

GOVERNMENT NOTICE No. 213 published on 18/6/2004

THE MERCHANT SHIPPING (SHIP AND PORT FACILITY
SECURITY) REGULATIONS, 2004

PART I

PRELIMINARY PROVISIONS

Regulation

Title

1. Citation.
2. Application.
3. Interpretation.

PART II

MEASURES TO ENHANCE MARITIME SECURITY

(a) General

4. Duties of the Registrar of Ships.
5. Composition of the National Maritime Security Committee.
6. Functions of the National Maritime security committee.
7. Regulatory roles of the Registrar of Ships.
8. Requirements for companies.
9. Ship security plans.
10. Company security officer.
11. Ship security officer.
12. Requirements for compliance by ships of security measures.
13. Ship security alert system.
14. Threats to ships.
15. Master's discretion for ship safety and security.
16. Verification for ships.
17. Issue, endorsement, duration and validity of certificate.
18. Issue and endorsement of certificates by another Government.
19. Certificates issued or endorsed on behalf of another Government.
20. Interim certification.
21. Prohibition on proceeding to sea without an appropriate certificate.
22. Withdrawal of International Ship Security Certificate.

(b) Control and compliance measures

23. Control of ships in port.
24. Ships intending to enter a port.
25. Additional control.

PART III
PORT FACILITIES

- 26. Port facility security assessment.
- 27. Duties of port facility operator.
- 28. Port facility security officers.
- 29. Drills and exercises.

PART IV
ALTERNATIVE SECURITY ARRANGEMENT

- 30. Alternative security arrangements.
- 31. Equivalent security arrangements.

PART V
CONTINUOUS SYNOPSIS RECORD

- 32. Continuous synopsis Record.
- 33. Transfer of flag by ship.

PART VI
OFFENCES AND ENFORCEMENT PROCEDURES

- 34. Requirement to provide information.
- 35. Powers of inspection.
- 36. Offences respecting false or misstatement.
- 37. Offences relating to identity documents.
- 38. Prohibition to enter restricted zone.
- 39. General offences.
- 40. Penalties for offences to which no penalty is provided Requirement to provide information.
- 41. Offences relating to certain requirement by Shipping Companies.
- 42. Offences relating to Masters of Ship.

THE MERCHANT SHIPPING ACT, 2003

(No. 21 OF 2003)

REGULATIONS

(Made under section 342(8))

**THE MERCHANT SHIPPING (SHIP AND PORT FACILITY SECURITY)
REGULATIONS, 2004**

CONTENTS

PART I

PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Merchant Shipping (Ship and Port Facility Security) Regulations, 2004. Citation

2.-(1) Subject to sub-regulation (5), Part 1 of these Regulations shall apply to:- Applica-
tion

(a) The following types of ships engaged on international voyages:

(i) passenger ships, including high speed passenger craft;

(ii) cargo ships, including high-speed craft, of 500 gross tonnage or upwards;

(iii) mobile offshore drilling units

(b) port facilities serving such ships engaged on international voyages;.

(c) other port facility specified in a Notice issued by the Minister;

(d) ships not engaged on international voyages, but may, occasionally be required, to serve ships arriving or departing on international voyages;

(e) ships engaged on domestic voyages frequently carrying foreign passengers.

(2) A notice referred to in this Regulation shall not be issued without a port facility security assessment for that port facility having been done in accordance with section 15 of Part A of the ISPS Code. Specifying the extent of application of this Part and the relevant sections of Part A of the ISPS Code to the facility.

(3) A notice issued under this Regulation shall not compromise the entire level of security provided in Chapter XI-2 or Part A of the ISPS Code.

(4) Regulations 21, 23 and 24 shall equally apply to a port facility referred to in sub-regulation (1)(b) and (c).

(5) This Part does not apply to-

(a) warships;

(b) naval auxiliaries; and

(c) other ships owned or operated by Parties to the Safety of Life at Sea Convention, 1974 as amended and used only on Government non-commercial services.

Interpre-
tation

3.-(1) In these Regulations, unless the context requires otherwise:-

"Act" means the Merchant Shipping Act 2003;

"Administration" means the Designated Authority of the State, other than the United Republic of Tanzania, whose flag a ship is entitled to fly;

"authorised person" means a person authorised in writing by Registrar of Ships;

"bulk carrier" means a ship which is constructed generally with single deck, top-side tanks and hopper side tanks in cargo spaces, intended primarily to carry dry cargo in bulk, and includes such types as ore carriers and combination carriers;

"certificate" means an International Ship Security Certificate or an Interim International Ship Security Certificate issued in accordance with Part A of the ISPS Code;

"chemical tanker" means a cargo ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the IBC Code;

- "Company" means the owner of the ship or any other organization or person such as the manager, or the bareboat chartered, who has assumed the responsibility for the operation of the ship from the owner of the ship and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the ISPS Code;
- "Company Security Officer" means the person designated by the Company for ensuring that a ship security assessment is carried out; that a ship security plan is developed, submitted for approval, and thereafter implemented and maintained, and for liaison with Port Facility Security Officers and the Ship Security Officer;
- "Contracting States" means the States parties to the International Convention for the Safety of Life at Sea (SOLAS);
- "declaration of security" means an agreement reached between a ship and either a port facility or another ship with which it interfaces, specifying the security measures each will implement;
- "gas carrier" means a cargo ship constructed or adapted for the carriage in bulk of any liquefied gas or other liquid product as specified in chapter 19 of the IGC Code;
- "ISM Code" has the meaning given in regulation 2 of the Merchant Shipping (International Safety Management (ISM) Code);
- "ISPS Code" or "Code" means the International Code for the Security of Ships and of Port Facilities, December 2002, by resolution 2 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 and any amendments that may be in effect for the United Republic of Tanzania;
- "Minister" means the Minister responsible for shipping;
- "mobile offshore drilling unit" means a vessel capable of engaging in drilling operations for the expolaration or the exploitation of resources beneath the sea-bed such as liquid or gaseous hydrocarbons, sulphur or salt, when not on location;
- "National Maritime Security Committee" means a committee established by Regulation 5(1);
- "organization" means International Maritime Organisation (IMO);

