



MARINE SECURITY OPERATIONS BULLETIN

File number: 4303-1

No: 2017-001

APPLYING “PLACE OUTSIDE OF CANADA” AND “INTERFACE” AS DESCRIBED IN THE MARINE TRANSPORTATION SECURITY REGULATIONS

PURPOSE

The purpose of this bulletin is to provide guidance to operators of SOLAS and non-SOLAS ships and Canadian marine facilities regarding what constitutes an international voyage and what is considered an interface within Canada and at a “place outside of Canada”.

BACKGROUND

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

As part of the 2014 MTSR amendment coming into force, Transport Canada committed to provide information and guidance where necessary to clarify the changes related to some aspects of the 2014 MTSR regulatory changes.

DEFINITIONS

Terms specific to this bulletin are defined below (where further clarification is required related to definitions, consult the Marine Transportation Security Regulations (MTSR) and the Marine Transportation Security Act (MTSA) which can 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/>

RDIMS # 12501566 SGDDI # 12490194



“**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;

“**vessel**” (MTSA interpretation section) includes a dredge, floating elevator, floating home, floating oil rig, seaplane, raft, log or lumber boom, air cushion vehicle and any type of ship, boat or craft used or capable of being used for marine navigation, regardless of how it is propelled.

“**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.

“**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.



“**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.

The “**international voyage**” definition is further clarified in MTSR section 1.(3) for a vessel that is entitled to fly the Canadian flag by describing when an international voyage begins and ends. For Canadian flagged vessels an international voyage:

- (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.

GUIDANCE RELATED TO INTERFACE

“Interface” is defined within the MTSR as:

*“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.**”*

Fundamentally, this means any activity between a foreign SOLAS or non-SOLAS ship in Canada (or a Canadian SOLAS or non-SOLAS ship subject to Part 2 of the MTSR), and a Canadian marine facility that involves the movement of persons and their goods, or the movement of cargo or by a provision of services to and from the vessel is an interface.

The movement of cargo, persons, goods, provisions or services to or from a SOLAS or non-SOLAS ship subject to Part 2 of the MTSR involving a Canadian marine facility, whether it is done while the vessel is alongside, at anchor or with the aid of a tug and barge, crane, boat, raft or other conveyance is part of an interface.

This is the same principle as a cruise ship or passenger vessel using a tender to transfer passengers to and from shore as described in MSOB 2012-003 “*Cruise Ships, Passenger Vessels and Marine Facilities Using Tenders to Transfer Passengers to and from Shore*” at the following web site:



<https://www.tc.gc.ca/eng/marinesecurity/operations-bulletins-bulletin003-403.htm>

The Canadian marine facility receiving or discharging cargo, persons, goods, provisions or services to or from a SOLAS or non-SOLAS ship subject to Part 2 of the MTSR is consequently subject to Part 3 of the MTSR, as the security vulnerabilities and risks are there, whether the interaction is direct or indirect.

The language used to define “interface” reflects the intent to capture marine facilities having any type of interaction or movement related activities with foreign or Canadian SOLAS or non-SOLAS ships engaged on international voyages.

Regardless of the methods used during an interface the Canadian marine facility subject to Part 3 of the MTSR and the SOLAS or non-SOLAS ship subject to Part 2 of the MTSR, must always take into account within the security assessment process and the development and implementation of a security plan that the interface and the methods they use to transfer cargo, persons, goods, provisions or services (regardless of the methods) during the interface are part of their operations.

That said, the specific conveyance used to transfer cargo, persons, goods, provisions or services to or from a Canadian marine facility from a SOLAS or non-SOLAS ship subject to Part 2 of the MTSR may or may not also be subject to Part 2 of the MTSR. Determining whether or not the actual conveyance is subject to the MTSR is based on the particulars and operation of the conveyance itself. Does the conveyance meet the MTSR definition of a SOLAS or non-SOLAS ship? If yes, then the conveyance is also subject to Part 2 of the MTSR.

