



MARITIME SAFETY COMMITTEE
88th Session
Agenda Item 11

MSC 88/11/XX
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SAFETY OF NAVIGATION

Northern Canada Vessel Traffic Services Zone Regulations

Submitted by the United States and INTERTANKO

SUMMARY

<i>Executive Summary:</i>	This document expresses maritime safety concerns over the recently-established Northern Canada Vessel Traffic Services Zone and notes several areas where that Zone is confusing and/or may not be in compliance with SOLAS V.
<i>Strategic Direction:</i>	1, 2, 5.1
<i>High-level Action:</i>	1.1.1, 1.2.1, 1.3.1, 5.1.3, 5.2.4
<i>Planned Output:</i>	1.3.1.2, 2.0.1.25, 5.2.4.1
<i>Action to be taken:</i>	Paragraph 11.
<i>Related documents:</i>	A.857(20); A. 851(20); SOLAS Chapter V; Ships Routing 9 th Ed. (2008); MSC/Circ. 1060; MSC 88/11; NAV 56/20

Introduction

1. On July 1, 2010, the Northern Canada Vessel Traffic Services Zone Regulations entered into effect. The regulations require certain foreign-flagged ships to register with and report to the Canadian Coast Guard if entering into and while transiting through Canadian-claimed Arctic waters. The regulations require clearance before entering into the claimed territorial sea and exclusive economic zone. Failure to comply with the regulations could result in criminal enforcement action and the imposition of a severe fine. At NAV 56, concerns were expressed that the provisions on mandatory ship reporting and regulation of transiting vessels raised some critical issues with respect to consistency with international law.

2. The co-sponsors support Canada's intention to provide for the safety of navigation and protection of the marine environment in the Arctic area. As conditions in the Arctic evolve, all Arctic coastal states will need to consider ways to protect and preserve this region. At the same time, the co-sponsors wish to note the important role of the Organization in the development of such measures. In the view of the co-sponsors, Arctic coastal states should propose such measures to the Organization to receive the most solid foundation for them, rather than act unilaterally.

Concerns about mandatory ship reporting

3. Setting aside its obligatory nature, SOLAS V/Regulation 11 provides a practical process for establishing mandatory reporting for international shipping. In particular, Resolution A.851(20) and MSC/Circ.1060 should be observed before a new reporting system is proposed. Had these regulations followed the usual course, they would have been submitted to the Navigation Safety Sub-committee for consideration within the Ships' Routeing Working Group. The existing process that provides for the proposed system to then be submitted to the Committee with normally a 6-month waiting period before becoming effective is also important to ensure ship operating companies and nautical charts and publications are appropriately updated. As the NORDREG mandatory ship reporting system was not submitted to the Organization, this means that it is neither adopted nor recognized by the Organization in accordance with SOLAS V.

Concerns about the Vessel Traffic Services (VTS) Zone

4. The regulations purport to establish a vessel traffic services zone whose consistency with current guidance on the establishment and implementation of a VTS is unclear and possibly in violation of SOLAS V/12.3. The zone extends to the limits of the Canadian-claimed exclusive economic zone. Because SOLAS V/12.3 provides that use of a VTS may only be made mandatory in sea areas within the territorial sea of a coastal state, the confusion as to the geographic limits of this zone creates uncertainty as to whether it is intended to be mandatory or voluntary. If compliance is intended to be mandatory, it exceeds the coastal State's authority in SOLAS V/12.3; if it is intended to be merely voluntary, it contains provisions that in the English text are inconsistent with that intention.

5. In areas outside the territorial sea of a coastal state, the Organization is recognized as the only international body for developing guidelines, criteria and regulations on an international level for ships' routeing. The Organization achieves this through the adoption of ships' routeing systems and/or ship reporting systems. Additional guidance provided by IALA Guideline No. 1071, identifies the following three methods to achieve a Vessel Traffic Service beyond territorial seas or in international straits: the voluntary use of VTS, approval under SOLAS V/12, or approval under SOLAS V/11. The Organization's Guidelines and Criteria for Ship Reporting Systems recognize that an adopted ship reporting system may or may not be operated as part of a vessel traffic service. In this instance, none of the options listed in IALA Guideline No. 1071 appears to have been selected.