- "port facility operator" means any person operating a port facility or such other person as may be designated for the purposes of this part as port facility operator for one or more port facilities by the Registrar of Ships;
- "port facility" means a location, as determined by the Registrar of Ships, where the ship/port interface takes place and includes areas such as anchorages, waiting berths and approaches from seawards as appropriate;
- "port facility security assessment" means an assessment of the security of a port facility carried out in accordance with section 15 of Part A of the ISPS Code;
- "port facility security officer" means the person designated as responsible for the development, implementation, revision and maintenance of the port facility security plan and for liaison with the ship security officers and company security officers;
- "port facility security plan" means a plan developed to ensure the application of measures designed to protect the port facility and ships, persons, cargo, cargo transport units and ship's stores within the port facility from the risks of a security incident;
- "Recognized Security Organization" means an organization with appropriate expertise in security matters and with appropriate knowledge of ship and port operations authorized by the Designated Authority to carry out an assessment, or a verification, or an approval or a certification activity, required by these Regulations and, or by the ISPS Code;
- "Registrar of Ships" means a person appointed as registrar of ships pursuant to section 7 of the Merchant Shipping Act 2003;
- "restricted zone" means a zone to which access is restricted for security reasons;
- "security level" means the qualification of the degree of risk that a security incident will be attempted or will occur;
- "security incident" means any suspicious act or circumstance threatening the security of a ship, including a mobile offshore drilling unit and a high speed craft, or of a port facility or of any ship or port interface or any ship to ship activity;
- "ship port interface" means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from the ship; and

"ship to ship activity" means any activity not related to a port facility that involves the transfer of goods or persons from one ship to another.

PART II

MEASURES TO ENHANCE MARITIME SECURITY

(a) General

4.-(1) Whithout prejudice to any other duties under these Regulations, the Registrar of Ships shall:

Duties of
the
Registrar
of Ships

- (a) subject to the provisions of Chapter XI-2/3 and XI-2/7 of the SOLAS Convention and in accordance with section 4 of Part A of the ISPS Code set security levels and provide guidance for protection from incidents and ensure the provision of security level information to the United Republic: ships and any other ships that may be affected;
- (b) when changes in security level occur, issue, as necessary, appropriate instructions and shall provide security-related update security level information as the circumstance dictates;
- (c) indicate when a declaration of security level is required for ships in or within the United Republic;
- (d) approve the ship security plan and relevant amendments.

(2) The Registrar of Ships may delegate his responsibilities under this Part to a Recognised Security Organisation, except for the following matters:

- (a) declaration of security level for ships;
- (b) exercising control and compliance with measures pursuant to regulations 20, 21 and 22;
- (c) establishing the requirements for a declaration of security.

5.-(1) There shall be the National Maritime Security Committee.

(2) The National Maritime Security Committee shall be compose of the following members:

- (a) the Registrar of Ships who shall be the Chairman;
- (b) the representative of the Ministry of Home Affairs-Police;

Composi-
tion of
National
Maritime
Security
Commit-
tee

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PART II

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the
Registrar
of Ships

- (a) subject to the provisions of Chapter XI-2/3 and XI-2/7 of the SOLAS Convention and in accordance with section 4 of Part A of the ISPS Code set security levels and provide guidance for protection from incidents and ensure the provision of security level information to the United Republic: ships and any other ships that may be affected;
- (b) when changes in security level occur, issue, as necessary, appropriate instructions and shall provide security-related update security level information as the circumstance dictates;
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Composi-
tion of
National
Maritime
Security
Commit-
tee

- (c) the representative of the Ministry of Home Affairs- Immigration;
- (d) the representative of the Ministry of Finance -Customs;
- (e) the representative of the KMKM;
- (f) the representative of the authorities responsible for ports;
- (g) the representative of the Ministries responsible for transport;
- (h) the representative of the Ministry of Defence;
- (i) the representative of the President's Office -Tanzania Intelligence Security Services; and
- (j) the representative of the marine professional body designated by the Minister.

Functions
of the
National
Maritime
Security
Commit-
tee

6. The National Maritime Security Committee shall perform the following functions:

- (a) give advice to the governments on all maritime security issues;
- (b) advise on the appropriate security level; and
- (c) co-ordinate security information regarding maritime activities in the United Republic.

Regula-
tory roles
of the
Registrar
of Ships

7. Without prejudice to the generality of Regulation 6, the Registrar of Ships shall:

- (a) in accordance with section 4 of Part A of the ISPS Code set security levels and ensure the provision of security level information to port facilities within the United Republic, and to ships prior to entering a port or whilst in a port within the United Republic;
- (b) when changes in security level occur, update security level information as the circumstance dictates;
- (c) determine which of the port authorities located within their territory are required to designate a port facility security officer (PFSO) who will be responsible for the preparation of the port facility security plan;
- (d) approve the port facility security plan (PFSP) and any subsequent amendments;
- (e) setting of the applicable security level for port facilities or ship to ship interface territorial waters in the United Republic;
- (f) approving a port facility security assessment and subsequent amendments;

- (g) determining the port facilities which will be required to designate a port facility security officer;
- (h) exercising control and compliance measures pursuant to regulations 20, 21 and 22; and
- (i) establishing the requirements for a declaration of Security.

8.-(1) Every company shall comply with the relevant requirements of this Part and of Part A of the ISPS Code, and without prejudice to any other duties under this Part the company shall ensure that:

Require-
ments for
compa-
nies

- (a) a company security officer is appointed, and is properly trained and qualified in his duties and responsibilities;
- (b) a ship security officer is appointed for each of its ships and is properly trained and qualified in his duties and responsibilities;
- (c) each ship has a ship security plan;
- (d) the master has available on board, at all times, information through which officers duly authorised by any State can establish:
 - (i) who is responsible for appointing the members of the crew or other persons currently employed or engaged on board the ship in any capacity on the business of that ship;
 - (ii) who is responsible for deciding the deployment of the ship; and
 - (iii) in cases where the ship is deployed under the terms of charter Party or Parties, who are the Parties to such charter Party or Parties.

