



Maritime Terrorism

Implementation of the ISPS Code by the EU and US

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Introduction

- 9/11 2001 attack brought the attention of the world to the threat of terrorism;
- Terrorism are land-based problems;
- Piracy is the bane of the maritime domain;

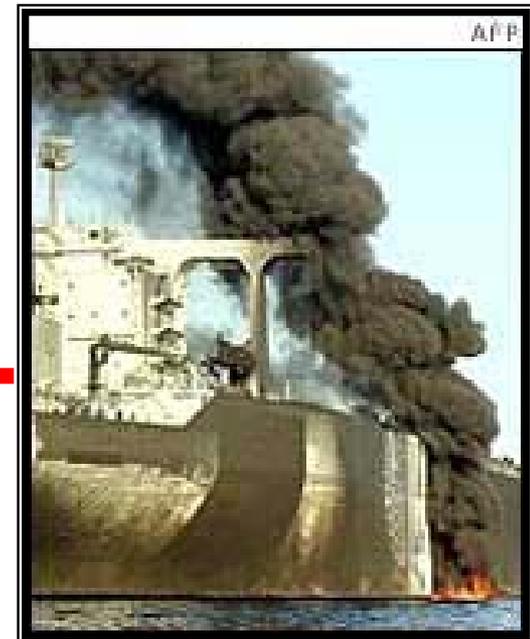


Maritime Attacks

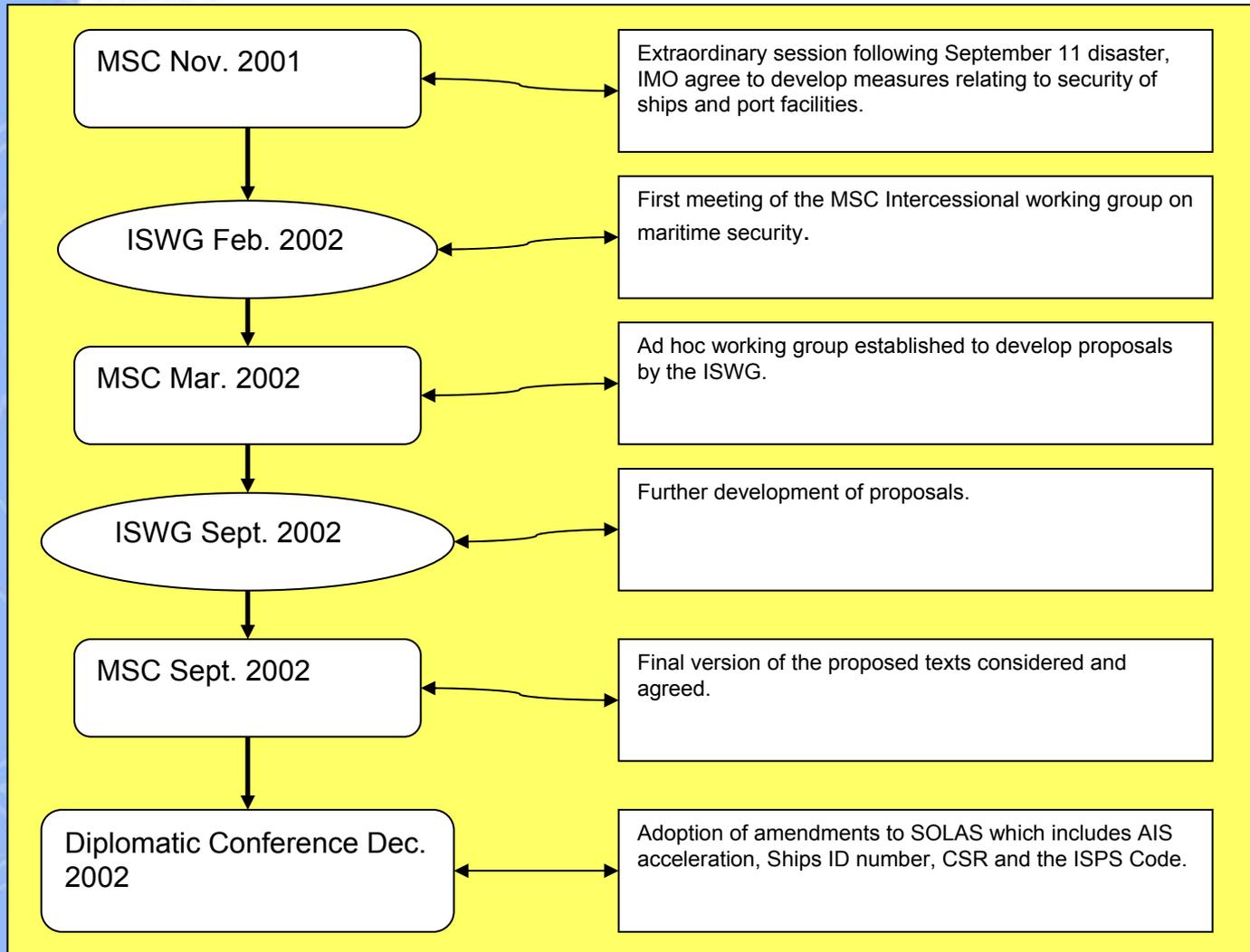
- 2% of all international incidents for past 30 years – *Peter Chalk, 2002*;
- Maritime attacks require specialist equipment and skills;
- More accessible high profile land targets;
- The tide changes as illustrated by the attack on USS Cole in October 2000.