6. Also, in planning and establishing a VTS, the Contracting Government should ensure that a legal basis for the operation of a VTS is provided for and that the VTS is operated in accordance with national and international law. Key parts of the Organization's Guidelines for Vessel Traffic Services, Resolution A.857(20), reflect that a VTS information service ensures that essential information becomes available in time for on-board navigational decision-making; the efficiency of a VTS will depend on the reliability and continuity of communications, and on the ability to provide sound and unambiguous information. As well, the VTS should have the capability to interact with the traffic and to respond to traffic situations developing in the VTS area.

7. It is unclear what type of VTS is established by the regulations. The regulations provide that vessels require "traffic clearance", and that sailing plans are "required before entering the area." This would suggest that the VTS scheme is for a Traffic Organization

Service (TOS) which the IALA guidance considers to be an advanced level of VTS. As reflected in that guidance:¹

*“A Traffic Organisation Service provides essential and timely information to assist the on-board decision-making process. It may involve the provision of information, advice and instructions. Traffic Organisation concerns the **forward planning** of movements to maintain vessel safety and to achieve efficiency. This service may involve:*

- *The position, identity, intention and destination of vessels;*
- *Amendments and changes in promulgated information concerning the VTS area such as boundaries, procedures, radio frequencies, reporting points;*
- *The mandatory reporting of movements;*
- *Information such as meteorological and hydrological conditions, notices to mariners, status of aids to navigation;*
- *Specific information such as **traffic congestion** and special vessels with limited manoeuvrability which may impose restrictions on the navigation of other vessels or any other potential hindrances;*
- *The allocation of water space;*
- *Establishing and operating a system of **traffic clearances** - all or certain classes of vessels may be required to participate in this service and shall not proceed without clearance;*
- *Establishing routes to be followed and speed limits to be observed and such other measures as may be considered necessary and appropriate by the VTS;*
- *Specific information, such as traffic congestion and advice about vessels with VTS sailing/route plans. These are an instrument of traffic organisation and the ability of a VTS to contribute to vessel safety. It is a major source of information to the VTS. The category of vessels for which a VTS sailing plan is compulsory and the details required should be clearly identified. A VTS sailing plan normally includes the intended route, the estimated time of arrival in the VTS area or the departure from a berth or an anchorage in the VTS area. It may also take into account the general flow of traffic, efficiency and co-ordination with allied services.”*

8. The foregoing is critical since it relates to the level of service to be anticipated in this apparently mandatory zone, and there appears to be a good deal of uncertainty about that level. There is no information available of the VTS training provided to those personnel providing VTS services, such as the IALA-recommended V-103/1 which is an essential minimum requirement for operating a TOS. In NORDREG’s delivery of VTS services, it is uncertain whether these personnel appear to be communications operators only, and the level of suitable training for domain awareness, traffic clearances or providing advice on passage planning and routing is similarly uncertain.

9. Additionally, to provide a TOS, a VTS requires coherent and effective radar, AIS and radio coverage of the area being monitored. Without additional information, it is difficult to envisage how comprehensive radar coverage over the extensive zone area can be provided for traffic identification and situational/domain awareness.

10. Given the foregoing, it is unclear whether these mandatory requirements are consistent with the provisions of SOLAS V and related guidance and other relevant instruments and whether they serve the objectives outlined therein. The Committee may wish to seek clarification of these important points because confusion thereon can lead to expectations on the part of international shipping that would result in unsafe navigation conditions. Pending

¹ IALA VTS Manual – 2008 Edition (emphasis provided in bold)

further action on these issues, and recognizing in principle the potential benefits of the regulations, the Committee should:

1. Determine that the Canadian system is not established in accordance with applicable IMO requirements for the establishment of mandatory ship reporting and vessel traffic services systems;
2. Recommend that Member Governments encourage ships entitled to fly their flag to provide the reports and other information set forth in the regulations on a voluntary basis; and
3. Request that Canada submit an appropriate proposal to the Committee if it wishes to make its ship reporting and vessel traffic services systems mandatory.

Action requested of the Committee

11. The Committee is invited to note the above information, including the proposal in paragraph 10, and take action as appropriate.