

SEA PORT PROTECTION MANAGEMENT

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ABSTRACT

For countries having access to the sea, ports are crucial elements of their infrastructure. More than 80% of global trade is carried by sea. This article is an attempt to describe international law system regulating the security of ports as key elements of transport infrastructure, structure of which possesses very complicated characteristics. However, this article does not seek to assess functionality or effectiveness of currently employed solutions. As such, it should only be seen as an introduction to this important research problem.

Key words:

Security, Port, ISPS Code,

STRESZCZENIE

Porty morskie są kluczowymi elementami infrastruktury państw posiadających dostęp do morza. Ponad 80% światowego transportu odbywa się za ich pośrednictwem. Niniejszy artykuł jest próbą ukazania międzynarodowego systemu prawnego regulującego bezpieczeństwo obszarów portowych, jako kluczowych elementów infrastruktury transportowej o szczególnie skomplikowanej strukturze. Nie ma on jednak na celu oceny funkcjonalności i skuteczności istniejących rozwiązań, stanowiąc jedynie wprowadzenie do tego ważnego problemu badawczego.

Słowa kluczowe:

bezpieczeństwo, port morski, Kodeks ISPS,

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1 PORT AS A SUBJECT OF PROTECTION

According to data presented by the United Nations Conference on Trade and Development (UNCTAD) in its “Sea Transport 2012” report, more than 80% of international trade in goods is carried by sea, and is transshipped in sea ports all over the world. Today, deadweight tonnage of all the navies in the world is more than 1.5 million tons, distributed among 100 thousand vessels. That’s why port infrastructures are having its full bloom with new sea ports being built and the existing ones meaningfully increasing their overloading capabilities [10]. Similar growth tendencies also apply to passengers’ sea transport.

Nevertheless, sea ports do not only serve as passengers and freight terminals. With all business and administration surroundings, they are one huge complex of space with compound transport, industrial, trade, logistic, and also social structures. Activities of modern sea ports, among other things, include:

- overload and stockpiling activity;
- service and fuel storage;
- shipyard activity;
- services for passenger and tourists;
- service for sea water sports; and
- trade services.

This wide range of functions imposes tight relations between a sea port and its city, region, and further economic supply of the country. It resolves in that the ongoing processes have an effect not only on the port itself, but also on the interrelated subjects in the scale of a region, a country, and even on the international level [13]. Therefore, providing appropriate levels of security to sea ports is tantamount to assuring a normal functioning of the whole country.

For this reason, issues relating to security port’s infrastructure are one of the most important challenges of the strategic security management. The most significant and most serious threats that must be managed by the sea port administrator include:

- terrorism, with particular consideration of environmental extremist groups. sea piracy;
- smuggling of people, drugs, guns or explosive materials;
- technical disasters;
- theft of freight from ships and trans-shipment terminals [11, 13, 14, 15].

Moreover, an essential position of sea ports in international security system is recognized by European Union, which qualified ports as one of the subsectors of the European critical infrastructure. [4]. At this point, such facilities became places of significant interest for countries’ services responsible for national and internal security [7, 9].

This article is an attempt to describe international law system regulating the security of ports as key elements of transport infrastructure, structure of which possesses very complicated characteristics.

However, it does not seek to assess functionality or effectiveness of currently employed solutions. As such, it should only be seen as an introduction to this important research problem.

2 SECURITY STANDARDS OF PORT FACILITY

Tragic in consequences events, that took place on 11th September 2001 in the United States, have caused an instantaneous change in the approach to transport security. Not only does it concern air services, which on that day became a tool for terrorists, but also services on seas and oceans.

2.1 INTERNATIONAL STANDARDS OF PORT FACILITY PROTECTION

The most important international standard regulating sea security – ships and port facilities was enacted on December 12 2002 by member countries of International Maritime Organization (IMO) – International Ship and Port Facility Security Code (ISPS Code) [2]. The code makes rules already included in the International Convention for the Safety of Life at Sea (SOLAS), more specific. [1].

ISPS Code took effect on the 1st of July 2004 for all 170 country members of IMO.

ISPS Code comprises two main parts:

- I. Part „A” – general and obligatory responsibilities of all countries to provide security for shipping and port facilities;
- II. Part „B” – specific guidelines concern suggested (optional) ways and a range of accomplishment determined in Part „A”.

