



# MARINE SECURITY OPERATIONS BULLETIN

No: 2024-001

## SCOPING OF MARINE FACILITIES, DEFINITION OF CARGO AND ESTABLISHING RESTRICTED AREAS

### **PURPOSE**

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

The purpose of this bulletin is to provide information and guidance to regulated Canadian marine stakeholders, and more specifically, operators of marine facilities as to:

1. Transport Canada's (TC) acceptance of a marine facility operator's interpretation of the scoping of their marine facility (defining the perimeter).
2. The definition of cargo, and included in that definition, when cargo offloaded from a vessel ceases to be considered cargo for the purposes of the *Marine Transportation Security Regulations* (MTSR).
3. TC's ability to approve security plans that do not establish restricted areas for all the areas/assets listed in MTSR 329(3) that are present in the marine facility.

### **BACKGROUND**

#### *Scoping of a Marine Facility*

Marine facilities, as defined in the Interpretation section of the *Marine Transportation Security Act* (MTSA), are often spread across large areas, sometimes with public roads, residential areas, and/or other infrastructure separating the dock area from other areas of the site. This is particularly true for many liquid cargo facilities, where the manufacturing, processing, and cargo storage areas are often located far from the area where vessels interface and are connected by pipelines. In some cases, the operator has viewed the entire refinery or plant as the marine facility, whereas in other cases, the operator has viewed only the docks and immediate surrounding area as the marine facility.



These varying interpretations sometimes exist within the same company, resulting in some marine facilities being scoped as the entire refinery/plant and others being scoped as just the docks and immediate surrounding area. These varying views could lead to differences in the defining/scoping of each marine facility (not the scoping of the security assessment, but of the marine facility itself). For example, for some liquid cargo facilities, the operator considers the marine facility to be a separate and distinct portion of the overall site.

Depending on how widely or narrowly a particular marine facility is scoped, the application of the various requirements of Part 3 of the MTSR will change.

### *Definition of Cargo*

While cargo is a term used many times within the MTSR, no definition of cargo exists within the Regulations nor the Act therefore the dictionary definition is used. It is understood that cargo is the goods or products to be directly loaded or offloaded a regulated vessel. However, inconsistencies may arise when applying MTSR 329(3)(g) in respect to the storage of cargo, particularly regarding when or at what point that cargo ceases to be considered cargo under the regulations.

### *Establishing Restricted Areas*

Defining the areas where cargo is stored often changes the scope or size of the area to be regulated as a marine facility under the MTSA/MTSR. This also applies to the designation of restricted areas within the marine facility [MTSR 329(1) and (3)].

**MTSR – 329 (1):** A marine facility security plan shall designate restricted areas, as appropriate to the facility's operations, in order to

- (a) prevent or deter unauthorized access;
- (b) protect the marine facility, including security and surveillance equipment and systems, and persons; authorized to be at the facility;
- (c) protect vessels interfacing with the marine facility; and
- (d) protect ships' stores from tampering.

**MTSR – 329 (3):** Restricted areas shall be established for:

- (a) land areas adjacent to vessels interfacing with the marine facility;
- (b) areas in which security-sensitive information is kept, including cargo documentation;
- (c) areas containing the central controls for security and surveillance equipment and systems and areas that contain the central lighting system controls;
- (d) areas containing the critical infrastructure of the marine facility, such as:
  - (i) water supplies,
  - (ii) telecommunications,
  - (iii) electrical systems, and
  - (iv) access points for ventilation and air-conditioning systems;
- (e) manufacturing or processing areas and control rooms;



- (f) locations in the marine facility where it is reasonable to restrict access by vehicles and persons;
- (g) areas designated for loading, unloading or storage of cargo and ships' stores; and
- (h) areas containing certain dangerous cargoes.

## **GUIDANCE**

The scoping of a marine facility should be a primary discussion between the operator and TC during the security assessment and reflected in the plan approval process. It is expected that the person (s) participating in those discussions meets the competencies listed in section 316 of the MTSR. The marine facility as defined in the MTSA includes areas for the arrival/departure or servicing of vessels as well as areas where services are provided to the vessel and cargo is handled or stored. The operator should identify and explain which areas are used for services to the vessel and cargo handling operations and can be secured within the perimeter. These explanations should be considered by TC during scoping discussions.

When scoping the marine facility during the security assessment, considerations by the stakeholder and TC should include, but are not limited to:

- ✓ Similar facilities and operations of the stakeholder in Canada;
- ✓ Similar operations, risk and geography;
- ✓ Proximity to critical infrastructure;
- ✓ Risks, threats and likelihood of those threats;
- ✓ Safety/Security Controls in place at the facility;
- ✓ Vulnerabilities identified in the Security Assessment;
- ✓ Other regulatory oversights.

When scoping the area for cargo handling, cargo transported to a marine facility by a vessel ceases to be regulated as cargo or goods under the Act and Regulations when it is off-loaded from a vessel and;

- a) the container is transported from the marine facility on another mode of transport and has left the perimeter of the marine facility; or
- b) for cargo transferred via pipeline / conveyance mechanism past the point closest to the perimeter of the facility that can be secured/closed in case of an emergency; or
- c) the cargo is not destined to be transported on a vessel or has reached its destination.

When establishing restricted areas for a facility, it should be noted that MTSR 329(1) and 329(3) are separate paragraphs that have no conjunctions (continuing or introduced) between them. Therefore, these paragraphs should be read and applied separately.

All areas listed in MTSR 329(3) that exist within the facility shall be established as restricted areas. This may have an effect on how the marine facility is scoped/defined between TC and the stakeholder during the security assessment and the subsequent plan approval.



MTSR 329(1) does allow, as appropriate to the facility's operations, for restricted areas in addition to those that shall be established in MTSR 329(3). If there are additional element(s) required to be added from the operator's point of view, these areas need to be clearly identified and must be taken into consideration during the scoping discussions.

The operator may decide to scope an area larger than the minimum required by the regulations. If accepted by TC as part of the security plan, the operator will be required to comply with all MTSR requirements within that area.

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).

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