(2) A company which fails to comply with the requirement of this regulation commits an offence and on conviction shall be liable to a fine of not less than equivalent in Tanzanian shillings of the United States dollars ten thousand.

9.-(1) Every ship security plan or amendment thereto shall be submitted to the Registrar of Ships, or to a Recognised Security Organisation he authorises on his behalf, for approval in accordance with section 9 of Part A of the Code.

Ship
security
plans

(2) A Recognised Security Organisation to which the plan or amendment may be submitted pursuant to sub-regulation (1) shall not have been involved in the preparation of the ship security plan or the amendment in question.

Merchant Shipping (Ship and Port Facility Security)

G.N. No. 213 (contd.)

(3) The Registrar of Ships shall approve ship security plan or any security equipment specified in an approved plan.

(4) Where the security plan or any security equipment specified in an approved plan is not approved as such, the Registrar of Ships shall determine changes to be made to the ship security plan or any security equipment as specified in an approved plan.

(5) Any company which fails to comply with this Regulation shall be liable to a fine of not less than the equivalent in Tanzanian shillings of United States dollars twenty thousand.

Company
security
officer

10.-(1) The company security officer shall undertake responsibilities and duties specified in this Part and Part A of the Code, in particular paragraph 11.2.

(2) Any contravention of this regulation the security officer in relation to whose duties an offence has been committed shall be an offence and shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars two thousand or imprisonment to a term of not less than three months.

Ship
security
officer

11.-(1) The ship security officer shall undertake responsibilities and duties specified in this Part and Part A of the Code, in particular paragraph 12.2.

(2) Any contravention of this regulation by the ship security officer shall be an offence the security officer in relation to whose duties an offence has been committed shall be liable to a fine of not less than the equivalent in Tanzania shillings of the United States dollars two thousand or imprisonment to a term not less than three months.

Require-
ments for
compliance by
ships of
security
measures

12.-(1) Ships shall comply with the relevant requirements of this Part and of Part A of the ISPS Code.

(2) Prior to entering a port or whilst in a port within the territory of any other State, a ship shall comply with the requirements for the security level set by that State, if such security level is higher than the security level set by the Registrar of Ships for that ship.

(3) Ships shall respond without undue delay to any change to a higher security level.

(4) Where a ship is not in compliance with the requirements of this Part or of Part A of the ISPS Code, or cannot comply with the requirements for the security level set by the Registrar of Ships or by another Contracting Government and applicable to that ship, then the ship shall notify the Registrar of Ships prior to conducting any ship/port interface or prior to entry into port, whichever event occurs earlier.

(5) Where there is a breach of sub-regulations (1) to (4) in relation to a ship, then the company and the master shall each be deemed to have committed an offence and on conviction the company and the master shall be liable to a fine of not less than the equivalent of Tanzanian shillings of the United States dollars ten thousand.

13.-(1) For the purpose of compliance with security measures the following ships shall be provided with a ship security alert system:

Ship
security
alert
system

- (a) ships constructed on or after 1 July 2004;
 - (b) passenger ships, including high-speed passenger craft, constructed before 1 July 2004, not later than the first survey of the radio installation after 1 July 2004;
 - (c) oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high speed craft, of 500 gross tons and upwards constructed before 1 July 2004, not later than the first survey of the radio installation after 1 July 2004; and
 - (d) other cargo ships of 500 gross tons and upward and mobile offshore drilling units constructed before 1 July 2004, not later than the first survey of the radio installation after 1 July 2006.
- (2) The ship security alert system, when activated, shall:
- (a) initiate and transmit a ship-to-shore security alert to a competent authority designated by the Registrar of Ships, which in these circumstances may include the company,
 - (b) identifying the ship, its location and indicating that the security of the ship is under threat or it has been compromised;
 - (c) not send the ship security alert to any other ships;
 - (d) not raise any alarm on-board the ship; and
 - (e) continue the ship security alert until deactivated and/or reset.

(3) The ship security alert system shall:

(a) be capable of being activated from the navigation bridge and in at least one other location; and

(b) conform to performance standards not inferior to those adopted by the Organization.

(4) The ship security alert system activation points shall be designed so as to prevent the inadvertent initiation of the ship security alert.

(5) The requirement for a ship security alert system may be complied with by using the radio installation fitted for compliance with the requirements of the Merchant Shipping (Radio Installations) Regulations 2001, provided all requirements of this regulation are complied with.

(6) When the Registrar of Ships receives notification of a ship security alert relating to a ship entitled to fly the flag of the United Republic of Tanzania he shall immediately notify the State(s) in the vicinity of which the ship is presently operating.

(7) When the Registrar of Ships receives notification of a ship security alert from a ship which is not entitled to fly the flag of the United Republic, it shall immediately notify the relevant Administration and, if appropriate, the State(s) in the vicinity of which the ship is presently operating.

(8) Any contravention of sub-regulations (1), (2), (3) and (4) shall be an offence by the company and the master and on conviction the company and the master shall be liable to a fine of not less than the equivalent in Tanzania shilling of the United States dollar five thousand.

Threats
to ships

14.-(1) The Registrar of Ships shall set security levels and ensure the provision of security level information to ships operating in the territorial sea of the United Republic or having communicated an intention to enter the territorial sea.

(2) The Registrar of Ships shall provide a point of contact through which such ships can request advice or assistance and to which such ships can report any security concerns about other ships, movements or communications.