General requirements of the ISPS Code in reference to port facilities' security, make up for some sort of a repeatable cycle of security managing:

- I. Conducting Port Facility Security Assessment (PFSA), which consists of the following elements:
 - Identification and evaluation of important assets and infrastructure it is important to protect;
 - Identification of the possible threats to the assets and infrastructure and the likelihood of their occurrence, in order to establish and prioritise security measures;
 - Identification of vulnerabilities.
- II. Elaborating and implementing of Port Facility Security Plan (PFSP), which should determine appropriate means of providing acceptable, minimal level of port security in relation to a possibility of emergence of unidentified threats and their potential effects.
- III. Conducting training, drills, and exercises on port facilities, on a regular basis.

In practice, requirements of the ISPS Code are mostly focused on preventing access to the port facilities by unauthorized personnel. Requirements in this regard have been divided into three categories:

- fence and other mechanical and building barriers;
- technical systems of perimeter security;
- organized system of recording personnel entering and leaving port facilities. [15].

Moreover all security activities should be adjusted to requirements of three stages of a port facility security:

- I. Security Level 1 – means the level of minimum appropriate protective security measures to be maintained at all times – normal operation.
- II. Security Level 2 – means the level of appropriate additional protective security measures to be maintained for a period of time as a result of heightened risk of a security incident.
- III. Security Level 3 – means the level of further specific protective security measures to be maintained for a limited period of time when a security incident is probable or imminent, although it may not be possible to identify the specific target.

A Port Facility Security Officer (PFSO) is responsible for the development, implementation, revision and maintenance of the Port Facility Security Plan (PFSP).

2.3 EUROPEAN UNION REGULATION OF PORT FACILITY PROTECTION

Following activities of IMO, also the European Union (EU) started legislative works seeking to secure port facilities, which ultimately resulted in passing a Regulation No 725/2004 on Enhancing Ship and Port Facility Security [3].

In essence, the regulation repeats requirements set up in the ISPS Code. Although, the document also introduced important restrictions for member countries, which had been previously obliged to fulfil under optional guidelines of the „Part B” of the ISPS Code.

However, special attention needs to be paid to implementation of inspection system in attribution to performing proper security of sea ports. Any irregularities can be treated as ignoring resolution of The Treaty on European Union by a member state, which can, in turn, result, in substantial financial and political sanctions [15].

The following year, the European Parliament adopted Directive 2005/65/EC on enhancing port security. This document, in a large part, repeats provisions of decree, nevertheless it interposes one very important – from the comprehensive security managing system point of view – element. According to of the Directive, Port Security Assessment (PSA), which is a base for creating Port Security Plan (PSP), needs to include not only the location where ship/port interface takes place, but also needs to

include areas not under port jurisdiction, but adjacent to the port. This is because they could pose a security danger due to their proximity to the port or the functionality of area could play a crucial role in national security, may it be economical or defence-related. [12,15].

2.3 POLAND NATIONAL REGULATION OF PORT FACILITY PROTECTION

National implementation of requirements defined in the ISPS Code, EU Decree and Directive is enhanced by Act on safety of sailing and sea ports [6]. Not only does this bill adjust national law system rules to international regulations, but it also implements additional organizational solutions relating to the managing of port facility security system.

Above all, the legislator has notably increased the number of subjects co-responsible for sea port safety. Aside from port managing subject and ship owner, the system includes a participation of executives from sea administration and local self-government voivodeship, as well as public services: the Police, Coast Guard, and Customs Services. Oversight of realization of this bill is performed by prime organs of government administration – the Ministry of Infrastructure, the Development, Ministry of the Interior Affairs, and in special circumstances, also by the Ministry of National Defence of the Republic of Poland.

Furthermore, realization of tasks in situation of implementation „Security Level III” indicates working of the port and security and safety services in special conditions, defined in the Act on crisis management [7, 9].

3. GAUNTLET OF PORT FACILITY PROTECTION – IMPLICATIONS

Sea ports play a key role in integrated chains of transport on global scale. At the same time, they possess very complicated and multilayered organization structures. As a result, managing their security is a complicated, diversified task, involving multivariable space, technical, economical, and even social problems.

For this reason, ports’ security should be seen through the prism of results of possible security breaches, which impact realization of individual functions of ports’ activities. These results are no longer confined to internal issues of port administration, but, in many cases, are connected with outside environment, including the international one. [13,14].

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