It is important to note that Part 2 of the MTSR does not apply when a Canadian vessel is conducting a Domestic voyage between marine facilities in Canada.

For information related to Canadian SOLAS and non-SOLAS ships conducting domestic voyages and interfacing with Canadian marine facilities, please refer to MSOB 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*” at the following web site:

<https://www.tc.gc.ca/eng/marinesecurity/operations-bulletins-2014-002-422.html>



GUIDANCE RELATED TO “PLACE OUTSIDE OF CANADA” (AND VOYAGING OUTSIDE OF CANADA)

In accordance with the MTSR, a Canadian SOLAS or non-SOLAS ship is conducting an international voyage when it is voyaging between a marine facility in Canada and a place outside Canada, or between places outside Canada.

The MTSR further defines “International voyage” for Canadian vessels as a voyage that; begins at the beginning of the vessel’s last interface with a marine facility in Canada and ends at the ending of its first interface upon returning to a marine facility in Canada.

When and where there is interface or interaction anywhere outside of Canada, or where there is intent of an interface or interaction, the Canadian SOLAS or non-SOLAS ship is considered to be conducting an international voyage, and is subject to Part 2 of the MTSR throughout the entire voyage. Interface as referred to in this bulletin includes activities involving movement of persons and their goods, movement of cargo or provision of services to and from the vessel) regardless of the methods or conveyance used.

Regardless of whether or not the vessel is planning on returning to the same marine facility in Canada or to a different marine facility in Canada, the determination of place outside of Canada (and voyaging outside of Canada) is based on whether or not the Canadian SOLAS or non-SOLAS ship conducts or intends to conduct an international voyage, as there are security vulnerabilities and risks when an interface occurs at a place outside of Canada.

The definition of “interface” reflects the intent to include any type of interaction occurring outside of Canada. Therefore a “place outside of Canada” is a place where any interface occurs or is intended to occur and the vessel is conducting an international voyage.

When a Canadian SOLAS or non-SOLAS ship is conducting an international voyage the Canadian marine facility of departure is subject to Part 3 of the MTSR. When a Canadian SOLAS or non-SOLAS ship is returning to Canada from an international voyage, the first Canadian marine facility it interfaces with is also subject to the Part 3 of the MTSR.

Part 2 of the MTSR would not apply to a Canadian SOLAS or non-SOLAS ship as long as there is no interface or intention to interface with a place outside of Canada. This may occur when a Canadian vessel is voyaging outside of Canada (from a marine facility in Canada) with the intention of returning to a marine facility in Canada (for example, a whale watching tour).

Part 2 of the MTSR also does not apply to a Canadian SOLAS or non-SOLAS ship transiting outside of Canada for the purpose of voyaging between Canadian marine facilities as long as there is no interface or intention to interface with a place outside of Canada or with a foreign SOLAS or non-SOLAS ship at any time during the voyage (for example, transiting from St. John’s, NF to Halifax, NS or from Quebec City, QC to Thunder Bay, ON).



Essentially, Part 2 of the MTSR does not apply when a Canadian vessel is conducting a Domestic voyage.

For information related to Canadian SOLAS and non-SOLAS ships conducting domestic voyages and interfacing with Canadian marine facilities, please refer to MSOB 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*” at the following web site:

<https://www.tc.gc.ca/eng/marinesecurity/operations-bulletins-2014-002-422.html>

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);*
- *Amendments to the Marine Transportation Security Regulations related to Occasional-use Marine Facilities (MSOB 2014-004);*
- *Applying the Marine Transportation Security Regulations to Canadian Vessels on a Domestic Voyage to Maintain International Requirements, and Marine Facilities Interfacing With Them (MSOB 2014-002); and*
- *Cruise Ships, Passenger Vessels and Marine Facilities Using Tenders to Transfer Passengers to and from Shore” (MSOB 2012-003).*

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

Malick Sidibé
Director
Marine Security Operations

20 April 2017

RDIMS # 12501566 SGDDI # 12490194