



## MARINE SECURITY OPERATIONS BULLETIN

File number: 4303-1

No: 2014-002

### **APPLYING THE *MARINE TRANSPORTATION SECURITY REGULATIONS* TO CANADIAN VESSELS ON A DOMESTIC VOYAGE TO MAINTAIN INTERNATIONAL REQUIREMENTS, AND MARINE FACILITIES INTERFACING WITH THEM.**

#### **PURPOSE:**

The purpose of this bulletin is to provide information and guidance on the subject of Canadian vessels conducting voyages between marine facilities within Canada and Canadian marine facilities that interface with them, to support a well-coordinated and efficient implementation of the provisions of the *Marine Transportation Security Regulations* (MTSR) Part 2 as it relates to domestic voyages.

#### **BACKGROUND:**

The “application” subsection of Part 2, subsection 201(2), of the MTSR was amended to clarify that Part 2 does not apply to Canadian-flagged SOLAS and non-SOLAS ships while operating on a domestic voyage or the domestic portion of an international voyage.

This clarification ensures that those operators of the Canadian regulated domestic fleet who engage on international and domestic voyages clearly have the choice, depending on their business needs, to interface with either regulated or non-regulated ports and marine facilities while on a domestic voyage or the domestic portion of an international voyage.

However, it requires the operators of Canadian flagged vessels subject to the MTSR to include procedures in their vessel security plans to mitigate security vulnerabilities when operating on the domestic portion of a voyage and submit them to Transport Canada Marine Security for review and approval.

The *Regulations Amending the Marine Transportation Security Regulations* (SOR 2014-162) introduce amendments which provide flexibility to vessels subject to Part 2 of the MTSR and Canadian marine facilities.

This follows the direct result of stakeholder input and the Government’s Red Tape Reduction Commission Initiative; consequently, these amendments support this initiative.

RDIMS # 9936033



The *Regulations Amending the MTSR* (SOR 2014-162) have been registered on 19 June 2014 and came into force on the same day. These amendments were published in the *Canada Gazette II* on 2 July 2014.

**Note:** Although Part 2 of the regulations does not apply to Canadian vessels on domestic voyages, the operator may opt to implement all or part of the MTSR and all or part of their approved security plan to ensure continued compliance with international requirements and/or to mitigate vulnerabilities as a result of not applying the MTSR Part 2.

**SCOPE OF THE APPLICATION OF THE MTSR:**

**The MTSR “Part 2 does not apply” to (Application section 201(2)(a) & (b)):**

*(a) a pleasure craft, a fishing vessel, a vessel that is owned or operated by a government and used only on government non-commercial service, a vessel without a crew that is in dry dock, dismantled or laid-up, or a vessel that is subject to a security arrangement concluded between the Government of Canada and a contracting government in application of Regulation 11 of Chapter XI-2 of SOLAS; or*

*(b) a vessel that is entitled to fly the Canadian flag and that is engaged on a voyage between marine facilities in Canada, except when the vessel has an interface with a SOLAS ship or non-SOLAS ship that is entitled to fly the flag of a foreign state that is not subject to a security arrangement referred to in paragraph (a).*

**The MTSR “Part 3 applies” to (Application section 301(2)):**

*marine facilities, other than offshore facilities, that interface with vessels to which Part 2 applies.*

**DEFINITIONS FOR THE PURPOSE OF THIS BULLETIN:**

Terms specific to this bulletin are defined below (where further clarification is required related to definitions, consult the MTSR and the *Marine Transportation Security Act*) which may be found at the following websites:

*Marine Transportation Security Regulations* Web link:

<http://lois-laws.justice.gc.ca/eng/regulations/sor-2004-144/index.html>

*Marine Transportation Security Act* Web link:

<http://laws-lois.justice.gc.ca/eng/acts/M-0.8/>



**“interface”** (MTSR interpretation section) means the interaction that occurs between a vessel and a marine facility, or between a vessel and another vessel, throughout the time that the vessel is alongside the marine facility or throughout the vessel-to-vessel activity, and includes the activities affected by the movement of persons and their goods, by the movement of cargo or by the provision of services to and from the vessel.

**“international voyage”** (MTSR interpretation section) means a voyage

- (a) undertaken between a marine facility in Canada and a place outside Canada, or between places outside Canada, by a vessel that is entitled to fly the Canadian flag; or
- (b) undertaken in Canadian waters by a vessel that is entitled to fly the flag of a foreign state.

**“international voyage” for Canadian flagged SOLAS and non-SOLAS ships** (MTSR section 1.(3))

- (a) begins its international voyage **at the beginning** of its last interface with a marine facility in Canada before it engages on the voyage; and
- (b) ends its international voyage **at the end** of its first interface with a marine facility in Canada when it returns from the voyage.

