

**REPUBLIC OF NAURU**  
**MARITIME SECURITY BILL 2019**

**SECOND READING SPEECH**

**Honourable Lionel Rouwen Aingimea MP**

**20 December 2019**

Mr Speaker Sir,

In September 2018, the Government of Nauru entered into a Donor Funding Agreement with the Asian Development Bank (ADB), Green Climate Fund (GCF) and the Australian Government. The main purpose of this agreement was to fund the development of a new port, currently taking shape at Aiwo, the completion of which is greatly anticipated. Alongside that construction, a less obvious, but equally important, effort is underway to ensure that the port is ready to fulfil its great promise for the people of Nauru. One part of those efforts is to ensure that an appropriate legal framework is in place. Indeed, this was a precondition of the donor grant funding agreement. In the same year, Nauru joined the International Maritime Organization and thereby became required to join, and comply with, the Organization's basic conventions. Accordingly, two important Bills have been drafted.

Mr Speaker, I am pleased to introduce to the House today the *Maritime Security Bill 2019*.

Mr Speaker, the origin of this Bill lies in some of the world's most infamous acts of terrorism. Thankfully, Nauru has been spared the trauma of such events, but that does not mean that we should be complacent.

In 1985 the Italian cruise ship *Achille Lauro* was hijacked and one of its passengers, a US citizen, murdered. The *Achille Lauro* incident made it clear that there was a gap in international law and that an international legal framework was required to deal with certain acts of violence at sea, like maritime terrorism.

In response, the General Assembly of the United Nations, condemned as criminal “*all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize friendly relations among States and their security*”. The General Assembly invited the International Maritime Organisation to “*study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures*”.

This eventually led to the *Convention for the Suppression of Unlawful Acts at Sea* in 1988. It was always intended that this treaty would be developed further, but progress was slow and it was not until the terrorist attacks on the United States in 2001 that the International Maritime Organisation considered that a review of the existing legal and technical measures to prevent and suppress terrorist acts against ships both at port and at sea, as well as improve security aboard and ashore was necessary. New forms of terrorism, like the 2001 attack and the proliferation of weapons of mass destruction, showed that the offences set out in the 1988 Convention were not sufficient to cover all acts of terrorism.

Eventually, a new protocol was added to the *Convention for the Suppression of Unlawful Acts at Sea* in 2005. Nauru is a party to the Convention and the Protocol, but Nauru’s *Counter Terrorism and Transnational Organised Crime Act 2004* predated the 2005 Protocol and was never updated to reflect the changes made in it. Furthermore, the *Crimes Act 2016* retains legacy definitions of piracy, limiting the offence to depredations committed for private gain, rather than political or terrorist motives.

Accordingly, under this Bill, both the *Counter Terrorism and Transnational Organised Crime Act 2004* and the *Crimes Act 2016* will be amended to bring them into line with the *Convention for the Suppression of Unlawful Acts at Sea* and the 2005 Protocol.

Mr Speaker, in September 2001 the United States was attacked with four hijacked aircrafts, leading to enormous loss of life and property damage. In October 2002 the *MV Limburg*, flying the French flag, was rammed by suicide bombers. One crew member was killed and 12 wounded. Approximately 90,000 barrels of oil leaked into the Gulf of Aden. Both these outrages were committed by *Al Qaeda*.

These incidents brought into focus the security deficiencies existing in the maritime sector. Accordingly, the *International Ship and Port Facility (ISPS) Code* was formulated in December 2002 and became a mandatory chapter of the *Convention for the Safety of Life at Sea* in 2004.

The objectives of the *International Ship and Port Facility Code* are to:

1. establish an international framework involving co-operation between Contracting Governments, Government agencies, local administrations and the shipping and port industries to detect security threats and take preventive measures against security incidents affecting ships or port facilities used in international trade;
2. establish the respective roles and responsibilities of the Contracting Governments, Government agencies, local administrations and the shipping and port industries, at the national and international level for ensuring maritime security;
3. ensure the early and efficient collection and exchange of security-related information;
4. provide a methodology for security assessments so as to have in place plans and procedures to react to changing security levels; and
5. ensure confidence that adequate and proportionate maritime security measures are in place.

In order to achieve these objectives, the *Code* sets out a number of functional requirements which are elaborated and given expression in the Bill. These are similar to those enacted in many other countries. I will highlight the key provisions of the Bill.

First, Mr Speaker, the Bill provides for the gathering and assessing of information with respect to security threats and exchanging such information with other Contracting Governments. Security levels are set according to this information and the security level determines the minimum appropriate security measures to be applied.

Second, Mr Speaker, the Bill provides for certain lines of communication for ships and port facilities. States are required to communicate threat information to all ships operating in their territorial waters or having communicated an intention to enter their territorial waters. Security Officers and other points of contact are established through which reports can be made about security concerns, advice or assistance requested. Various security officers are appointed to be responsible for security actions and communications.

Mr Speaker, the third set of functional requirements is to prevent unauthorised access to port facilities and to prevent the introduction of weapons and explosives to port facilities and, therefore, to ships. Provision is made for security in ports and for secure areas within ports. Maritime security guards will have the necessary powers, including screening people and vehicles, just like at airports.

Fourth, the Bill provides for the means to raise alarm in reaction to security threats and incidents. Ships are required to have a ship security alert system that can be activated from the bridge and at least one other location on the ship. If activated, the system will not raise any alarm on the ship or other ships, but will transmit a ship-to-shore message to the authorities and the shipowner, identifying its location and that the ship is under threat or has been compromised.

Fifth, detailed ship and port security plans must be formulated, based upon proper security assessments. The shipowners, the ship and port facilities must appoint security officers to formulate and implement these plans. Drills and training are required to ensure familiarity and plans must be updated as necessary.

Mr Speaker, in addition to the *International Ship and Port Facility Code* being mandatory for all state parties to the *Safety of Life at Sea* Convention, it should be mentioned that there are very severe consequences if Nauru were to remain outside the system. The United States Coast Guard maintains a blacklist of ports which are non-compliant. Blacklisting requires that any ship calling at a blacklisted port undergo additional security measures when it reaches another port so as to protect the security of that port. This can add significant delay and expense and will effectively deter ships from calling at Nauru.

Mr Speaker, the explanatory memorandum details the provisions of the Bill. Sir, I request that the explanatory memorandum be read and recorded in the Hansard Reports.

Mr Speaker I commend this Bill to the House.