

**REPORT OF THE
STANDING COMMITTEE ON MARINE SECURITY**

Agenda

1. Opening Remarks (Fulvio Fracassi, TC).
2. Presentation on the Long Range Identification and Tracking System (LRIT) (Dr. Sam Ryan, CCG).
3. Regulatory Update (Dean Fuller, TC):
 - Marine Security Regulatory Affairs Update.
 - Proposed amendments to the *Marine Transportation Security Regulations*.
 - Proposed *Marine Security Administrative Monetary Penalty Regulations*.
4. Status of the bilateral agreement between the U.S. and Canada re the Transportation Workers' Identification Card (TWIC) (Guy Morgan, TC).
5. Operations Update (Dean Fuller, TC):
 - G-8/G-20 Summits – Marine Security Highlights.
 - Compliance and Enforcement Policy.
6. Policy Update (Allan Bartley, TC):
 - Maritime Commerce Resumption.
 - Small Vessel Security Strategy.
 - IMO.
 - Bill C-49 – proposed amendments to the *Marine Security Transportation Act*.
7. General Program Information (Wendy Nixon, TC).
8. Other Business.
9. Tentative agenda items for the next CMAC meeting.
10. Closing Remarks.

The meeting of the Standing Committee on Marine Security was held on Wednesday, November 3, 2010. The meeting was chaired by Dean Fuller, Interim Director of Marine Security Operations and Director of Marine Security Regulatory Affairs.

1. OPENING REMARKS

Dean Fuller welcomed participants to the meeting. There were no additional items of business added to the Agenda and the Minutes of the previous meeting were adopted without change. Dean Fuller invited Fulvio Fracassi, Director General, Marine Security, to open the meeting.

Fulvio Fracassi noted that during the meeting stakeholders would be provided with updates on Marine Security accomplishments, notably the G-8/G-20 summits, key policy and operational issues, and new and ongoing regulatory initiatives. He noted that the level of stakeholder involvement both during CMAC meetings and on a daily basis was key to the success of Marine Security initiatives.

2. PRESENTATION ON THE LONG RANGE IDENTIFICATION AND TRACKING SYSTEM (LRIT)

Fulvio Fracassi introduced Sam Ryan from the Canadian Coast Guard who provided a presentation on Long Range Identification and Tracking (LRIT) and the Automatic Identification Systems (AIS) National Project for improved maritime domain awareness. The LRIT project has four main purposes – safety, security, environment, and search and rescue. Currently it is funded through the Canadian Coast Guard.

Sam Ryan advised that both of these projects are being made available to the federal security, enforcement and intelligence communities either via the Marine Security Operations Centres, or by means of direct feed. When fully implemented in 2010, the two systems will provide the Canadian Coast Guard and all of their federal partners with vessel identification and tracking out to 1,000 nautical miles (and out to 2,000 nautical miles for vessels intending to enter our ports) on all coasts, including the Arctic. It is hoped that the LRIT system will be instrumental in aiding countries in combating piracy.

Zak Farid, Nautical Institute, B.C. Branch, asked Sam Ryan if there were any plans to implement a cost recovery for LRIT, and what language is used by the system. At the moment, LRIT is fully funded by the Canadian Coast Guard, and English is the language used.

Tom Anderson, Seaway Marine Transport, asked Sam Ryan about the requirement to test the LRIT system and the frequency of testing. He advised that conformance testing is required at the outset to ensure compliance with the *Long Range Identification and Tracking Regulations*. It was also noted that testing occurs every six hours when environmental reporting is done.

Al Le Monnier, International Longshore & Warehouse Union Canada, requested details on the type of information LRIT transmits. Does it include information on the crew and to whom is it sent. Sam Ryan indicated that the only information transmitted is the vessel identification, the time, the location of the vessel, the name of vessel, and its IMO number. The information is used only for the four purposes mentioned above and is used by the Government of Canada.

Tom Anderson, Seaway Marine Transport, requested information on the progress for expanding the navigational safety services available to the Seaway to all mariners. It was noted that the infrastructure is there and would be available when the Program requires it.

Sam Ryan also provided a brief overview of the Automatic Identification Systems National Project. Jamie Marshall, B.C. Ferries, noted that there have been some issues with lost signals when transitioning from one channel to another on the West Coast. Scott Porter, V.Ships, asked if there were any plans to expand AIS requirements. Fulvio Fracassi advised that, from a security perspective there were no plans for expansion.