**“marine facility” includes** (MTSA interpretation section):

- (a) an area of land, water, ice or other supporting surface used, designed, prepared, equipped or set apart for use, either in whole or in part, for the arrival, departure, movement or servicing of vessels,
- (b) buildings, installations and equipment on the area, associated with it or used or set apart for handling or storing goods that have been or are destined to be transported on a vessel,
- (c) equipment and facilities used to provide services relating to marine transportation, and
- (d) marine installations and structures, as defined in section 2 of the *Canadian Laws Offshore Application Act*.

**“marine security document”** (MTSR interpretation section) means any certificate, document or letter issued by the Minister under these regulations. For the purposes of this document, this means security certificates issued to Canadian SOLAS and non-SOLAS ships and Statements of Compliance (SoC), Interim Statements of Compliance (ISoC) or Letters of Compliance (LoC) issued to Canadian marine facilities.



**“non-SOLAS ship”** (MTSR interpretation section) means a vessel that is not a SOLAS ship, that is engaged on an international voyage, and that

- (a) is more than 100 gross tonnage but is not a towing vessel;
- (b) is carrying more than 12 passengers; or
- (c) is a towing vessel engaged in towing astern or alongside, or pushing ahead, a barge that is carrying certain dangerous cargoes.

**“SOLAS ship”** (MTSR interpretation section) means a vessel that

- (a) is 500 gross tonnage or more or is carrying more than 12 passengers; and
- (b) is engaged on an international voyage other than a voyage solely on the Great Lakes and the St. Lawrence River as far seaward as a straight line drawn from Cap-des-Rosiers to West Point, Anticosti Island, and from Anticosti Island to the north shore of the St. Lawrence River along the meridian of longitude 63° W.

**FOR THE PURPOSE OF THE APPLICATION OF THIS BULLETIN THE FOLLOWING DEFINITIONS ARE USED:**

**“Domestic voyage”** means a voyage that takes place when a Canadian flagged SOLAS or Non-SOLAS ship that is in possession of a valid marine security document issued in accordance with the MTSR is engaged on a voyage between marine facilities in Canada,

Except:

- When the vessel has an interface with a foreign flagged SOLAS or Non-SOLAS ship; or
- when the vessel is transiting the St. Lawrence Seaway as part of an international voyage.

A domestic voyage also includes a Canadian flagged SOLAS or Non-SOLAS ship that is in possession of a valid marine security document operating to and from the same Canadian marine facility without conducting an international voyage.

**“existing vessel”** means a Canadian flagged SOLAS or non-SOLAS ship that **has an existing valid** marine security document; or where there is no existing valid marine security document, has submitted at a minimum, a Vessel Security Assessment to Transport Canada Marine Security for review and approval before July 2, 2014.



“new vessel” means a Canadian flagged SOLAS or non-SOLAS ship that **does not have an existing valid** marine security document and has submitted at a minimum, a Vessel Security Assessment to Transport Canada Marine Security for review and approval after July 2, 2014.

“Non-regulated Marine Facility” means a marine facility or Port not subject to Part 3 of the MTSR (has no valid marine security document) and is interfacing with a vessel holding a valid security certificate issued in accordance with the MTSR, when it is not subject to Part 2 of the MTSR or interfacing with any other vessel not subject to the MTSR.

### **DIRECTIVES:**

**Directive on the implementation of the MTSR (Canada Gazette II, SOR 2014-162 registered June 19, 2014):**

#### **Transitional Provision: Existing Vessel**

Since the registration of the *Regulations Amending the MTSR* on June 19, 2014, the interpretation section of the regulations clarify what an international voyage is. Consequently Canadian flagged SOLAS or non-SOLAS ships operating between marine facilities in Canada on a “domestic voyage” may decide not to apply Part 2 of the regulations (except when interfacing with any foreign flagged SOLAS or non-SOLAS ships). However, this will still require the operators of Canadian flagged vessels subject to the MTSR to review and update their vessel security assessments and to include procedures in their vessel security plans to mitigate security vulnerabilities when operating on the domestic portion of a voyage.

**All exiting vessels with a valid marine security document; Must, AT A MINIMUM amend the following sections of the vessel security assessment and vessel security plan and submit them to Transport Canada Marine Security for review and approval:**

233(4)(f) Vessel Security Assessment – Content (taking into account not being subject to MTSR Part 2 before the start of an international voyage);

218(1)(d.1) Record keeping (requirement to record the dates when the vessel is subject to and not subject to the MTSR Part 2);

234(2)(w) Vessel Security Plan – General (overcoming vulnerabilities); and

234(2)(x) Vessel Security Plan – General (procedures when not being subject to Part 2 and becoming subject to Part 2 before an international voyage).

