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Notification procedures according to the Schengen Borders Code and Maritime Security Regulations.

## Notification – Schengen and Maritime Security

In accordance with both the Schengen Borders Code and Maritime Security Regulations merchant vessels are obliged to provide certain information.

To a great extent, the two sets of regulations have the same requirements on what details are to be supplied, and by which vessels.

Many vessels are required to report in advance according to the Maritime Security Regulations. According to the Schengen Borders Code a list of crewmembers and passengers should be provided, but it is not now necessary to do this in advance. The basic principle is that such a list should be supplied not later than when the vessel arrives.

In order, as far as possible, to make it easier for vessels to fulfil their duties according to both sets of regulations, there is a coordinated system for notification in advance, so that only one notification is needed, meeting the requirements of both the Schengen Borders Code and the Maritime Security Regulations.

**The Swedish Coastguard recommends that vessels, even though it is no longer strictly required, continue to submit details of crew and passengers in advance. This means that permission can be given to enter a port that is not a border crossing point or a border crossing point that is closed. This also means that all documentation can be processed and approved before the vessel arrives, thus avoiding unnecessary delays.**

### The Vessels concerned

- Merchant vessels

#### Notification according to the Maritime Security Regulations

Notification not later than **24 hours** before the vessel is expected to arrive at the destination  
*or*

- if the voyage takes less than 24 hours, not later than when the vessel departs from the previous port

*or*

- if the port of call is not known at the start of the voyage, or is altered during the voyage, then as soon as this information is available.

#### Crew and Passenger List according to the Schengen Borders Code

A list of crewmembers and passengers should be submitted not later than when the vessel enters the port. The list should include name, surname, date of birth, nationality, travel document number, and, if applicable, visa number. The Coastguard recommends that the list be forwarded in advance together with the Maritime Security Notification. Those vessels not required to submit a Maritime Security Notification are advised to submit their lists in advance as according to the old regulations, i.e. not later than **24 hours** before arrival at the destination.

For voyages of less than 24 hours the Coastguard recommends that the information be forwarded not later than when the vessel departs from the previous port, and at least six hours before arrival at the destination. For voyages shorter than six hours it is recommended that the vessel forwards this information not later than when it leaves the previous port.

The captain, or captain's representative, **must** also

- report the time of departure
- report immediately in the event of alteration in the list of crew members and passengers.

#### - Fishing vessels

It is recommended that fishing vessels submit a list of crewmembers and passengers at least **six hours** in advance when coming from or leaving for a port outside the Schengen Area. Fishing vessels are exempt from the Maritime Security Regulations.

#### - Pleasure boats

Pleasure boats coming from or leaving for a port outside the Schengen Area must go to a border crossing point and complete the form *Pleasure Boats, Arrivals and Departures*.

Pleasure boats coming from a non-Schengen port may, under certain circumstances go to a non-border crossing point. This, however, requires permission in advance from the Police or Coastguard. The same documents are required as when arriving at a border post.

#### How to send the notification.

Notification in advance from commercial or fishing vessels must be in writing via either fax or e-mail. The report should be typed in Swedish or in English. When it has been examined, the Coastguard will return a stamped copy of the report, to be kept on board during the stay in Sweden. Notification in advance from a commercial or fishing vessel is also an application to put in at a non border crossing point. In such cases the approved copy that is returned constitutes permission to approach the said port.

Pleasure boats should send their reports to the Police/Coastguard in writing either by fax or by e-mail.

#### Contact Point for Notification in Advance

It is the responsibility of the captain, or ship owner's agent (ship-broker), to send notification in advanced, according to the Maritime Security Regulations, and a list of crewmembers and passengers, according to the Schengen Borders Code, to:

Swedish Coastguard Maritime Clearance in Härnösand:

Tel: 0611 – 85530

Fax: 0611 – 20190

E-mail: [sweden24@coastguard.se](mailto:sweden24@coastguard.se) or [sweden24@kustbevakningen.se](mailto:sweden24@kustbevakningen.se)

Announcement by radio should only be used when there is an urgent need to exchange information in cases other than registration in advance, and is established using the VHF call "**Maritime Clearance Sweden**".

#### Contents of the report

The information requested in the following forms meets the requirements for both the Schengen Borders Code, and the Maritime Security Regulations:

- IMO General Declaration (IMO FAL Form 1)
- National Annex to IMO FAL Form 1
- IMO Crew List (IMO FAL Form 5)

Also in certain cases:

- IMO Passenger List (IMO FAL Form 6)

It is not necessary to use these forms, as long as the information requested there is provided.

# MARITIME SECURITY REGULATIONS

## Background

The regulations for maritime Security were agreed upon at a diplomatic conference in London on 13<sup>th</sup> December 2002. This was as a direct consequence of the events in New York and Washington on 11<sup>th</sup> September 2001. The purpose of the regulations is to protect maritime traffic against serious crimes of violence, including terrorism.

Shipping companies, vessels and harbour facilities must cooperate to detect and appraise threats in the form of criminal acts against maritime traffic.

The new regulations came into effect on 1<sup>st</sup> July 2004 and form additions to chapters V and XI-1, as well as a new chapter, XI-2 in the SOLAS Convention. A new code known as the ISPS Code was also added to the SOLAS regulations.

