



MARINE SECURITY OPERATIONS BULLETIN

No: 2023-002

CLARIFICATION OF THE APPLICATION OF PART 5 OF THE *MARINE TRANSPORTATION SECURITY REGULATIONS* (MTSR) RELATED TO CONTAINER PROVISION FOR DOMESTIC CONTAINERS

PURPOSE

Transport Canada's marine security regime is designed to ensure that Canada's transportation system remains one of the safest and most secure system in the world.

The purpose of this bulletin is to notify regulated Canadian marine stakeholders, and more specifically, operators of marine facilities located in a port listed in Schedule 1 of the MTSR, of the requirement to comply with relevant container provisions for containers originating from a marine facility in Canada.

BACKGROUND

MTSR S. 501 (1): This Part applies to the marine facilities set out in Part 1 of Schedule 1 and to the port administrations for the ports at which the marine facilities are located.

MTSR S. 502 : The operator of a marine facility and the port administration shall ensure that the requirements of this Part are met.

MTSR S. 503 (g) (iv) : Every person shall be a holder of a transportation security clearance if they, could cause the failure of a preventive measure, delay the response to a security incident or adversely affect the recovery from a security incident as a result of being assigned or performing any of the following duties, responsibilities or functions: the planning or directing of the movement of cargo or containers at a container terminal, including their loading and unloading into and from vessels.

MTSR interpretation section: Container: means a structure for transporting commodities on trucks, railcars or vessels that meets the requirements set out in the *Safe Containers Convention Act*. (conteneur).

MTSR interpretation section: *container terminal* means any marine facility that accepts containers for transport.

Safe Containers Convention Act, Paragraph 2: *container* means a container as defined in the Convention and to which the Convention applies;



Convention for Safe Containers, Paragraph 3.2.1: The Convention applies to all new and existing containers as defined (see 3.2.2), which are used in international transport other than those which are specially designed for transport by air. Although the Convention does not apply to containers used solely on internal movements within a State, there is no reason why a State cannot apply the Convention to such containers and a number of states have done so. Therefore, unless specifically included by the countries' legislation, domestic containers are not included within the convention.

Convention for Safe Containers, Section 3.2.2, footnote: International Transport means transport between points of departure and destination that are situated in the territories of two countries to which at least one of which the present Convention applies. The present Convention shall also apply when part of a transport operation between two countries takes place in a territory of a country to which the present Convention applies. Domestic container means a container that is used only within the national boundaries of a country. This can however include offshore islands that are considered part of the mainland. For example: the Canaries are considered as part of the mainland of Spain.

GUIDANCE

Every marine facility located in a port listed in Schedule 1 of the MTSR that accepts containers for transport shall meet all relevant provisions of the Regulations. The MTSR defines a container terminal as any marine facility that accepts containers for transport.

The MTSR does not differentiate between a domestic and international container but, rather, refers to a container as a piece of equipment used for transport. The requirements set out in the MTSRs aim to capture containers as a mean of transporting goods rather than by the type of voyage it arrives at the facility. A container that is used commercially is subject to all relevant sections of the MTSR, regardless of whether that container is travelling domestically or internationally.

If a container travels between two Canadian marine facilities, both marine facilities are considered to be container terminals and, therefore, must comply with the relevant MTSR provisions for such operations.

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

Aiden Ryan
Acting Director
Marine Security Operations

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