Merchant marine..

- Realisation on the importance of maritime transport on world commerce;
- The Limburg was attacked in October 2002;
- The international maritime community responded by issuing the ISPS Code;

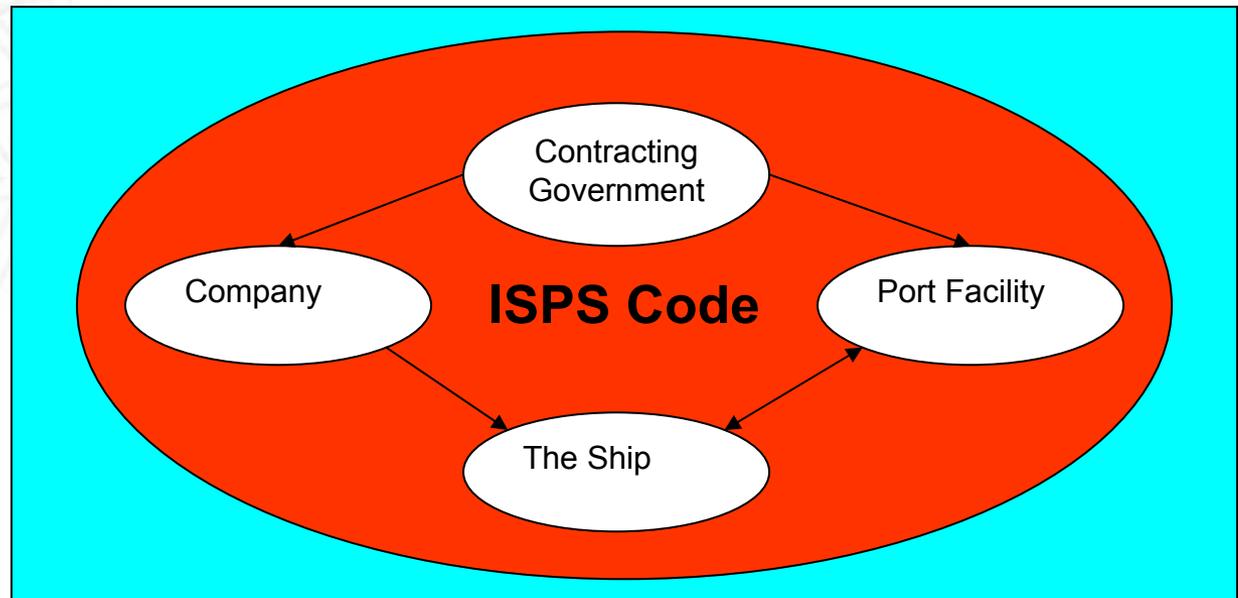


ISPS timeline



The ISPS Code

- Aims to establish an international framework for cooperation in efficiently collecting and sharing of information to detect security threats and take preventive actions.