**These amendments apply regardless of whether or not the vessel implements all of Part 2 of the MTSR during domestic voyages or if the vessel is only engaged on international voyages. This applies regardless of whether or not a domestic voyage is conducted.**



Canadian flagged vessels that are a SOLAS or Non-SOLAS ship in accordance with the MTSR section 1.(1), are required to be in compliance with the regulations and be in possession of a valid marine security document while conducting international voyages as evidence that they have met the requirements of the MTSR.

These security certificates must continue to remain valid while operating on a domestic or international voyage in order to ensure that international requirements and the ISPS Code are respected. This includes the intermediate and renewal inspection requirements (ISPS Code 19.1.1.3 & 19.3.7) and the MTSR certificate requirements. The ISPS Code section 19.1.3 states the following: *“In every case, the Administration concerned [Transport Canada] shall fully guarantee the completeness and efficiency of the verification [initial, intermediate and renewal] and shall undertake to ensure the necessary arrangements to satisfy this obligation”*.

For operators who wish to conduct international voyages, the continuance of the vessel’s security certificate is therefore critical to maintain compliance with international requirements. The process of inspection and those parts of the MTSR which are integral to the validity of their security certification must be taken into consideration even while the vessel is not subject to Part 2 of the MTSR.

In order to ensure there is an adequate time period for existing vessels to meet the requirements of the MTSR, vessel operators working with Transport Canada Marine Security regional offices must have approved security assessments, security plans and a satisfactory inspection (as may be deemed necessary) confirming that they are in compliance with the MTSR by **July 1, 2015** in order to maintain the validity of their marine security document.

During the transition period of submission, approval and inspection (as may be deemed necessary) to ensure compliance, the operator of an existing vessel must ensure that their existing approved security plan is fully implemented and that the MTSR Part 2 is maintained at all times, through every interface until Transport Canada Marine Security confirms that they are in compliance with all of the relevant 19 June 2014 MTSR requirements.

If an inspection is not required for the purpose of ensuring compliance with all relevant MTSR requirements that came into force as of 19 June 2014, the Vessel Security Assessment and the Vessel Security Plan approval is still required regardless of whether or not an inspection was conducted.

The existing vessels that do not meet all current MTSR requirements (including the *Regulations Amending the MTSR* requirements, SOR 2014-162, published in the *Canada Gazette II* on 2 July 2014) **before July 1, 2015** may result in their marine security document being cancelled in accordance with the MTSR section 14(1)(c) and (d) (Suspension and Cancellation of marine security documents).

Existing vessel operators are encouraged and reminded that it is in their best interest to amend and submit their vessel security assessments and security plans for review and approval by