## Legislation

Within the EU the new regulations took effect following the European Parliament and Council, decree no. 725/2004 on improved maritime security for vessels and harbour facilities. The national legislation consists of a law (2004:487) and a decree (2004:283), in addition to which the National Maritime Administration has issued a directive on maritime security (SJÖFS 2004:13).

## Supervisory Authority

In Sweden the National Maritime Administration (NMA) , through the Maritime Security Inspectorate, has the main responsibility for the regulations and for ensuring that they are observed. Other authorities are also affected and there is a special agreement between the NMA and the Coastguard for cooperation in working with these regulations. For more information about the Maritime Security Regulations contact the NMA ([www.sjofartsverket.se](http://www.sjofartsverket.se)).

## Contact Points

In accordance with paragraph 7.2 in Appendix 1 to EG decree no. 725/2004, there must be a contact point where vessels navigating Swedish territorial waters, or which have announced their intention to do so, can request advice or assistance, and to which they can report any security problems concerning the vessel, transportation or communication.

In Sweden it is the Coastguard, through the Swedish Coastguard Maritime Clearance in Härnösand, that is responsible for this contact.

## Duty to Report

According to the inspection rules in paragraph 9 in the appendix to EG no 725/2004, a country has the right to demand information from a vessel intending to put in at a port within that country's territory. Having analysed the information the supervisory authority shall determine whether the vessel shall have permission to approach the port or whether further inspection is required. According to article 6.1 in the same decree, it is obligatory for member states to demand such information from every approaching vessel.

The duty to report applies to vessels according to the EG decree, but does not apply to vessels not classified as international traffic, that are sailing between two Swedish ports. Certain timetabled international passenger routes have been specially exempted from having to report.

## Responsibility

The duty to report is a very important part of the Maritime Security Regulations because, among other things, security levels for each case are based on it. Ship owners and captain's who provide false or incomplete information prior to arrival at a port in accordance with decree EG no. 725/2004, wilfully or through negligence, can, according to Act 2004:487 on Maritime Security, be sentenced to fines or up to six months prison.

## Schengen Borders Code

### Background

Sweden has taken part in the Schengen Agreement since 25<sup>th</sup> March 2001. The aim of the agreement is to create freedom of movement for persons within the EU, and to reinforce the campaign against illegal immigration and cross-border crime. In practice the Schengen Agreement means that passport checks are no longer carried out for people travelling between member states, while external border controls, i.e. borders with countries not included in the Schengen Agreement, are tightened. Sweden's operative membership in the Schengen Agreement is steered by the Schengen Borders Code (EG 562/2005) and domestic legislation, in particular that concerning aliens. In accordance with the Schengen Borders Code, these controls mean that merchant vessels are obliged to submit a list of persons on-board.

### Members of the Operative Schengen Agreement

#### 1. Members

Austria	Latvia
Belgium	Lithuania
Check Republic	Luxemburg
Denmark	Malta
Estonia	Netherlands
Finland	Norway
France	Poland
Germany	Portugal
Greece	Slovakia
Hungary	Slovenia
Iceland	Spain
Italy	Sweden

### New Legislation

The European Parliament and Council Decree (EG) no. 562/2006 on establishing a Community Code on the rules governing movement of persons across borders (Schengen Borders Code) took effect from 13th October 2006. This means that it at the same time overrides Swedish legislation that conflicts with the code. For example, it means that the Aliens' Act and Aliens' Decree only apply in those cases where they do not conflict with the Schengen Code.

### Border Authorities

*The Police* have the overall responsibility for border control of persons and wanted property, border patrols and for coordinating these tasks with other border authorities. For more information see [www.polisen.se](http://www.polisen.se).

*The Coastguard* have the main responsibility for controlling the external border at sea. The Coastguard also cooperates in the Police and Customs mobile checks in the coastal areas.

*The Customs Department* has the main responsibility for the control of goods and merchandise, and assists the Police in border control work.

## External Borders

The term means: Member state's land borders, including those on rivers and inland lakes, sea borders, airports and river- coast- and inland harbours, as long as they do not qualify as internal borders.

## Crossing External Borders

The external borders may only be crossed at border crossing points and during agreed opening hours. Opening hours must be clearly displayed at those border crossing points that are not open 24 hours a day. Vessels destined for non-border crossing points, or for closed border crossing points must have special permission from the Coastguard.

There are certain exceptions to the above for pleasure boats and coastal fishing vessels.

## Conditions for Entry to the Schengen Area

Crewmembers of Merchant Vessels who are included on an approved Crew List, and who carry valid proof of identity are able to *temporarily leave their vessel and stay in the town nearest to the harbour where their vessel is moored.*

## Control of Maritime Traffic

Identity checks on persons aboard a vessel can take place in port, on board the vessel or in specially allocated areas in immediate proximity to the harbour. These checks may also take place during the voyage. The purpose of these checks is to ascertain whether crewmembers and passengers meet the requirements for entry to and departure from the Schengen Area.

*Merchant Vessels* are checked by inspecting the Crew List and Passenger List, and where necessary, by inspection on board the vessel.

Regular ferry traffic is checked automatically because the ferries can only moor at the normal terminals in the harbours.

*Cruising vessels* are basically checked in the same way as merchant vessels, but only on first arrival in and final departure from the Schengen Area.

*Fishing Vessels* and *pleasure boats* are checked by on-board inspection in the port or at sea.