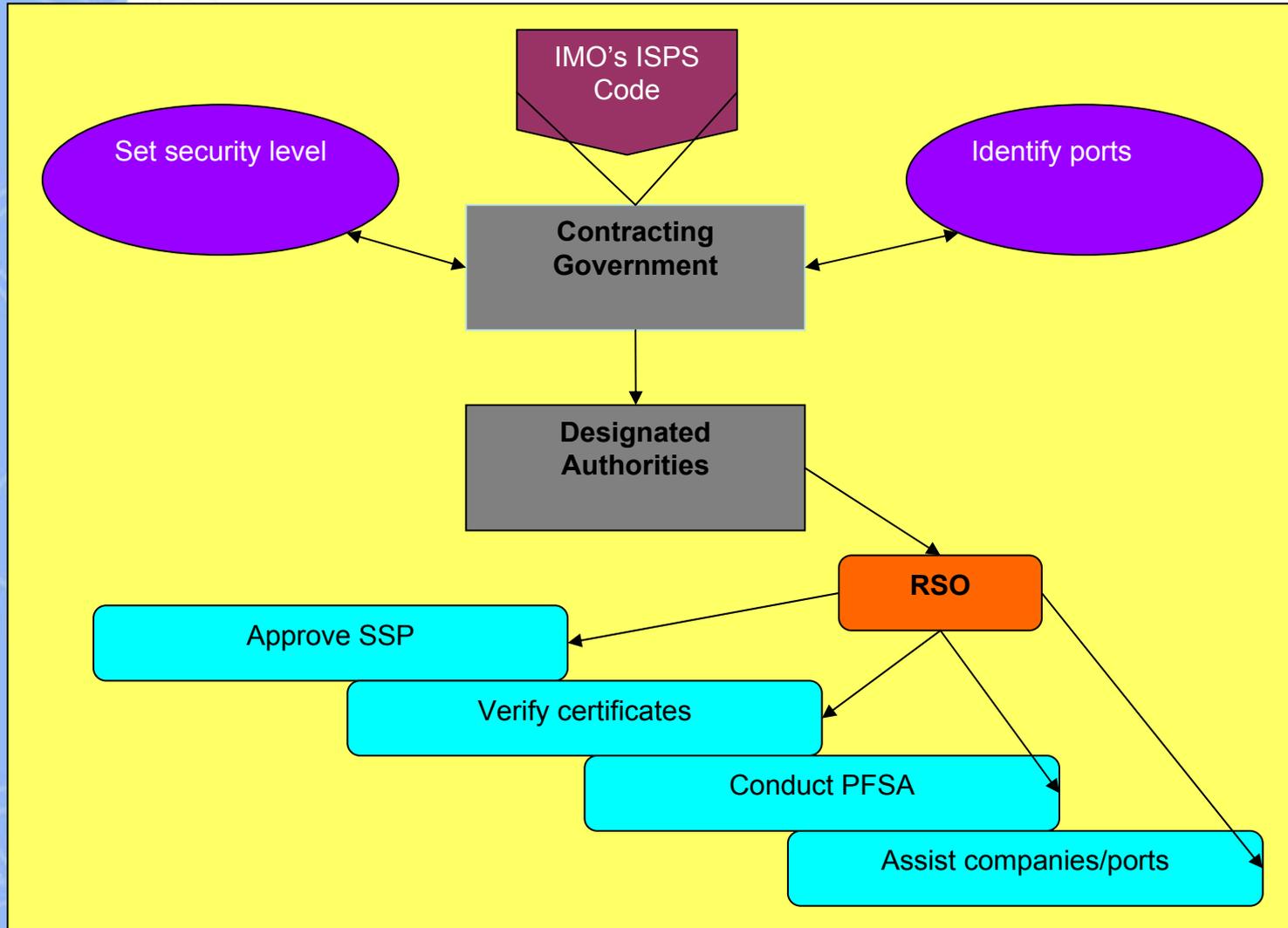


Key components

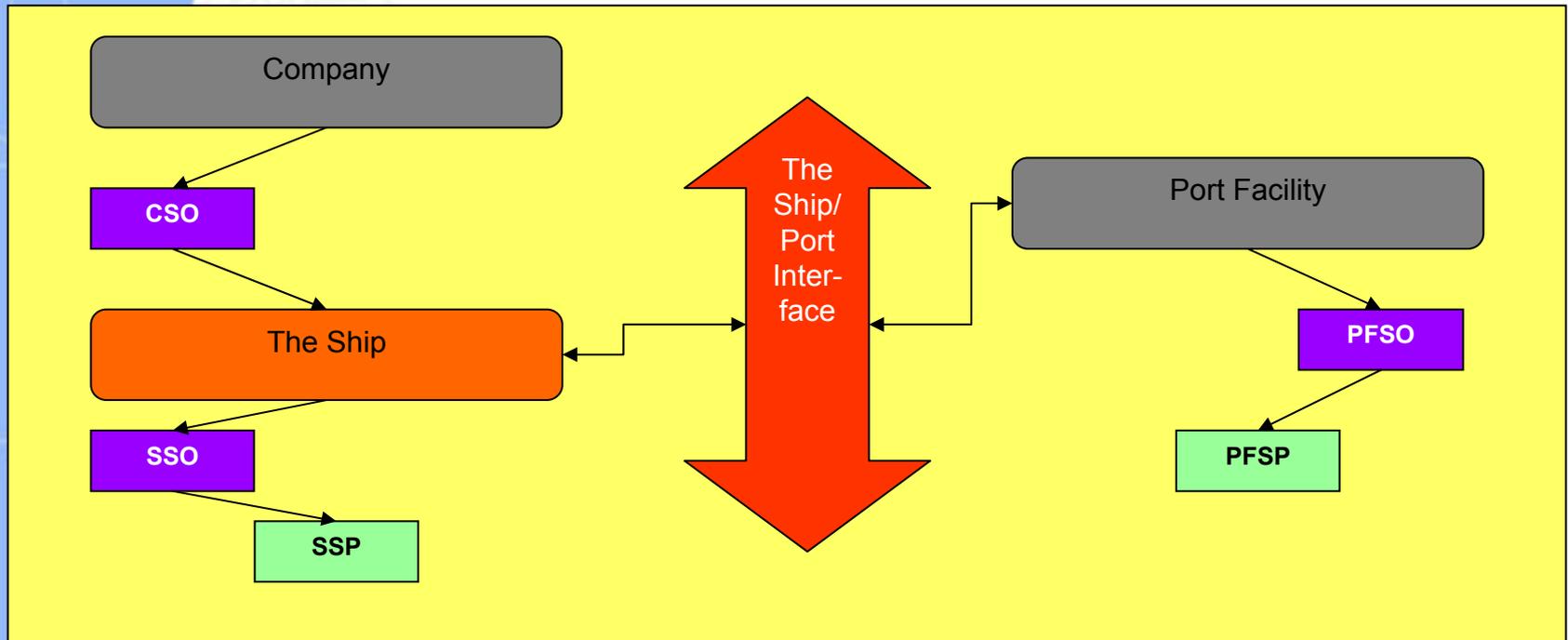
- Contracting governments;
- Designated authority;
- Recognised security organisations
- Security assessment;
- Security plans;
- Security officers;
- Certification.

Security Level	Definition/Action
1 Normal	Minimum protective security measures to be maintained at all times.
2 Heightened Risk	Additional protective security measures shall be maintained for a period of time as a result of heightened risk of security incident.
3 Exceptional Risk	Further specific protective security measures shall 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.