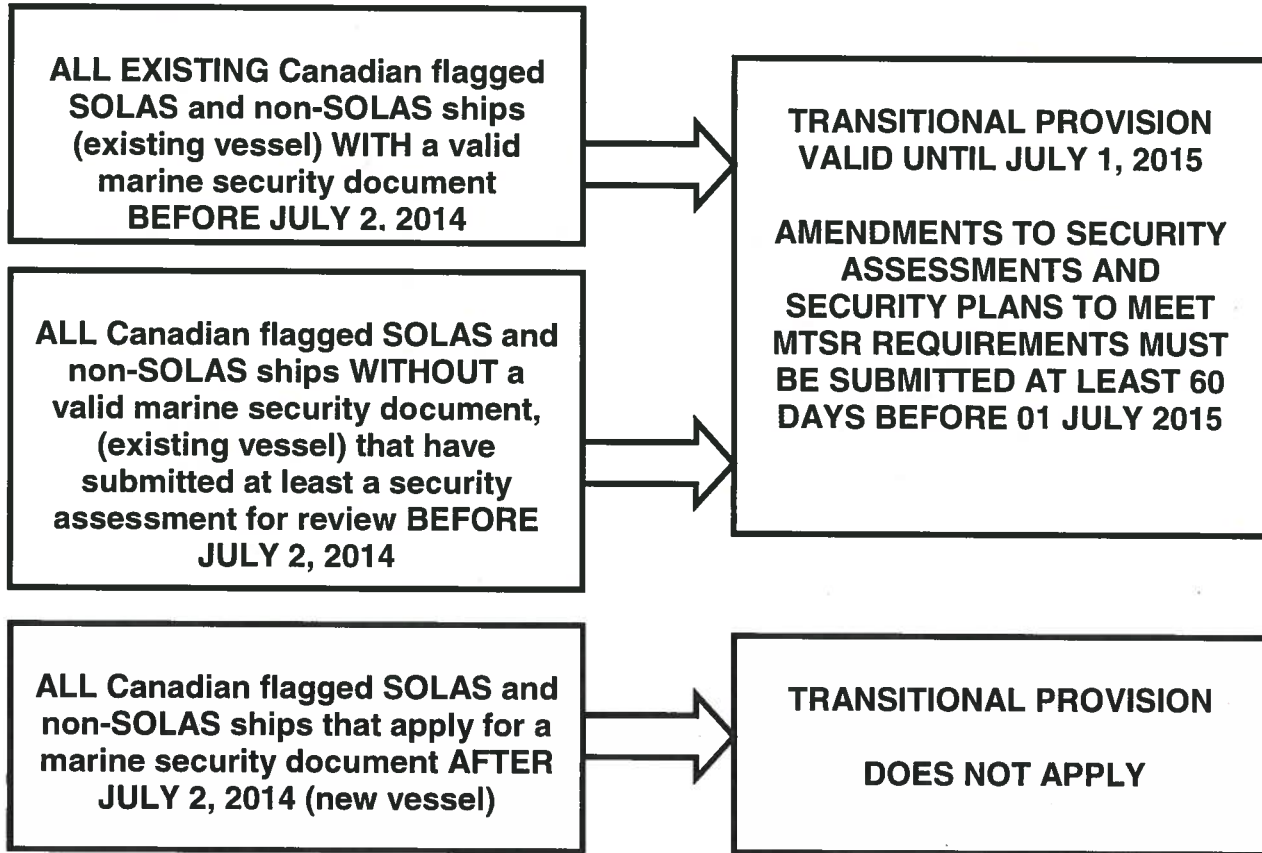


Transport Canada Marine Security as soon as practicable.

**NO Transitional Provision for a New Vessel:**

There is no transitional provision for new vessels as these vessels must meet the current MTSR requirements when they become subject to Part 2 of the MTSR before the start of an international voyage.

**TRANSITIONAL PROVISION TIMETABLE**



**Directive on Vessel Security Assessments, Vessel Security Plans and Record Keeping**

In accordance with the MTSR, the vessel security assessment must take into account the area in which the vessel operates and the type of operations the vessel is involved (which includes international and domestic voyages as the case may be). The vessel security assessment shall take into account all possible vulnerabilities, including those resulting from the fact that the vessel was not subject to Part 2 of the MTSR before the start of an international voyage (section 233(4)(f)) and also includes vulnerabilities interfacing with regulated or non-regulated marine facilities in Canada.

RDIMS # 9936033



The vessel security plan must address procedures to overcome any vulnerability resulting from not being subject to Part 2 of MTSR (MTSR section 234(2)(w)). In addition, the vessel security plan must address procedures to be followed when the vessel becomes subject to and when it ceases to be subject to Part 2 of MTSR (MTSR section 234(2)(x)).

The type and nature of the procedures implemented within the vessel security plan to overcome any vulnerability identified as a result of not being subject to Part 2 of the MTSR before the start of an international voyage may be similar to the procedures and processes that would be implemented during an international voyage, or the procedures and processes related to vessels going in and out of service or lay-up.

The Canadian flagged SOLAS or non-SOLAS ship must also record the date and time when they are subject to the MTSR Part 2 and when they are not subject to the MTSR Part 2 (218.(1)(d.1)). The method or mechanism used to record these dates and times must be identified in the vessel security plan.

Canadian flagged SOLAS and non-SOLAS ship operators may opt to fully implement their security plan at all times in order to meet the MTSR sections 218.(1)(d.1), 233(4)(f) and 243(2)(w). In those cases, an amendment to the vessel security plan identifying the intent to maintain their security plan at all times as well as a record of when the vessel is subject to or not subject to the MTSR Part 2 is all that would be required.

Canadian flagged SOLAS and non-SOLAS ships that do not engage on voyages between marine facilities in Canada and as a result may always be subject to the MTSR Part 2 must also amend their vessel security plans identifying the intent to maintain their security plan at all times in order to meet the MTSR sections 218.(1)(d.1), 233(4)(f) and 243(2)(w) as well as a record of when they were subject to or not subject to the MTSR Part 2.

### **Directive on Drills and Exercises during a domestic voyage**

#### **Drills:**

Operators of Canadian flagged SOLAS and non-SOLAS ships subject to the MTSR shall ensure drills are conducted at a minimum, as prescribed by the MTSR section 216(1) as follows:

*“A security drill may be conducted with other drills, if appropriate, but shall be conducted at least once every three months, except in the case of a vessel that is entitled to fly the Canadian flag and that is not engaged on an international voyage or is not in service at the time that a drill is to be conducted, in which case the drill shall be conducted within one week after the beginning of an international voyage or the return to service.”*

In order to provide flexibility with respect to the requirements for drills and exercises, Canadian flagged SOLAS and non-SOLAS ships may conduct drills and exercises while they are on a





domestic voyage as long as the frequency and procedures for doing so are identified within their approved security plan and records of the drills and exercises are kept in accordance with the MTSR.