(3) Where a risk of attack has been identified, the Registrar of Ships shall advise the ships concerned and their administrations of:

- (a) the current security level
- (b) any security measures that should be put in place by the ships concerned to protect themselves from attack, in accordance with the provisions of Part A of the ISPS Code; and
- (c) security measures that the Registrar of Ships put in place, as appropriate.

15.-(1) The Master of a ship registered in the United Republic shall not be constrained by the company, the charterer or any other person from taking or executing any decision which, in the professional judgement of the Master, is necessary to maintain the safety and security of the ship.

Master's
discretion
of ship
safety and
security

(2) Constraints referred to under sub-regulation (1) may include but not limited to denial of access to persons (except those identified as duly authorized by a contracting State) or their effects and refusal to load cargo, including containers or other closed cargo transport units.

(3) Where, in the professional judgement of the master, a conflict between any safety and security requirements applicable to the ship arises during its operations, the master shall give effect to those requirements necessary to maintain the safety of the ship.

(4) In such cases, the master may implement temporary security measures and shall forthwith inform the Registrar of Ships and, if appropriate, the Contracting State in whose port the ship is operating or intends to enter.

(5) Any such temporary security measures under this regulation shall, to the highest possible degree, be commensurate with the prevailing security level. When such cases are identified, the Registrar of Ships shall ensure that such conflicts are resolved and that the possibility of recurrence is minimised.

16.-(1) Ships registered in the United Republic to which this Part applies, shall be subject to initial, renewal and intermediate verifications in accordance with paragraph 19.1.1 of Part A of the ISPS Code.

Verifica-
tion for
ships

(2) The Verification of ships shall be carried out by an officer authorised by the Registrar of Ships, or, if he entrusts it, by a Recognised Security Organisation.

(3) The security system and any associated security equipment of the ship after verification shall be maintained to conform with the provisions of regulations 6 and 11, of Part A of the ISPS Code and of the approved ship security plan following which no changes shall be made in the security system and in any associated security equipment or the approved ship security plan without the sanction of the Registrar of Ships.

(4) Any contravention of sub-regulation (1) or (3) shall be an offence by the Master and the company and on conviction the company and the Master shall be liable to a fine of not less than the equivalent in Tanzania shillings of the United States dollars ten thousand.

Issue,
endorse-
ment,
duration
and
validity of
certificate

17.-(1) When an initial or renewal verification is satisfactorily completed the Registrar of Ships or a Recognised Security Organisation acting on behalf of the Registrar of Ships shall issue or, as the case may be, endorse an International Ship Security Certificate.

(2) The International Ship Security Certificate shall be drawn up in a form corresponding to the format given in the Appendix to Part A of the Code.

(3) The duration and validity of an International Ship Security Certificate shall be in accordance with section 19.3 of Part A of the Code.

Issue and
endorse-
ment of
certifi-
cates by
another
Govern-
ment

18.-(1) The Registrar of Ships may request another contracting Government to verify the ship and, if satisfied that the provisions of section 19.1.1 of the Code are complied with, to issue or authorize issuance of an International Ship Security Certificate to the ship and, where appropriate, endorse or authorize the endorsement of that certificate on the ship, in accordance with the Code.

(2) The certificate so issued shall contain a statement to the effect that it has been issued at the request of the Registrar of Ships and it shall have the same effect as if it was issued by the Registrar of Ships.

19.-(1) The Registrar of Ships may at the request of another contracting Government verify the ship and, if satisfied that the provisions of section 19.1.1 of the Code are complied with, issue or authorize issuance of an International Ship Security Certificate to the ship and, where appropriate, endorse or authorize the endorsement of that Certificate on the ship, in accordance with the Code.

Certificates issued or endorsed on behalf of another Government

(2) The certificate so issued shall contain a statement to the effect that it has been issued at the request of that Government and it shall have the same effect as if a Certificate was issued or endorsed by that Government and not by the Registrar of Ships.

20.-(1) After 1 July 2004, for the purposes of:

Interim certification

(a) a ship without a certificate, on delivery or prior to its entry or re-entry into service;

(b) transfer of a ship from the flag of another state to that of the register the United Republic;

(c) a Company assuming the responsibility for the operation of a ship not previously operated by that company until the certificate is issued, the Registrar of Ships may cause an Interim International Ship Security Certificate to be issued, in a form corresponding to the format given in the Appendix to Part A of the Code.

(2) An Interim International Ship Security Certificate shall only be issued if the Registrar of Ships or a Recognised Security Organisation on behalf of the Registrar of Ships is satisfied that the conditions specified in sections 19.4.2.1 up to including 19.4.2.7 of Part A of the Code are met.

(3) An Interim International Ship Security Certificate may be issued by the Registrar of Ships or by a Recognized Security Organization authorized on that behalf.

(4) An Interim International Ship Security Certificate shall be valid for 6 months, or until the certificate required by Regulations 16(1), 17(1) or 18(1) is issued, whichever event comes first, and may not be extended.

(5) No subsequent or consecutive Interim International Ship Security Certificate shall be issued to a ship if, in the judgement of the Registrar of Ships or the Recognized Security Organization, one of the purposes of

the ship or a Company in requesting such certificate is to avoid full compliance with this Part beyond the period of the initial Interim Certificate as specified under sub-regulation (1).

(6) For the purposes of Regulations 21, 23 and 24, the Registrar of Ships may, prior to accepting an Interim International Ship Security Certificate as a valid Certificate, ensure that the requirements of sections 19.4.2.4 to 19.4.2.6 of Part A of the ISPS Code have been met.

Prohibition on proceeding to sea without an appropriate certificate

21.-(1) No Tanzanian ship required to be verified under this Part shall proceed, or attempt to proceed to sea, unless there is in force a valid International Ship Security Certificate or an Interim International Ship Security Certificate.

(2) Where a ship proceeds, or attempts to proceed to sea in contravention of sub-regulation (1) the company and the master shall be guilty of an offence and on conviction the Company and the Master shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars twenty thousand.