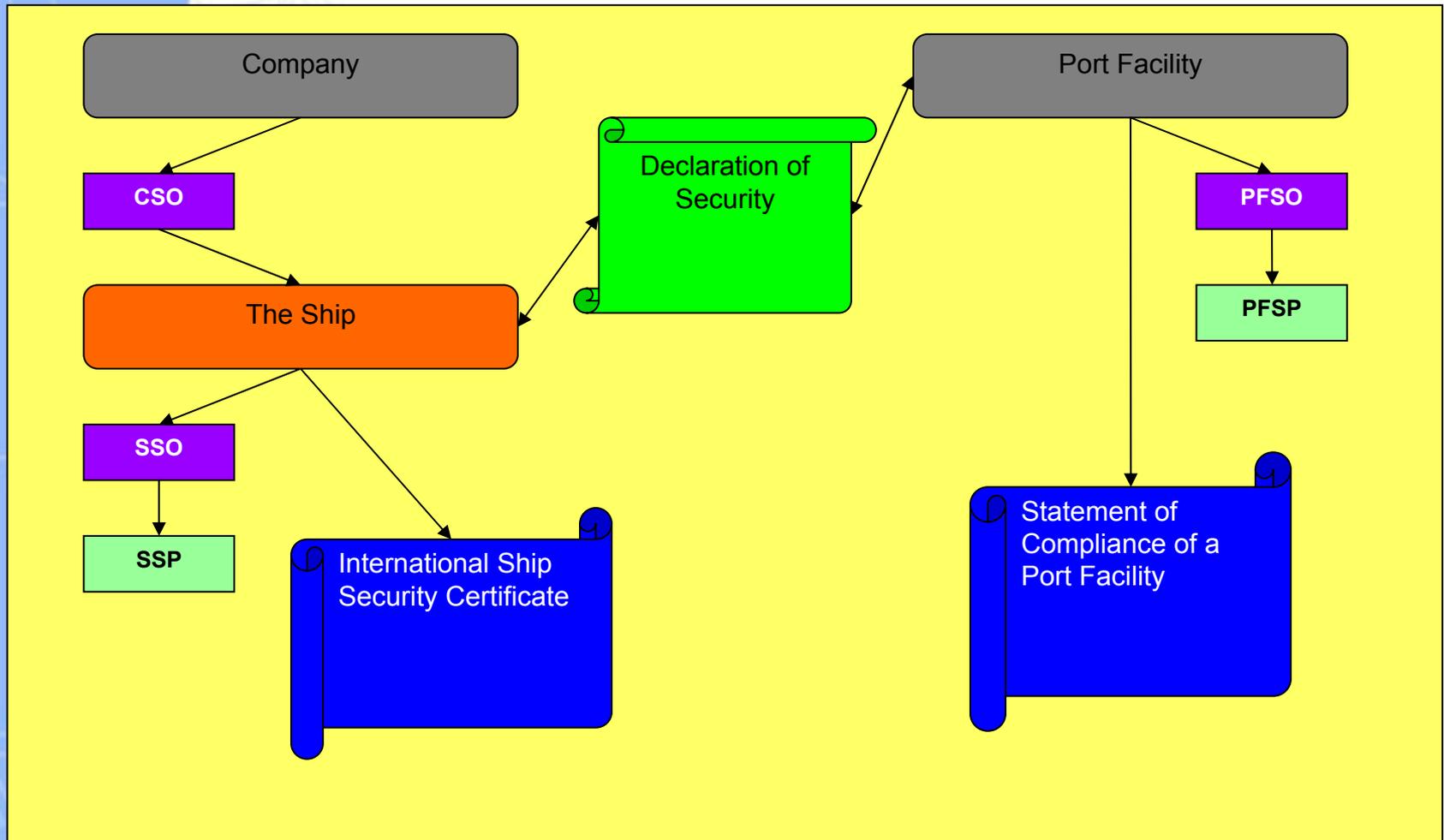
Authority hierarchy



Ship/port interface

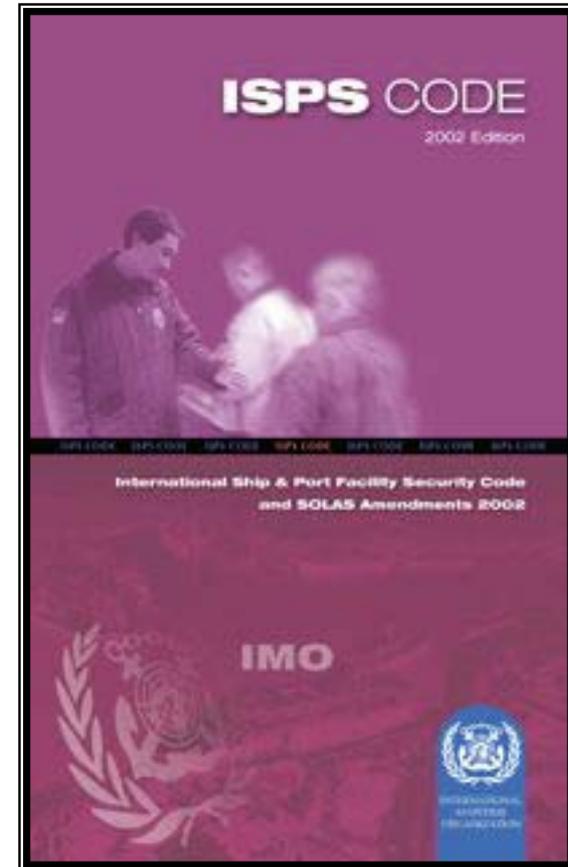


Certification



Who's involved ?