3. REGULATORY UPDATE

Dean Fuller presented the regulatory update. The update began with information on the *Domestic Ferries Security Regulations*, the proposed *Marine Security Administrative Monetary Penalties Regulations* and the proposed amendments to the *Marine Transportation Security Regulations*.

Stakeholders were informed that the *Domestic Ferries Security Regulations* were published in the *Canada Gazette*, Part II on December 23, 2009. The Regulations were implemented in the Pacific Region on January 15, 2010, to support the Vancouver 2010 Olympic Games and then on April 1, 2010 for the remainder of Canada.

The proposed *Marine Security Administrative Monetary Penalties Regulations* are being developed and will include administrative monetary penalties associated with the *Domestic Ferries Security Regulations* and the administrative monetary penalties currently found in Part 6 and Schedules 2 and 3 of the *Marine Transportation Security Regulations*.

An update on the proposed amendments to the *Marine Transportation Security Regulations* was also provided. It was noted that the review of both external and internal comments is ongoing and requires a great deal of analytical work, prior to proceeding with further amendments. An estimated timeline indicating the summer/fall of 2011 for pre-publication in the *Canada Gazette*, Part I, was shared with stakeholders.

Richard Goode, B.C. Ferry and Marine Workers' Union, noted that Labour groups were assured that ITF inspectors would be granted access to vessels. With the delays to the *Marine Transportation Security Regulations* amendments this has stalled and Labour is very disappointed. They inspect the working conditions of mariners and need a commitment that secures decent working conditions for these workers. Dean Fuller advised that the amendments would ensure that access is not hindered. Marine Security has also created a Marine Security Operational Bulletin that outlines that the *Marine Transportation Security Regulations* is not to be used to deny access to ITF inspectors. If inspectors are still encountering issues, they were requested to advise Transport Canada and appropriate measures to remedy the situation would be taken.

Al Le Monnier, International Longshore & Warehouse Union Canada, requested a summary of stakeholder submissions. He noted that given the delayed schedule for the *Marine Transportation Security Regulations* and the consultations that have already occurred, it was felt that sharing the stakeholders' comments would be appropriate. Dean Fuller advised that Transport Canada could provide a recap of the submissions received. Fulvio Fracassi further noted that the Regulatory Impact Analysis Statement would contain an overview of the comments received and how they were addressed.

Peter Lahay, International Transport Workers' Federation, conveyed his appreciation for the comments from both the floor and Transport Canada regarding the issue of access to marine workers. He thanked the Operations side of Transport Canada for their work and for inviting an ITF inspector to their recent workshop. He recognized the work done to date, and hoped that all the comments made during consultations would stand and not be changed during the legal drafting of the *Marine Transportation Security Regulations* amendments.

Peter Lahay advised that at a recent FAL Committee meeting at IMO, the lack of conformity of some countries for access to ITF inspectors was recognized as a major issue and was referred to the Executive Committee for resolution. Canada has adopted 11 Conventions and our work with the ILO was recognized at Monday evening's CMAC meeting reception. However, he stressed that until the amended regulation was in place, Canada does not conform with the IMO requirement for access to seafarers.

Bruce Carter, Canadian Merchant Service Guild, noted that a recent problem in Montreal, whereby the Port was requesting that Labour representatives be sponsored by a Shipping Company has created yet another stumbling block for ITF inspectors. Gerry Stull, CAW Local 4212, Niagara Region, also voiced his support for ITF inspectors and asked if a mechanism for channelling monies from a penalty under the proposed *Marine Security Administrative Monetary Penalties Regulations* to a relief agency would be appropriate? Fulvio Fracassi indicated that it would be problematic given that monies collected from penalties go to the Consolidated Revenue Fund.

Tom Anderson, Seaway Marine Transport, stated that it was most important that the *Marine Transportation Security Regulations* amendments be published in the *Canada Gazette* this summer. The security fees that some facilities levy are unwarranted and can be excessive. It was hoped that the proposed Regulations would address this issue.

Ivan Lantz, Shipping Federation of Canada, supported Tom Anderson's comment regarding fees and asked what changes are being contemplated that would harmonize our amendments with the United States. Dean Fuller advised that Transport Canada is looking at the Transportation Workers' Identification Card reciprocity, tug and barge issues on the West Coast, certain dangerous cargoes, and is continuing to meet with the U.S. Coast Guard to identify issues that are burdensome to shippers from both sides, that might be resolved under an alternative security arrangement.