Withdrawal of International Ship Security Certificate

22. A certificate issued under regulation 17 shall be withdrawn at any time if:

- (a) the ship in respect of which the certificate has been issued failed to conform to conditions attached to the issuance of such certificate so as to affect the security of passengers, ship and property and which, in the opinion of the Registrar of Ships, provide a basis for withdrawal of the certificate, and the corrective measures have not been carried out;
- (b) The intermediate or renewal audit has not been carried out as provided by the provisions of section 19.1.1 of Part A of the code;
- (c) the ship has changed its flag;
- (d) The certificate is not endorsed in accordance with the provisions of section 19.1.1 of Part A of the code; or
- (e) a company has assumed the responsibility for the operation of a ship which was not previously operated by that company.

(b) Control and compliance measures

23.-(1) For the purpose of these Regulations, every ship to which this Part applies is subject to control when in a port in the United Republic by officers duly authorised by the Registrar.

Control
of ships in
port

(2) Such control shall be limited to verifying that there is onboard a certificate, which, if valid, shall be accepted, unless there are clear grounds for believing that the ship is not in compliance with the requirements of these Regulations or Part A of the ISPS Code.

(3) When there are such clear grounds, or where no valid certificate is produced when required, the duly authorized officers shall impose any-one or more control measures in relation to that ship as provided in sub-regulation (4) and that such measures imposed must be proportionate, taking into account the guidance given in Part B of the ISPS Code,

(4) The control measures imposed under Sub Regulation (2) shall be as follows:

- (i) inspection of the ship;
- (ii) delaying the ship;
- (iii) detention of the ship;
- (iv) restriction of operations including movement within the port; or
- (v) expulsion of the ship from port.

(5) The control measures may additionally or alternatively include other lesser administrative or corrective measures.

24.-(1) The Registrar of Ships may require ships intending to enter ports in the United Republic to provide the following information to duly authorized officers to ensure compliance with this Part prior to entry into port with the aim of avoiding the need to impose control measures or steps:

Ships
intending
to enter a
port

- (a) that the ship possesses a valid Certificate and the name of its issuing authority;
- (b) the security level at which the ship is currently operating;
- (c) the security level at which the ship operated in any previous port where it has conducted a ship/port interface within the timeframe specified in sub-regulation (3);

- (d) any special or additional security measures that were taken by the ship in any previous port where it has conducted a ship/port interface within the time frame specified in sub-regulation (3);
- (e) that the appropriate ship security procedures were maintained during any ship to ship activity within the time frame specified in sub-regulation (3); or
- (f) other practical security related information (but not details of the ship security plan), taking into account the guidance given in Part B of the ISPS Code.

(2) Every ship registered in the United Republic and to which this Part applies intending to enter the port of another contracting Government shall provide information prescribed in sub-regulation (1) on the request of the officers duly authorized by the Government of such other contracting state. The master may decline to provide such information on the understanding that failure to do so may result in denial of entry into port.

(3) The ship shall keep records of the information referred to in sub-regulation (2) for the last 10 calls at port facilities.

(4) Where, after receipt of the information prescribed in sub-regulation (1), officers duly authorised by the Registrar of Ships have reasonable grounds for believing that the ship is not in compliance with the requirements of this Part or Part A of the ISPS Code, such officers shall establish communication with and between the ship and the Government of the state to which that ship is registered in order to rectify the non-compliance.

(5) Where such communication does not result in rectification, or if such officers have reasonable grounds otherwise for believing that the ship is not in compliance with the requirements of this Part or Part A of the ISPS Code, such officers may take steps in relation to that ship as provided in sub-regulation (6) and any such steps taken must be proportionate, taking into account the guidance given in Part B of the ISPS Code.

(6) Such steps shall be as follows:

- (a) a requirement for the rectification of the non-compliance;

- (b) a requirement that the ship proceeds to a location specified in the territorial sea or internal waters of the United Republic;
- (c) inspection of the ship, if the ship is in the territorial sea of the United Republic; or
- (d) denial of entry into port.

(7) Prior to initiating any such steps, the Registrar of Ships shall inform the ship of its intentions provided upon receipt of such information the master may withdraw the intention to enter that port in which cases the provisions of this regulation shall not apply.

25.-(1) In the event:

Additional
control
and com-
pliance
provisions

(a) of the imposition of control measure, other than a lesser administrative or corrective measure, referred to in regulation 23(3); or

(b) any of the steps referred to in regulation 24 are taken, an officer duly authorized by the Registrar of Ship shall forthwith inform in writing the Administration specifying which control measures have been imposed or steps taken and the reasons thereof shall thereafter notify the Recognized Security Organization, which issued the certificate to the ship concerned and the Organization of any such control measures that have been imposed or steps that have been taken.

(2) When entry into port is denied or the ship is expelled from a port in the United Republic, the Registrar of Ships shall communicate the appropriate facts to the authorities of the State of the next appropriate ports of call, when known, and any other appropriate coastal States, taking into account any guidelines developed by the Organization provided that confidentiality and security of such notification shall be ensured.

(3) Denial of entry into port, pursuant to Regulation 24, or expulsion from port, pursuant to Regulation 23, shall only be imposed where the duly authorised officers have clear grounds to believe that the ship poses an immediate threat to the security or safety of persons, or of ships or other property and there are no other appropriate means for removing that threat.

(4) The control measures referred to in Regulation 23 and the steps referred to in Regulation 24 shall only be imposed, pursuant to Regulations 23 and 24, until the non-compliance giving rise to the control measures or steps has been collected to the satisfaction of the Registrar of Ships, taking into account actions proposed by the ship or the Administration or the Registrar of Ships, if any.

(5) When control is exercised under regulation 23 or steps taken under regulation 24:

- (a) all possible efforts shall be made to avoid a ship being unduly detained or delayed but if a ship is thereby unduly detained, or delayed, it shall be entitled to compensation for any loss or damage suffered; and
- (b) necessary access to the ship shall not be prevented for emergency or humanitarian reasons and for security purposes.