- As it was adopted under SOLAS Chapter XI-2, by 1 July 2004 all international ships and ports must comply.





Why look at EU and US ?

- International response or corrective actions has been shaped by them;
- UN usually initiates but they modify or accelerate implementation;
- EU – Prestige incident leads to accelerated phasing out of double hull tankers;
- US – Exxon Valdez leads to OPA 90;
- IMO – OILPOL, MARPOL.



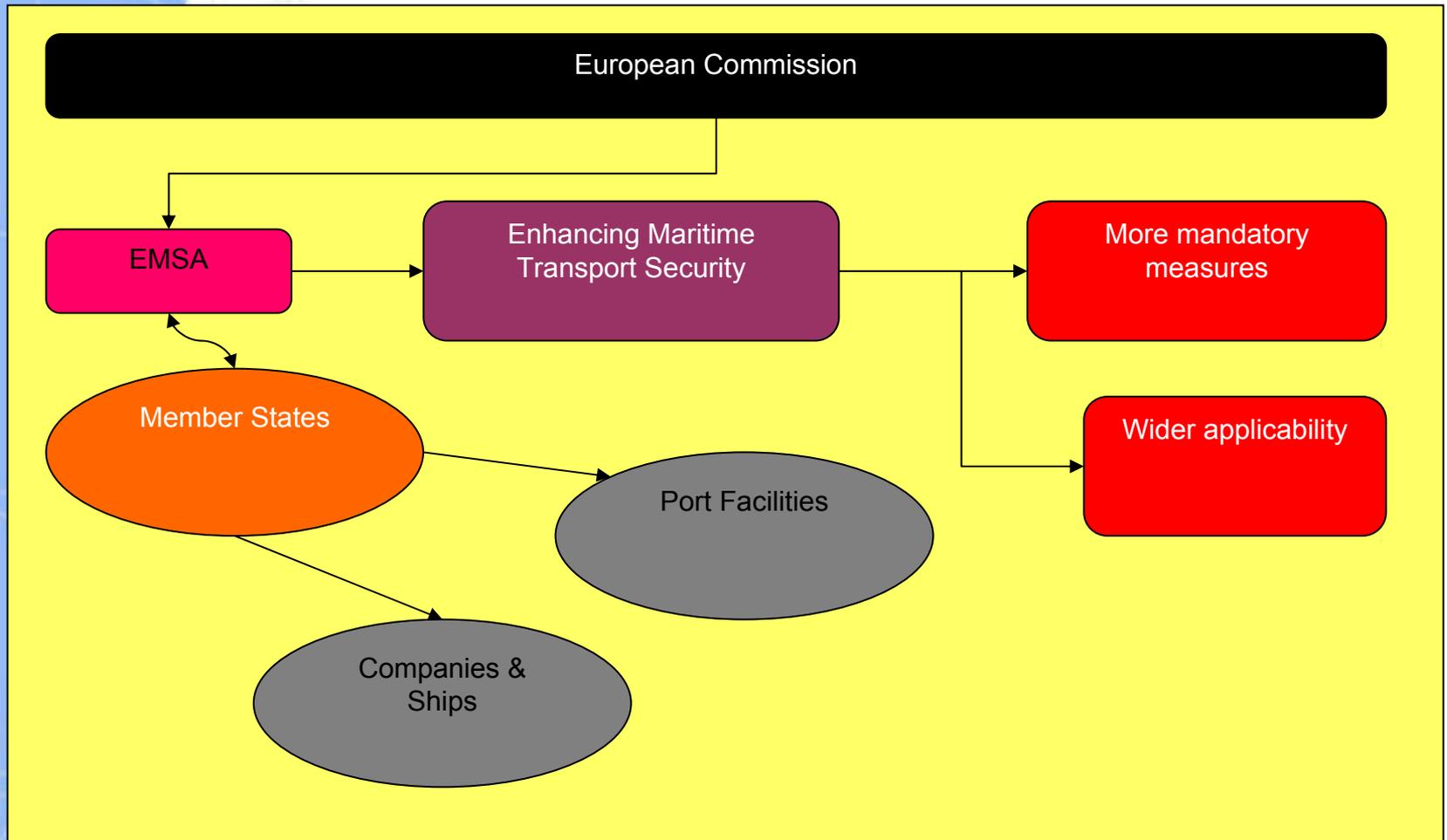
The EU approach

- “The current geopolitical climate requires an urgent and effective implementation in Europe of what has been agreed at world level to ensure highest possible levels of security for seamen, ships, ports and the whole intermodal transport chain”* – Loyola de Palacio, Vice President of the Commission for Transport and Energy.
- Communication on enhancing maritime transport security and proposal for a regulation on enhancing ship and port facility security – May 02, 2003;
 - Over and above the ISPS requirements.

EU implementation

- Adoption of EC communication “Enhancing Maritime Transport Security” effectively transposing ISPS Code into EU law;
- EC “Regulation” will be obligatory throughout EU;
- European Maritime Safety Agency (EMSA) is responsible agency;

Maritime security in EU



EU actions

- Regulation aims to protect people, strategic supplies & indirectly combat illicit trafficking and fraud.
- Requirements for safety agents, applies to domestic passenger ships, ID of seamen, etc.;
- Address port zones as a whole instead of just the ship/port interface;
- Ships coming to EU will be subject to inspection prior to entering and while in port;
- Member states to encourage third countries to recognise EU's security measures and provide reciprocal actions;

US approach

- US is primary instigator in making maritime security a dominant issue – ICS, 2003;
- Security enhanced at its domestic ports and waterways immediately after 9/11;
- Identify and diffuse threats before reaching US borders;
- Will take more stringent measures in its implementation of the ISPS Code.