Conducting satisfactory drills at least once every three months regardless of the type of voyage the vessel is on has several advantages. To name a few, it helps to ensure that personnel are proficient in all assigned security duties, it helps identify any security related deficiencies that may need to be rectified and helps maintain an adequate security culture. Conducting drills at least once every three months may also alleviate potential instances where vessels that normally operate domestically and only make infrequent voyages internationally are not in non-compliance (internationally) as a result of not conducting a drill in accordance with international requirements (ISPS Code Part A-13.4 & Part B-13.6).

If a vessel has not engaged on an international voyage or is not in service at the time that a drill is to be conducted, it must therefore conduct the drill within one week after the beginning of an international voyage or return to service. After that, no drill will be required for another three months to maintain the minimum MTSR requirements. The exception being that if at any given time during an international voyage, if more than 25 per cent of the vessel's permanent crew have not participated in a security drill within the past three months, a drill must be conducted within one week (MTSR 216(4)).

Those vessels that opt to conduct a drill within one week after the beginning of an international voyage must ensure that the drill is completed within one week of that voyage and are encouraged to do so before entering foreign waters to ensure that they continue to meet international requirements.

If the international voyage is less than one week in duration, the drill must still be conducted during that international voyage and it is in the operator's best interest that it is done prior to entering foreign waters. If an international voyage is of a very short duration, operators are encouraged to conduct the drill prior to departure from Canadian waters or at a minimum, prior to entering foreign waters to ensure that they continue to meet international requirements.

Transport Canada Marine Security encourages companies and operators to conduct drills on a regular basis to promote and maintain a culture of security within their organizations as part of good business practices.

#### **Exercises:**

Canadian flagged SOLAS and non-SOLAS ships subject to the MTSR must conduct exercises at a minimum, as prescribed by the MTSR section 217(2) as follows:

*"Security exercises shall be conducted at least once every calendar year with no more than 18 months between them."*



Conducting a satisfactory exercise once every calendar year with no more than 18 months between exercises has many of the same advantages as conducting drills on a regular basis regardless of the type of voyage the vessel is on.

Conducting an exercise at least once every calendar year with no more than 18 months between exercises may also alleviate potential instances where vessels that normally operate domestically and only make infrequent voyages internationally are not in non-compliance (internationally) as a result of not conducting an exercise in accordance with international requirements (ISPS Code Part A-13.4 & Part B-13.7).

Transport Canada Marine Security encourages companies and operators to conduct exercises on a regular basis to promote and maintain a culture of security within their organizations as part of good business practices.

### **Directive on the Vessel Security Alert System (SSAS)**

Canadian flagged SOLAS ships shall test their SSAS when necessary to ensure operational compliance for the purposes of an initial, intermediate or renewal inspection. SSAS testing shall also occur during any change in hardware, software or programming of the on-board SSAS or any system that may affect the SSAS, where the vessel or operator wishes to ensure functionality. All of these tests may occur as needed, including during the domestic portion of the voyage. Other SSAS tests are at the discretion of the vessel or operator and may also occur during the domestic voyage portion of the voyage. Where possible, and the SSAS equipment provides that function, operators are encouraged to conduct discretionary SSAS tests internally.

A Canadian flagged SOLAS ship must have a satisfactory SSAS test in order to have their International Ship Security Certificate (ISSC) endorsed or a new or renewal ISSC issued.

For any other purposes, while on a domestic voyage, in the event that a SSAS test is unsatisfactory it is expected that the system will be re-tested and a satisfactory SSAS test result will be obtained prior to the beginning of the last interface with a Canadian marine facility prior to conducting an international voyage; or in accordance with any corrective action issued by a marine security inspector.

The critical consideration is that the vessel must have a functioning SSAS not only for the purposes of certification but also it must continue to be maintained in good working order prior to conducting and during an international voyage.

For information regarding the specific procedures to meet the SSAS requirements, please refer to the Marine Security Bulletin 2012-004 "*Procedures to Meet the Ship Security Alert System (SSAS) Requirements for Canadian Registered Vessels in Accordance with the Marine Transportation Security Regulations (MTSR)*", as amended from time to time.



## **Directive on Seafarers' Training, Certification and Watchkeeping Code (STCW)**

STCW 2010 security training and certification requirements as introduced by the *Regulations Amending the MTSR* (SOR 2014-162) are required to be met by all vessel personnel employed or engaged in any capacity on board Canadian-flagged SOLAS ship to which the ISPS Code applies carrying a valid International Ship security Certificate or its Interim.

Therefore the operator and the Master of these vessels must ensure that the vessel security officer, vessel personnel with or without security responsibilities, meet the training requirements set out in sections A-VI/5 and A-VI/6 of the STCW Code (MTSR, section 205 (1) (h)) and carry on board their certificates of proficiency issued under Part 8 of the MTSR by Transport Canada Marine Safety and Security before the start of an international voyage (MTSR, section 206 (5)) and throughout international voyages.