PART III

PORT FACILITIES

Port
facility
security
assess-
ment

26.-(1) The Registrar of Ships shall ensure that:

- (a) port facility security assessments are carried out, reviewed and approved in accordance with the provisions of Part A of the ISPS Code; and
- (b) port facility security plans are developed, reviewed, approved and implemented in accordance with the provisions of Part A of the ISPS Code.

(2) The Registrar of Ships shall designate and communicate to the port facility operator and the port facility security officer measures required to be addressed in a port facility security plan for the various security levels, including submission of a declaration of security when required.

Duties of
port
facility
operator

27.-(1) The port facility operator shall ensure that port facilities comply facility operator with the relevant requirements of this Part and Part A of the ISPS Code.

(2) Without prejudice to sub-regulation (1), the port facility operator shall:

(a) appoint a suitably qualified port facility security officer, who had received appropriate training, as specified in section 18.1 of Part A of the Code;

(b) provide the port facility security officer with the resources, assistance and support necessary to enable such officer carry out his duties.

(3) The port facility operator shall ensure that port facility personnel having specific security duties have appropriate knowledge and ability to perform assigned duties as specified in section 18.2 of Part A of the Code.

(4) The port facility operator shall ensure that other port facility personnel have appropriate knowledge as specified in section 18.3 of Part A of the Code.

(5) The Registrar of Ships shall serve a warning to any port facility operator who fails to comply with this regulation within a period of three month, failure of which shall immediately close the facility.

28. A port facility security officer shall carry out the duties and responsibilities placed on him under Part and section 17.2 of Part A of the Code.

Port
facility
security
officer

29.- (1) To ensure the effective implementation of the port facility security plan, drills shall be carried out at appropriate intervals, taking into account the types of operation of the port facility, port facility personnel changes, the type of ship the port facility is serving and other relevant circumstances, taking into account guidance given in Part B of the Code.

Drills and
exercises

(2) The port facility security officer shall ensure the effective co-ordination and implementation of the port facility security plan by participating in exercises at appropriate intervals, taking into account the guidance given in Part B of this Code.

PART IV

ALTERNATIVE SECURITY ARRANGEMENT

Alternative
security
arrange-
ments

30.-(1) The Registrar of Ships may, when implementing this Chapter XI - 2 Regulation 11, conclude in writing bilateral or multilateral agreements with other contracting Governments on alternative security arrangements covering short international voyages on fixed routes between port facilities located within their territories.

(2) Any such agreement shall not compromise the level of security of other ships or port facilities not covered by the agreement.

(3) No ship covered by such an agreement shall conduct any ship-to-ship activities with any ship not covered by the agreement.

(4) Bilateral and multilateral agreements shall be reviewed periodically, taking into account the experience gained as well as any changes in the particular circumstances or the assessed threats to the security of the ships, the port facilities or the routes covered by the agreement.

Equiva-
lent
security
arrange-
ment

31.-(1) The Registrar of Ships may allow any particular ship or a group of Tanzanian ships to implement other security measures equivalent to those prescribed in this Chapter XI -2 Regulation 12, provided such security measures are effective as those prescribed in this Part or Part A of the ISPS Code in which case the Registrar of Ships shall communicate to the Organization particulars thereof.

(2) When implementing this Part and Chapter XI -2 Regulation 12, the Registrar of Ships may allow a particular port facility or a group of port facilities located within its territory, other than those covered by an agreement concluded under Regulation 30, to implement security measures equivalent to those prescribed in this Part or in Part A of the ISPS Code, provided such security measures are at least as effective as those prescribed in this Part or Part A of the ISPS Code in which case the Registrar of Ships.

PART V
CONTINUOUS SYNOPSIS RECORD

Conti-
nuous
Synopsis
Record

32.-(1) This regulation applies to all ships engaged on international voyages, except-

- (a) ships of war and troop ships;
- (b) cargo ships of less than 500 gross tons;
- (c) ships not propelled by mechanical means;
- (d) wooden ships of primitive build;
- (e) pleasure vessels not engaged in trade; and
- (f) fishing vessels.

(2) All ships shall be provided with a Continuous Synopsis Record for the purpose of providing an on-board record of the history of the ship with respect to the information recorded therein.

(3) For ships constructed before 1 July 2004, the Continuous Synopsis Record shall, at least, provide the history of the ship as from 1 July 2004.

(4) The Continuous Synopsis Record shall be issued by the Registrar of Ships to each Tanzanian ship and it shall contain at least, the following information:

- (a) the name of the country;
- (b) the date on which the ship was registered with the United Republic;
- (c) the ship's identification number in accordance with the Merchant Shipping (Registration) Regulations, 2004 as amended;
- (d) the name of the ship;
- (e) the port at which the ship is registered;
- (f) the name of the registered owner(s) and their registered address(es);
- (g) the name of the registered bareboat charterer(s) and their registered address(es), if applicable;
- (h) the name of the Company, its registered address and the address(es) from where it carries out the safety management activities;
- (i) the name of all classification society(ies) with which the ship is classed;

Merchant Shipping (Ship and Port Facility Security)

G.N. No. 213 (contd.)