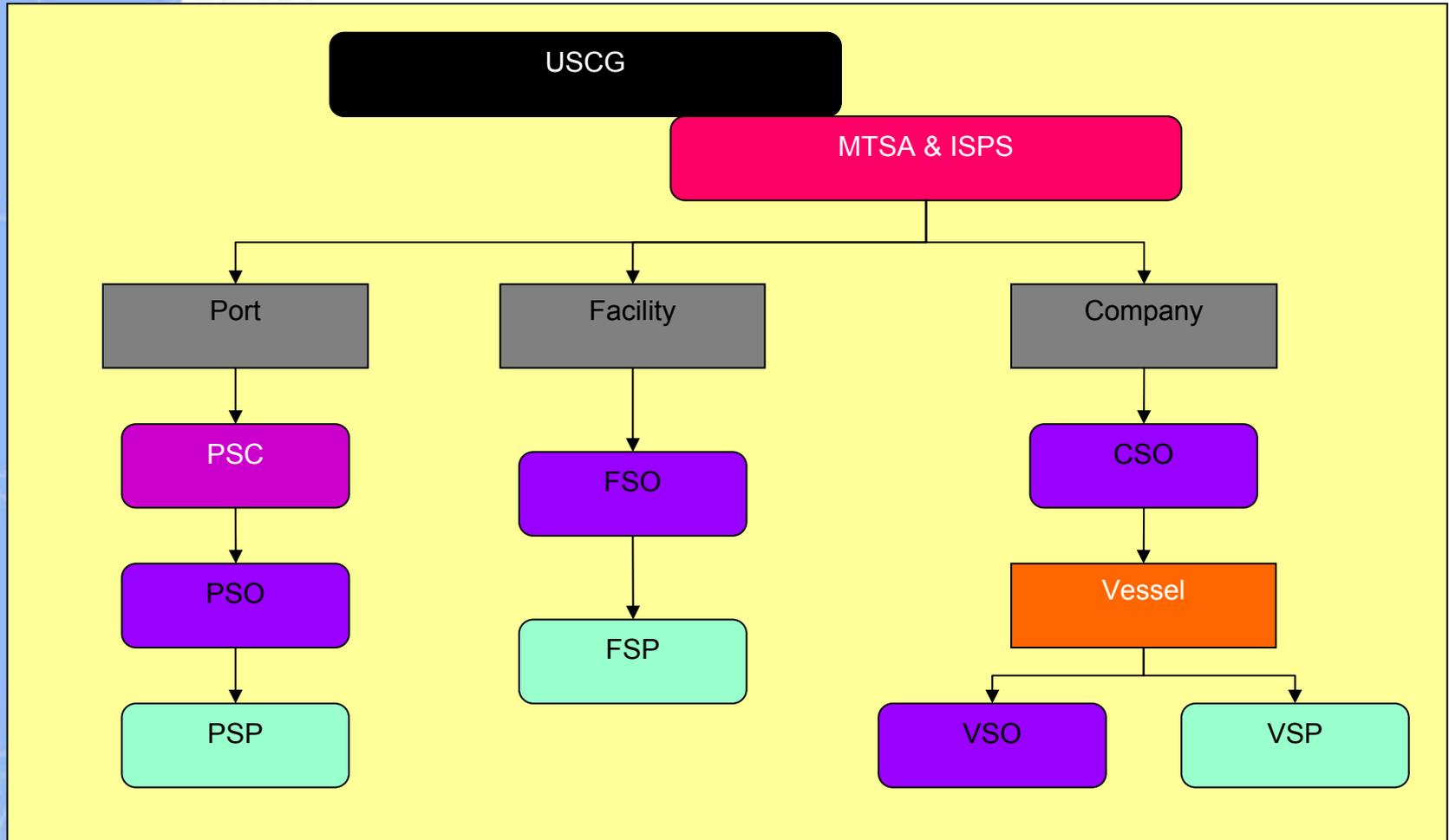
US implementation

- All of the Code's requirements will be mandatory in US ports and territorial waters – USCG, 2003;
- Ports handling domestic ships will also be subject if it handles cargoes that might be used as WMD;
- The Maritime Transportation Security Act of 2002 (MTSA) signed on November 24, 2002.

MTSA

- Part of the National Homeland Security Strategy – outlines plans to prevent attacks within the US, reduce vulnerability and minimise damage;
- An important law addressing the security of its 361 seaports and maritime transport system;
- Provides clear legislative mandate for USCG as lead agency;
- Defines responsibilities, create standards, assess vulnerabilities and **allocate funds**.
- In 2003, the Department of Homeland Security (DHS) provided over USD 1 billion to fund port security.

US components



USCG actions

- Meetings to solicit public input to draft regulations;
- Interim rules issued July 2003;
- Final rule issued October 22, 2003;
- Effective date November 22, 2003 (30 days);
- Deadline for submitting security plans December 29, 2003;
- MTSA & ISPS implementation July 1, 2004;
- AIS required December 31, 2004;
- Balance efficient commerce with security requirements;

Summary

- Maritime security issue is high on the agenda of both EU and US;
- EU have mobilised their Commission for a unified interpretation and standardised response;