The STCW requirements related to security certificates of proficiency do not apply to non-SOLAS ships that have a valid Canadian Vessel Security Certificate (or an interim certificate) or any domestic ferry that has a valid Domestic Ferry Security Certificate (or an interim certificate).

Furthermore, with respect to SOLAS ships that have a valid marine security document, the STCW requirements do not apply while the vessel is on a domestic voyage operating between marine facilities in Canada.

In order to ensure a smooth transition for SOLAS ships going from a domestic voyage to an international voyage, the STCW requirements must be met before the beginning of the last interface with a Canadian marine facility (before the start of any international voyage). To facilitate this transition, the SOLAS ship's security plan must address how they will comply with the STCW requirements before the start and throughout an international voyage.

For detailed information related to the STCW requirements for vessel security officers, vessel personnel with and without security responsibilities and obtaining a security Certificate of Proficiency please refer to the following Documents:

MSOB 2008-001: "*Amendment to STCW Convention regarding the training and certification of Ship Security Officers*".

Ship Safety Bulletin (SSB No: 06-2008): "*Notice of Marine Security Operation Bulletin Ship Security Officer (SSO)*"

MSOB 2012 – 002: "*Interim procedures to meet the new Manila 2010 STCW Conference and Code security Training and Certification requirements which came into effect as of January 01, 2012*".

MSOB 2013-003: "*Procedures to Obtain a Testimonial and Subsequent STCW 2010 Certificate of Proficiency*".

RDIMS # 9936033



Ship Safety Bulletin (SSB No: 03/2014): *“Transitional Provisions Related to the Issuance of Security Certificates of Proficiency End June 30, 2014”*

Website link to the above mentioned MSOBs:

<http://www.tc.gc.ca/eng/marinesecurity/operations-bulletins-menu-69.htm>

Website link to the above mentioned SSBs:

<http://www.tc.gc.ca/eng/marinesafety/bulletins-menu.htm>

For other information related to the STCW requirements for vessel personnel with and without security responsibilities and obtaining a security certificate of proficiency please refer to the following website:

“Approved Ship Security Training”

<http://www.tc.gc.ca/eng/marinesecurity/education-training-213.htm>

### **Directive on Canadian SOLAS and non-SOLAS ships transiting the St. Lawrence Seaway System**

The St. Lawrence Seaway is a system of locks, canals and channels that are part of an international marine transit way that is important to Canadian and U.S. trade. The seaway is a vital component to marine navigation going to and coming from the Great Lakes as far inland as the western end of Lake Superior.

Canadian flagged SOLAS and non-SOLAS ships utilizing the seaway are on a domestic voyage only when they are coming from a marine facility in Canada and going to a marine facility in Canada. Canadian flagged SOLAS and non-SOLAS ships utilizing the seaway on an international voyage remain on an international voyage throughout the entire seaway portion of the voyage.

For example, a Canadian flagged SOLAS or non-SOLAS ship conducting a voyage from Rotterdam, Netherlands to Thunder Bay, Ontario is conducting an international voyage throughout and it includes the entire seaway portion of that voyage.

A Canadian flagged SOLAS or non-SOLAS ship conducting a voyage from Thunder Bay, Ontario to Sept-Îles, Quebec is on a domestic voyage throughout and includes the entire seaway portion of the voyage.



## Directive on Determining the Start and End of an International Voyage for Canadian Flagged Vessels

Under the MTSR (Interpretation Section), an international voyage for a Canadian flagged SOLAS and non-SOLAS ship is described as:

*“(a) begins its international voyage **at the beginning** of its last interface with a marine facility in Canada before it engages on the voyage; and*

*(b) ends its international voyage **at the end** of its first interface with a marine facility in Canada when it returns from the voyage.”*

The key components in determining the start and end of an international voyage for a Canadian flagged vessel are either at the beginning or at the end of an interface with a Canadian marine facility.

The type of interaction that occurs between the marine facility and the vessel is also an important factor in determining the “first” and “last” marine facility in Canada. The marine facility operator must be fully aware that they are the “first” or “last” interface as this may affect the type of procedures that are implemented, because even though the marine facility must maintain the MTSR Part 3 at all times, those procedures may vary depending on the type of interface that occurs.

Another consideration is that a Canadian flagged SOLAS or non-SOLAS ship that has a valid marine security document that interacts with a marine facility solely for purpose of attempting to comply with the “last interface” or “first interface” requirement is not considered the last interface or first interface as intended in the MTSR. There must be a valid interaction between the vessel and the marine facility which includes but is not limited to the transfer of cargo, goods, stores, bunkers or for any other valid purpose. Simply coming alongside a marine facility with or without securing alongside and departing again is not considered the last interface or first interface with a Canadian marine facility.