Michel Desjardins, Seafarers' International Union, voiced his support for ITF inspector access to seafarers and indicated that the issue of the requirement for sponsorship identified previously presented a significant stumbling block that required an immediate resolution.

**4. STATUS OF THE BILATERAL AGREEMENT BETWEEN THE U.S. AND CANADA
RE THE TRANSPORTATION WORKERS' IDENTIFICATION CARD (TWIC)**

Dean Fuller introduced Guy Morgan, Director of the Security Screening Program at Transport Canada, who gave a brief update on the status of Canada's application to the Comparability Board for reciprocity with the U.S. Transportation Workers' Identification Card (TWIC) and Transport Canada's security clearance program. He noted that 16,500 security clearances have been processed to date.

The Comparability Board has submitted two sets of questions in response to our application. Both sets have been answered and Transport Canada is awaiting further feedback on the progress of the application. It was recognized that access to shore leave is a crucial component for the seafarer and that all efforts were being made to achieve, if not full reciprocity, at least interim measures, whereby the U.S. would recognize our security assessments and allow our seafarers to apply for a TWIC at reduced costs.

Tom Anderson, Seaway Marine Transport, noted that from a shipowners' standpoint it was imperative that facilities have the mechanisms in place in the U.S. and Canada that have the capability to read identification cards. Gerry Stull, CAW Local 4212, advised that a proper infrastructure was necessary in order for Canadian seafarer documents to be read by electronic readers.

On the issue of TWIC reciprocity, both Dean Fuller and Guy Morgan advised that initial discussions indicated that Canada would not receive blank reciprocity. We are looking at incremental steps, i.e. the U.S. would recognize our security assessments and allow our seafarers to apply for a TWIC at a reduced cost. Fulvio Fracassi noted that Transport Canada is looking at best approaches that would build trust.

Ivan Lantz also advised that the Canadian Coast Guard has been mandated to look at terminals to provide access for seafarers to shore. The identification card would then not be mandatory, but the escort would. The Canadian Coast Guard is very serious about pushing this plan forward. It was also noted that the U.S. Coast Guard made an announcement regarding access to shore through terminals without cost to the seafarer. Dean Fuller noted that the U.S. Coast Guard is still determining how this program will work and will communicate the details as soon as possible. Michel Desjardins, Seafarers' International Union, commented that any related charges to the vessel would be relegated down to the seafarer in the end.

5. OPERATIONS UPDATE

The Operations Update included information on the G-8/G-20 Summits and the Compliance and Enforcement Program. Dean Fuller stressed that the success of the marine component for the G-8/G-20 Summits was largely due to the full cooperation of all of the partners involved in the planning and implementation.

Dean Fuller introduced the Compliance and Enforcement Program. The objective of the program is to ensure and encourage compliance within the marine community with respect to the requirements of the *Marine Transportation Security Act*, the *Marine Transportation Security Regulations*, and related security measures and directions made under the Act.

Ross Lindsay, Toronto Police Service, advised that the exclusion zones are contentious and will come up again for events like the Bi-Centennial and the Pan Am Games in 2015. Transport Canada should look at giving enforcement powers to police forces under the amended regulations. Dean Fuller noted that enforcement powers come under the Act and would require a legislative change. However, the performance based approach and good communication used during the G-8/G-20 Summits was very effective. Ross Lindsay commented that the marine side was the only aspect that did not have any problems.

Scott Porter, V.Ships Canada, asked if the Compliance and Enforcement Program would apply to foreign vessels. Dean Fuller advised that the program would affect all vessels, as well as land-based facilities regulated under the *Marine Transportation Security Regulations*.

Ivan Lantz, Shipping Federation of Canada, requested a timeframe for the consultations and noted that a preliminary document, such as a spreadsheet noting the infractions and related fines would be helpful. Theresa Barclay, Transport Canada, advised that the administrative monetary penalties already exist in the *Marine Transportation Security Regulations* and will not be changed. The difference is that new administrative monetary penalties will be established for domestic ferries and will be included in the proposed *Marine Security Administrative Monetary Penalties Regulations*.

6. POLICY UPDATE

Allan Bartley, Transport Canada, gave the policy update to the Standing Committee. This update included information on the Maritime Commerce Resumption Project, the Small Vessel and Facility Security Strategy, a brief update on security initiative at the International Maritime Organization, and information on Bill C-49, an Act to amend the *Immigration and Refugee Protection Act*, the *Balanced Refugee Reform Act* and the *Marine Transportation Security Act*.