- US is implementing the details required not just by ISPS but by their MTSA;
- Security responsibility is now the shared responsibility of all nations and shipping entity;

Critique

- EU, US and IMO – subtle differences in requirements can lead to confusion;
- This adds another chunk to the overflowing cauldron of rules and regulations that the maritime sphere has to contend with;
- It regulates the conduct of the victim not perpetrators;
- It aims to detect and deter – not eradicate ?
- Will this sort of action benefit the rest of the world ?

Malaysia ?

- Party to SOLAS – compliance is a must;
- Ports and facilities serving international ships will be affected;
- Ships trading internationally must comply;
- MARDEP claim itself to be the DA;
 - NMPM 45/2003: Kod SAKP – Keperluan untuk kapal issued June 24, 2003;
 - NPM 02/2003: Kod SAKP – Keperluan untuk kapal issued July 24, 2003;
 - NMPM 46/2003:Kod SAKP – Keperluan untuk kemudahan pelabuhan issued October 8, 2003.
- Security officer training offered by ALAM & Sastra Maritime.
- RSO ?

Conclusion

- EU & US fighting terrorism – indirectly illicit trafficking, fraud, piracy etc.;
- Through the ISPS Code, responsibility on security is shared and shifted to all nations; **EVEN THOUGH;**
- Unlike EU & US, other nations are not the obvious target of terrorism;
- In order to maintain international trade, their requirements must be complied with.