- (j) the name of the Registrar of Ships or of the Contracting Government or of the Recognized Security Organization which has issued the Document of Compliance (or the Interim Document of Compliance), specified in the ISM Code, the Company operating the ship and the name of the body which has carried out the audit on the basis of which the document was issued, if other than that issuing the document;
 - (k) the name of the Registrar of Ships or of the Contracting Government or of the Recognized Security Organization that has issued the Safety Management Certificate (or the Interim Safety Management Certificate), specified in the ISM Code, the ship and the name of the body which has carried out the audit on the basis of which the certificate was issued, if other than that issuing the certificate;
 - (l) the name of the Registrar of Ships or of the Contracting Government or of the Recognized Security Organization that has issued the International Ship Security Certificate (or an Interim International Ship Security Certificate), specified in Part A of the ISPS Code, the ship and the name of the body which has carried out the verification on the basis of which the certificate was issued, if other than that issuing the certificate; and
 - (m) the date on which the ship ceased to be registered in the United Republic.
- (5) The Continuous Synopsis Record shall be kept on board the ship and shall be available for inspection at all times.
- (6) Any changes relating to the entries referred to in paragraphs (d) to (m) of sub-regulation (4) shall be recorded in the Continuous Synopsis Record so as to provide up dated and current information together with the history of the changes.
- (7) In case of any changes relating to the entries referred to in sub-regulation (4), the Registrar of Ships shall issue, as soon as is practically possible but not later than three months from the date of the change, to the ships entitled to fly the flag of the United Republic either a revised and updated version of the Continuous Synopsis Record or appropriate amendments thereto.

(8) In case of any changes relating to the entries referred to in sub-regulation (4), the Registrar of Ships, pending the issue of a revised and updated version of the Continuous Synopsis Record, shall authorise and require either the Company or the master of the ship to amend the Continuous Synopsis Record to reflect the changes.

(9) In such cases, after the Continuous Synopsis Record has been amended the Company shall, without delay, inform the Registrar of ships accordingly.

(10) The Continuous Synopsis Record shall be in the format developed by the Organization and shall be maintained in accordance with guidelines developed by the Organization. Any previous entries in the Continuous Synopsis Record shall not be modified, deleted or, in any way, erased or defaced.

33.-(1) Whenever a ship is transferred to the flag of another State or the ship is sold to another owner (or is taken over by another bareboat charterer) or another Company assumes the responsibility for the operation of the ship, the Continuous Synopsis Record shall be left on board.

Transfer
of flag by
ship

(2) When a ship is to be transferred to the flag of another State, the Company shall notify the Registrar of Ships of the name of the State under whose flag the ship is to be transferred so as to enable the Registrar of Ships to forward to that State a copy of the Continuous Synopsis Record covering the period during which the ship was under their jurisdiction.

(3) When a ship is transferred to the flag of another State, the Government of which is a Contracting Government, the Registrar of Ships shall transmit to the Administration as soon as possible after the transfer takes place of a copy of the relevant Continuous Synopsis Record covering the period during which the ship was under the United Republic jurisdiction together with any Continuous Synopsis Records previously issued to the ship by other States.

(4) When a ship is transferred from the flag of another State, the Registrar of Ships shall append the previous Continuous Synopsis Records to the Continuous Synopsis Record the Registrar of Ships will issue to the ship so as to provide the continuous history record intended by this regulation.

PART VI

OFFENCES AND ENFORCEMENT PROCEDURES

Require-
ment to
provide
informa-
tion

34.-(1) Without prejudice to Regulation 23, but subject to section 9.8 and 9.8.1 of Part A of the ISPS Code the Registrar of Ships may, by notice in writing, serve on any of the following persons:-

- (a) the owner, charterer, manager or master of any ship which arrears, or appears to the Registrar of Ships to be likely to enter, a port facility;
- (b) a port facility operator;
- (c) any person who carries on operations in a port facility; and
- (d) any person who is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him;

requiring that person to provide the Registrar of Ships with such information specified in the notice as he may require in connection with the discharge of his duties under these regulations.

(2) A notice under sub-regulation (1) shall specify a date before which the information required by the notice is to be furnished to the Registrar of Ships.

(3) In addition to information which may be required pursuant to a notice issued under sub-regulation (1), the person on whom notice has been served shall furnish the Registrar of Ships any information in respect to changes made to information that was previously furnished to the Registrar of Ships.

(4) Where a notice requires further information to be furnished in accordance with sub-regulation (3), it shall require that information to be furnished to the Registrar of Ships before the end of such period as is specified in the notice.

(5) A notice served on a person under sub-regulation (1) may at any time:-

- (a) be revoked by a notice in writing served on him by the Registrar of Ships; or
- (b) be varied by a further notice under sub-regulation (1).

(6) The Registrar of Ships may in like manner require the owner, charterer, manager or master of any Tanzanian ship to provide him with information, and provisions of sub-regulations (1) to (5) shall apply *mutatis mutandis* to a request made in pursuance of this sub-regulation.

(7) Any person who-

- (a) without reasonable excuse, fails to comply with the requirement imposed on him by a notice under this regulation; or
- (b) in furnishing any information so required, makes a statement which he knows to be false in any material particular, or negligently makes a statement which is false in a material particular, commits an offence and on conviction shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars five thousand or to imprisonment for term of not less than six months.

35.-(1) An authorised person shall have power, on production of his credentials, to inspect:-

Powers of inspection

- (a) any Tanzanian ship;
- (b) any other ship while in a port facility;
- (c) any part of any port facility; or
- (d) any land outside a port facility which is occupied for the purposes of a business by a person who:-
 - (i) carries on (or appears to the authorised person to be about to carry on) harbour operations in a port facility for the purposes of that business; or
 - (ii) is permitted (or appears to the authorised person to be about to be permitted) to have access to a restricted zone of a port facility for the purposes of the activities of that business.

(2) An authorised person inspecting a ship or any part of a port facility or any land outside a port facility in pursuance of sub-regulation (1) shall have power:-

- (a) to subject, any property found by him on the ship or, as the case may be, to subject that part of the port facility or any property found by him there or on that land, to such tests;

(b) to take such steps:-

- (i) to ascertain what practices or procedures are being followed in relation to security; or
- (ii) to test the effectiveness of any practice or procedure relating to security; or

(c) to require the owner, charterer, manager or master of the ship, the port facility operator or the occupier of the land to furnish to him such information;

as the authorised person may consider necessary for the purpose for which the inspection is carried out.