In the fall of 2008, Transport Canada began a pilot project to develop a Maritime Commerce Resumption Plan in the Pacific Region. Work in the Pacific Region has been completed and we are currently working on Maritime Commerce Resumption planning in Montreal, Hamilton, and Halifax.

Information was also provided on the Small Vessel and Facility Security Strategy. Transport Canada has several security initiatives underway for short-sea shipping, small commercial vessels, fishing vessels, pleasure craft and related facilities.

The next meeting of the Maritime Safety Committee at IMO is scheduled for November 24 to December 3, 2010. Canada will continue to support the timely and effective implementation of Long Range Identification and Tracking (LRIT) as well as the review and revision of guidance material related to the prevention and suppression of piracy and armed robbery against ships.

Bill C-49 proposes legislative changes to the *Marine Transportation Security Act* that would increase the penalties for persons who fail to provide information required to be reported before a vessel enters Canadian waters or to comply with ministerial directions, and for persons who provide false or misleading information. It will create a new offence for vessels that fail to comply with ministerial directions. It will also amend the Act to authorize regulations respecting the disclosure of certain information for the purpose of protecting the safety or security of Canada or Canadians.

There was a good discussion following Allan Bartley's presentation of Bill C-49. Ivan Lantz, Shipping Federation of Canada, voiced a strong concern that the increased penalties would unnecessarily penalize usually compliant vessels that, for one reason or another, could be late in filing their reports or miss filing one. Fulvio Fracassi advised that the system allows Transport Canada the flexibility to administer fines as appropriate. These legislative amendments will not change the graduated approach Transport Canada currently takes.

Peter Lahay, International Transport Workers Federation, was concerned about fines being levied on shipowners when a seafarer requests refugee status. Allan Bartley noted that, in order to fine the shipowner, criminal intent must be proven. Al Le Monnier, ILWU Canada, asked where the onus of proof lies when a vessel worker arriving in Canada requests refugee status. It was noted that this is an issue for the Refugee Board to determine.

John McCann, Saint John Port Authority, asked if Transport Canada intended to involve other ports under the Maritime Commerce Resumption Plan. He was advised that the Port Planning Committees that would result from the pilot project would reach out to other ports and provide help with their resumption plans.

Ivan Lantz, Shipping Federation of Canada, asked if the information in the proposed Regulations for information sharing would be the same as the information filed in a PAIR. He was advised that any other information collected under our program may be shared, subject to the conditions set out in the regulations.

7. GENERAL PROGRAM INFORMATION

Wendy Nixon, Transport Canada, updated stakeholders on the status of the Marine Security Contributions Program. This was a 5-year program that provided \$112 million in funding for marine security enhancements and had a sunset date of November 30, 2009.

An evaluation of the program and any remaining marine security gaps is required before a decision can be made regarding a future program. Transport Canada has interviewed some recipients, labour groups, and other key stakeholders to discuss the security results that have been achieved to date. A web-based survey for a more detailed analysis has been developed and was sent out to stakeholders on November 1st using the National Stakeholder List that was formulated from the information received earlier this year.

The National Stakeholder List ensures that we can reach stakeholders with unclassified information including program reports, bulletins about upcoming stakeholder consultation sessions, or seek feedback on certain program elements. There were additional forms available at the meeting for stakeholders who missed providing their contact information.

One additional question from Michael Riehl, Toronto Port Authority, concerned the status of the Marine Enforcement Program. Dean Fuller noted that additional work is required from both the policy and operations perspective, and, until there is a requirement to amend the Act, we will continue to work cooperatively with policing agencies as we did for the G-8/G-20 Summits.

Scott Porter, V.Ships Canada, asked if there was any intention to extend the contribution program to shipping companies. Wendy Nixon noted that there is no intent at this time.

It was noted that the ITF has submitted a petition to IMO regarding piracy that contains 930,000 signatures.

8. OTHER BUSINESS

There was no other business raised.

9. TENTATIVE AGENDA ITEMS FOR THE NEXT CMAC MEETING

Dean Fuller noted that the next Standing Committee on Marine Security Agenda would include the usual updates and requested stakeholders to submit any additional items of business.

10. OTHER BUSINESS

There being no further questions, Fulvio Fracassi thanked stakeholders for their active participation and continuing support.

Approved by:

Dean Fuller, Marine Security, TC, Standing Committee Chair