In order to ensure that a Canadian flagged SOLAS or non-SOLAS ship has implemented the requirements of the MTSR Part 2 at the beginning of the last interface with a Canadian marine facility all of the requirements of the MTSR Part 2 must be in place before the interface occurs.

The approved vessel security plan must identify the procedures that will be followed in order to ensure that MTSR Part 2 has been implemented prior to the start of the last interface with a marine facility in Canada before it engages on the international voyage, as well as the procedures that will be followed at the end of its first interface with a marine facility in Canada when it returns from the international voyage.



## **Directive on the Application of the Domestic Ferries Security Regulations and the Marine Transportation Security Regulations**

Under the *Domestic Ferries Security Regulations* (DFSR) section 12.(2), the operator of a domestic ferry is deemed to comply with the requirements of a Domestic Ferry Security Certificate (DFSC) if a marine security document issued in accordance with the MTSR has been issued to the ferry. Prior to changes to the MTSR, the ferry with the valid MTSR marine security document was required to implement their approved MTSR security plan at all times.

In order to ensure that there is no potential negative impact to the security regime established by the DFSR, Canadian flagged SOLAS and non-SOLAS ships operating on a domestic voyage that have a valid MTSR marine security document and are also operating as a “domestic ferry” as defined under the DFSR must either fully implement and maintain their approved security plan under the MTSR or obtain a Domestic Ferry Security Certificate in order to continue interfacing with a domestic ferry facility.

A Canadian flagged vessel subject to the DFSR now has three options:

- 1.) Have a valid DFSC;
- 2.) Have a valid MTSR marine security document and fully implement their approved plan under the MTSR; or
- 3.) Have a valid DFSC for the purposes of operating in compliance with the DFSR and also have a valid marine security document under the MTSR, for use only when conducting an international voyage in accordance with the MTSR.

If the option is to operate with a MTSR marine security document and fully implement their security plan issued in accordance with the MTSR, that security plan must be amended to identify the intent to maintain their security plan at all times.

If the option is to have both a DFSC and a MTSR marine security document, the certification, inspection and regulatory requirements of both are to be respected and remain separate. For example, the new, intermediate and renewal inspection requirements to maintain either certificate apply separately. The impact is that over a five year period, the same ferry would at a minimum, be inspected 3 times in accordance with the DFSR and at a minimum, be inspected an additional three times in accordance with the MTSR. This does not take into account any additional inspections that may apply in either case.

### **Directive on Marine Facilities - Including Occasional-use Marine Facilities (OUMF)**

Any vessel to which Part 2 applies (a SOLAS or non-SOLAS ship on an international voyage) that interfaces with a marine facility automatically results in the application of the MTSR Part 3. A marine facility must comply with the MTSR Part 3, section 302 (1) (marine facility) or section



302(2) (occasional-use marine facility).

Marine facilities subject to the MTSR do not have a similar option afforded to Canadian flagged SOLAS and non-SOLAS ships on a domestic voyage. The requirements within an approved marine facility security plan or the approved security procedures for an OUMF will vary based on the specifics of each marine facility operation and the types of vessels that interface with them.

Marine facility operators are reminded that once a marine facility interfaces with any foreign SOLAS or non-SOLAS ship or any Canadian SOLAS or non-SOLAS ship conducting an international voyage, that marine facility must continuously meet the requirements of MTSR Part 3 at all times thereafter; regardless of the type of vessel that interfaces with them.

Marine facilities are always subject to Part 3 of the MTSR once they have been issued a marine security document; therefore, as part of their normal MTSR requirements marine facilities must continue to take into account within their approved marine facility security plan or their approved occasional-use marine facility security procedures. These procedures include interfacing with any vessels, including those not subject to the MTSR. These procedures must now also include those Canadian SOLAS and non-SOLAS ships with a valid marine security document to which the MTSR Part 2 does not apply. The type of security procedures implemented when interfacing with a MTSR Part 2 vessel can vary from the type of security procedures when interfacing with a vessel to which the MTSR Part 2 does not apply.

The critical consideration is that a marine facility that has a valid marine security document must continue to take into account their operations (domestic and international) and the types of interfaces or vulnerabilities that may affect their operation. These considerations must be accounted for within their approved marine facility security plan or the approved security procedures for an OUMF and must be implemented at all times, regardless of the type of vessel that interface with them.

All marine facility and OUMF operators are strongly encouraged to review their existing marine facility security assessments, security plans and procedures (as appropriate) to ensure that they are in compliance with the 19 June 2014 MTSR. When amendments are required, they must be submitted to Transport Canada marine Security for review and approval.

### **Directive on Occasional-use marine facilities**

For the purposes of determining whether or not a marine facility is an occasional use-marine facility with respect to the number of interfaces that occur, an interface with a Canadian SOLAS or non-SOLAS ship operating on a domestic voyage (when MTSR Part 2 does not apply), is not considered an interface with a MTSR Part 2 vessel. As a result, that interface is not counted in accordance with the definition of an occasional-use marine facility.