(3) Subject to sub-regulation (4), an authorised person, for the purpose of exercising any power conferred on him by sub-regulation (1) or (2) in relation to a ship, in relation to a port facility or in relation to any land outside a port facility, shall have power:-

- (a) for the purpose of inspecting a ship, to go on board it and to take all such steps as are necessary to ensure that it is not moved; or
- (b) for the purpose of inspecting any part of a port facility, to enter any building or works in the port facility or enter upon any land in the port facility; or
- (c) for the purpose of inspecting any land outside a port facility, to enter upon the land and to enter any building or works on the land.

(4) The powers conferred by sub-regulation (3) shall not include power for an authorised person to use force for the purpose of going on board any ship, entering any building or works or entering upon any land.

(5) Any person who:-

- (a) without reasonable excuse, fails to comply with the requirement imposed on him by sub-regulation (2)(c); or
- (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or negligently makes a statement which is false in any material particular;
- (c) shall be guilty of an offence and on conviction shall be liable to a fine of not less than the equivalent in Tanzanian shillings of the United States dollars seven thousand or to imprisonment for a term of not less than six months.

(d) false statements relating to baggage, cargo.

36.-(1) A person commits an offence if, in an answer to a question which:-

Offences
respecting
false or
misstate-
ment

(a) relates to any baggage, cargo or stores (whether belonging to him or to another) that is or are intended for carriage by sea:-

(i) by a Tanzanian ship; or

(ii) by any other ship to or from the United Republic; and

(b) is put to him for purposes of this part-

(i) by any of the persons mentioned in sub-regulation (2);

(ii) by any employee or agent of such a person in his capacity as employee or agent; or

(iii) by a police officer;

he makes a statement which he knows to be false in any material particular, or negligently makes a statement which is false in a material particular.

(2) The persons referred to in sub-regulation (1)(b) shall be:-

(a) a port facility operator;

(b) the owner, charterer or manager of any ship; and

(c) any person who:-

(i) is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him; and

(ii) has control in that restricted zone over the baggage, cargo or stores to which the question relates.

(3) In this Regulation:-

"cargo" includes mail;

"ship" does not include a ship used in naval, customs or police service; and

"stores" means any goods intended for sale or use in a ship, including fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

(4) False statements in connection with identity documents.

Customs Tariff (Third Schedule) (Amendment)

G.N. No. 214 (contd.)

Offences
relating to
identity
docu-
ments

37.-(1) A person commits an offence if:-

- (a) for the purpose of, or in connection with, an application made by him or another person for the issue of an identity document to which this sub-regulation applies; or
- (b) in connection with the continued holding by him or another of any such document which has already been issued;

he makes to any of the persons specified in sub-regulation (3), to any employee or agent of such a person or to a constable, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a constable, a statement which is false in a material particular.

- (2) Sub-regulation (1) shall apply to any identity document which is to be or has been issued by any of the persons specified in sub-regulation (3) for the purposes of a ship security plan or a port facility security plan.

(3) The persons referred to in sub-regulation (1) shall be:-

- (a) a port facility operator;
- (b) the owner, charterer or manager of any ship; and
- (c) any person who is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him.

(4) A person guilty of an offence under this part is liable:-

- (a) on summary conviction, to a fine not exceeding the equivalent in Tanzanian shillings of the United States dollars twenty thousands;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both;
- (c) Unauthorised presence in restricted zones.

Prohibi-
tion to
enter
restricted
zone

38.-(1) A person shall not:-

- (a) go, with or without a vehicle or vessel, onto or into any part of a restricted zone of a port facility except with the permission of the port facility operator or a person acting on behalf of the port facility operator and in accordance with any conditions subject to which that permission is for the time being granted; or

(b) remain in any part of such a restricted zone after being requested to leave by the port facility operator or a person acting on behalf of the port facility operator.

(2) The Provisions of Sub-regulation (1)(a) shall not apply unless it is proved that, at the material time, notices stating that the area concerned was a restricted zone were posted so as to be readily seen and read by persons entering the restricted zone.

(3) A person who contravenes sub-regulation (1) commits an offence. Offences relating to authorised persons.

39. A person shall commit an offence who:-

General
Offences

(a) intentionally obstructs an authorised person acting in the exercise of a power conferred on him by or under these Regulations; or

(b) falsely pretends to be an authorised person.

40.-(1) A person guilty of an offence under this Part shall be liable:-

Penalties
for offences to
which no
penalties
provided

(a) on summary conviction, to a fine not exceeding the equivalent in Tanzanian shillings of the United States dollars twenty thousands;

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(2) It shall be a defence for a person charged under sub-regulation (1) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) Where an offence under this section is committed, or would have been committed save for the operation of sub-regulation (2), by any person due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this sub-regulation whether or not proceedings are taken against the first mentioned person.

41. It shall be an offence by the Company, in relation to each of its ships, not

Offences
relating to
certain
require-
ment by
Shipping
Compa-
nies

(a) to provide to the Registrar of Ships the information required by Regulation 34(3) if requested by the Registrar of Ships;

(b) to inform the Registrar of Ships of the changes referred to in Regulation 34(5);

- (c) to make the changes in the Continuous Synopsis Record as he is required to make under sub-regulation 33(4);
- (d) to ensure the Continuous Synopsis Record is left on the ship and is available for inspection as required by Regulation 33(4), punishable by a fine not exceeding the equivalent in Tanzanian shillings of the United States dollars fifty thousands.

Offences
relating to
Masters
of Ship

42. It shall be an offence by the Master not to:-

- (a) make any changes in the Continuous Synopsis Record he is required to make under Regulation 32(5)(c);
- (b) to ensure the Continuous Synopsis Record is left on the ship and is available for inspection as required by sub-Regulation 32(4);
- (c) punishable by a fine not exceeding the equivalent in Tanzanian shillings of the United States dollars ten thousands or Imprisonment for a term not exceeding six months.

Dar es Salaam,
18th June, 2004

M. J. MWANDOSYA (MP),
Minister for Communications and Transport