirements or arrangements that would result in charging seafarers with visa fees. Moreover, the compatibility of the new Convention with the obligations from the Schengen Agreement should be examined.

#### 5.1.3 **Article 5** (Intra-Community and domestic shipping)

5.1.3.1 The EESC fully endorses the Commission proposal that Member States may conclude among themselves, each acting on its own behalf, the bilateral or multilateral agreements envisaged under the IMO measures, and in particular such agreements as are necessary to promote intra-Community short sea shipping. The EESC agrees that Member States concerned should notify the draft agreements to the Commission and urges the Commission to review the proposed procedure so that approvals for the implementation of the agreements are given without undue delay.

#### 5.1.4 **Article 7** (Security checks prior to entry into a Community port)

5.1.4.1 Member States should be encouraged to promote the concept of a single point of entry, thereby, making it possible for the ship's master or agent to provide the required information using this concept.

#### 5.1.5 **Article 10** (Implementation and conformity checking)

5.1.5.1 The EESC believes that the IMO implementation date of 1 July 2004 is already very tight and difficult to fully meet, especially with respect to shore-side requirements. Given the large number of ports and even greater number of ships to be assessed and certificated by the above date and the need to ensure complete preparations, it may not be prudent to advance the implementation of the appointment of ship, port, company security officers (by 1 March 2004), the approval of ship and port facility security plans (by 1 May 2004) and the issuing of the international ship security

certificates (by 1 June 2004). However, the EESC strongly supports the timely designation of a single national authority responsible for ship and port facility security by 1 January 2004.

## **6. Conclusions**

6.1 The EESC welcomes the acknowledgment that comprehensive and coherent action is needed by the Community in order to enhance maritime transport security. It supports the intention to draw emergency plans and take actions that would guarantee effective response in case of need.

6.2 The EESC welcomes the determination of the Commission to resist any unilateral measure which might affect international trade and the pursuance of an EU agreement with the US Customs Service that will be based on the principles of reciprocity and non-discrimination which will apply to all trade between the Community and the US.

6.3 The Commission's intention to present in due course a legislative proposal defining additional security measures to be implemented in Community ports is fully supported. Specifically the EESC highlights the need to give a Mediterranean dimension to the maritime security policy which becomes vital with the EU enlargement.

6.4 The EESC congratulates the Commission for the comprehensive analysis and the proposed action for the timely and harmonised implementation of the IMO international measures. The effective implementation of the IMO measures will be a huge challenge, particularly in smaller ports and requires intense preparations and timely action on behalf of parties involved. However, given the large number of ports and ships to be assessed by 1 July 2004, it may not be prudent to advance the implementation of the IMO date in the EU framework.

6.5 The EESC believes that attention needs to be paid to the medium-term consequences of terrorism. Measures to reduce risks and the economic consequences of further attacks should be both security-effective and growth friendly. In line with the yardsticks developed in its exploratory opinion (2002), the EESC maintains that the implementation of the envisaged measures must be clear, uniform, proportionate to the threat and practical.

6.5.1 The EESC is concerned about the economic impact of the envisaged measures and the increase of the insurance costs in periods of crises. It hopes that the desirable implementation of security and policing measures will ease the imbalance of costs against the expected benefits in security and in curtailing other illicit practices committed in ports.

6.5.2 The EESC warns about the huge cost implications from the implementation of the new IMO security measures. Although part of these costs will be passed on to customers, in the interest of fairness governments should also bear part of some costs since terrorism is a reaction to policies of governments. Hence, it urges the Commission to adopt an EU financial instrument to cover some of these costs. To this effect the EESC invites the Commission to draw up an overall impact study about the financial implications of the increased maritime security measures.

6.6 The EESC supports in general the proposal to make mandatory certain of the provisions of the voluntary Part B of the IMO ISPS Code. However, the extension of the scope of the measures to domestic shipping needs to be clarified as it may cover any ship engaged in any voyages, even short ferry crossings.

6.7 The scope and level of measures should take into account any adverse implications on the performance of the human element (fatigue, stress). Ship crews and port workers should not be unduly affected by the implementation of security measures, such as any unwarranted employment exclusion following security screening of personnel. Moreover, seafarers should not be entrusted with the imposition of policing responsibilities that normally fall upon governments.

6.8 The EESC invites the Commission to take proper action for the timely implementation of the successful work of the International Labour Organisation concerning the enhancement of the security of seafarers' identification (ILO Convention 185, revising Convention 108).

6.9 The EESC maintains that in the short term a security culture should be developed by all participants in the transport chain. In the medium and long term, however, the EESC firmly believes that the EU should take the lead internationally in developing a broader framework for security which will address the causes of the terrorism and not only seek to prevent it or eliminate its effects.

Brussels, 29 October 2003.

The President  
of the  
European Economic and Social Committee

The Secretary-General  
of the  
European Economic and Social Committee

**Roger Briesch**

**Patrick Venturini**