RDIMS # 9936033



## **Requests for Transport Canada Marine Security Inspection Services**

All regulatory inspections such as initial, intermediate and renewal inspections are required to ensure that the validity of marine security documents is maintained.

Therefore, operators of regulated vessels must submit in writing a request to Transport Canada Marine Security for inspection to ensure their Canadian flagged SOLAS and non-SOLAS ships remains in compliance with MTSR and international requirements even when the vessel is on domestic voyages. This is to ensure that the security certificate remains valid throughout its life time and to confirm that the relevant MTSR requirements continue to be met.

All relevant MTSR requirements that apply in respect of the vessel when it would be engaged on an international voyage must be met at the time of the inspection, even though it may be on a domestic voyage during the inspection.

Canadian marine facilities and ports subject to the MTSR Part 3 and domestic ferry facilities and vessels subject to the DFSR will also be inspected at the operators request for the purposes of obtaining or to continue the validity of their marine security document or security documentation.

It is incumbent on the requestor to ensure that the Canadian flagged SOLAS or non-SOLAS ship, marine facility or Port is ready in all respects for the security inspection to be performed. For example, for an intermediate security inspection on board a SOLAS ship, the vessel and crew must meet all relevant MTSR requirements for a vessel about to depart on an international voyage, as defined in the regulations (with the exception of STCW requirements).

A Canadian marine facility or port subject to MTSR Part 3, or a domestic ferry facility subject to the DFSR when an inspection is being conducted must be able to demonstrate that they are able to implement the procedures in their approved security plan with respect to interfaces with non-MTSR Part 2 vessels as well as Canadian and foreign vessels interfacing with the marine facility as part of an international voyage and meet all other relevant MTSR, Part 3 requirements.

Marine security inspectors will continue to work with marine facility operators, port administrations and vessel operators to assist in the process of inspection requests. In the event that a required inspection (and/or a security assessment in the case of a marine facility or port) is not conducted as a result of the operator not contacting Transport Canada Marine Security within a reasonable time, the marine security document may become invalid, expire or be cancelled as a result.

For more information in regards to the Requests for Transport Canada Marine Security Services, please refer to the MSOB # 2014-003, issued on October 28, 2014.





## Compliance and Enforcement

The objective of the Transport Canada Marine Security Compliance and Enforcement Program is not only about ensuring compliance with the Act and its regulations but also to provide a security culture within the marine industry that identifies and encourages pro-security behaviours, practices and innovations. The Program is guided by the principles of transparency, fairness, timeliness, consistency and confidentiality. Transport Canada Marine Security will continue to work with the marine industry to promote security and continue to develop relationships built on trust.

For the purpose of verifying compliance, vessels, marine facilities and ports will be inspected at specific intervals (such as for initial, intermediate and renewal inspections) and at other times based on their risk profile and their compliance history. Where non-compliance with the Act or its regulations is found, the continuum of enforcement actions includes verbal counselling, written notices, assurance of compliance, administrative monetary penalties, suspension or cancellation of the marine security document or in more serious cases, prosecution.

The *Regulations Amending the MTSR* also introduces new suspension and cancellation provisions with respect to marine security documents.

Marine security documents may be cancelled or suspended as a result of several infractions including but not limited to:

- if they were obtained through fraudulent or improper means or by a misrepresentation of facts;
- when the requirements for the issuance of the document are no longer met; or
- when an operator is not in compliance with its security plan.

All Compliance activities under the Transport Canada Marine Security Compliance and Enforcement Program will continue to be conducted in a manner that promotes a security culture by emphasizing the value and benefits of the requirements of the Act and its regulations.

### References:

The following documents, as amended from time to time, support this bulletin or are referenced within and must be read in conjunction with:

- *Marine Transportation Security Act*;
- *Marine Transportation Security Regulations*;
- *Regulations Amending the MTSR (SOR 2014-162, registered June 19, 2014)*;
- *Updates to the Marine Security oversight regime under the Marine Transportation Security Act (MSOB – 2013-001)*;



- *Procedures to meet the ship security alert system (SSAS) requirements for Canadian registered vessels in accordance with the Marine Transportation Security Regulations (MSOB – 2012-004);*
- *Requests for Transport Canada Marine Security Services Related to Security Assessments, Security Plans, Security Procedures and Inspections (MSOB 2014-003);*
- *Amendments to the Marine Transportation Security Regulations related to Occasional-use Marine Facilities (MSOB 2014-004).*

Any comments, suggestions or concerns can be addressed to the Director, Marine Security Operations by e-mail at [dirops.marsec-sumar@tc.gc.ca](mailto:dirops.marsec-sumar@tc.gc.ca).

---

Nicole Legault  
Director  
Marine Security Operations

December 10, 2014