



Bill C-48
An Act respecting the regulation of vessels that
transport crude oil or persistent oil to or from ports or
marine installations located along
British Columbia's north coast

Submission by the Chamber of Shipping

To the

Standing Committee on Transport, Infrastructure and
Communities

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INTRODUCTION

The Chamber of Shipping represents the interests of ship owners, agents, and service providers responsible for over 60 per cent of Canadian international trade by ship. Some of our members also move bulk liquid products of all types, including petroleum and chemical products on both the East and West Coasts.

Marine transportation includes everything from people in ferries and cruise ships, to bulk commodities such as grain that is exported to Asia, to large container ships moving goods Canadian companies sell globally and manufactured goods that Canadians use in their day-to-day lives. Needless to say, marine transportation and its many spin-off benefits touches the lives of almost all Canadians.

The Great Bear Sea on the North Coast of British Columbia is one of the richest marine ecosystems in the world, has enormous cultural significance to the people who live there, and contains important resources for British Columbia's economy. Protecting it should be a priority.

The Chamber of Shipping welcomes the opportunity to provide the Standing Committee on Transport, Infrastructure and Communities our views on the *"An Act respecting the regulation of vessels that transport crude oil or persistent oil to or from ports or marine installations located along British Columbia's north coast."*

BACKGROUND

On May 12, 2017, the Government of Canada introduced the Oil Tanker Moratorium Act that seeks to formalize an oil tanker moratorium on British Columbia's north coast. The moratorium would prohibit oil tankers from loading and carrying more than 12,500 metric tonnes of crude oil or persistent oil product.

The Chamber did meet with officials from Transport Canada during the consultation phase in 2016, but there was no indication from these officials of how it was considering implementing the moratorium or that it was considering additional commodities as part of the moratorium.

While it was understood that the Minister of Transport had been directed to implement a tanker moratorium, we had expected that it would be grounded in a risk assessment and supported with recognized principals that would reflect the absolute risk, the potential impact to the marine environment, and available resources to respond to an incident. We were surprised that Transport Canada had no intention of conducting any risk assessment and that the establishment of the moratorium would not be supported with tangible evidence. While the bill intends to embody the precautionary principal, it has not and is not providing a constructive framework for properly reviewing the maritime transportation supply chain on BC's North Coast.

SHIPMENT OF PETROLEUM IN CANADA

Crude oil and petroleum products are the largest commodities handled by Canadian ports, representing over 20 per cent of total tonnage. Transport Canada estimates that there are approximately 20,000 oil tanker movements off the coasts of Canada each year. Of these, approximately 17,000 (85 per cent) are on the Atlantic Coast. Most of the oil tanker movements in Canada take place at 7 ports and facilities.

The largest tankers transiting Canadian waters are Ultra-Large Crude Carriers (ULCC) (350,000 – 550,000 DWT), which transit the East Coast of Canada. ULCCs are the largest tankers in the world and they can carry up to 4 million barrels of oil. The largest tankers on the West Coast that are used to ship oil out of the Port of Vancouver are Aframax tankers (80,000 – 120,000 DWT). They can carry approximately 850,000 barrels of oil. Tankers currently represent about 2 per cent of total ship traffic visiting the Port of Vancouver.

Tanker safety has improved with new regulations, more robust ship design codes, enhanced emergency preparedness and response systems, and better self-regulation and procedures. These developments have coincided with a notable drop in marine shipping accidents worldwide and in Canada, as well as fewer oil spills.

Overall, 67 per cent of ship-source oil spills in Canadian waters from 2003 to 2012 were between 100 and 1,000 litres. Of the larger spills (those 10,000 litres or greater), 78 per cent involved fuel oil rather than oil being carried as cargo. As such, oil tanker cargo was not the source of most of these spills.

TRANSPORT CANADA RESEARCH

Transport Canada contracted the Report *the Community and Industry Resupply of Oil on the North Coast of British Columbia* in December 2016. Regrettably, the study was not shared with stakeholders until after the legislation was tabled. It contains significant flaws and its influence on the determination of scheduled commodities is very concerning.

Overall, this Report attempts to profile the resupply of local communities and industries, coastal and inland, which either export commodities or require product supplied from offshore. These two aspects of marine transportation are drastically different in their operations, commercial imperatives and principals, and regulatory oversight.

The Report has a rudimentary understanding of many of the commodities that are included in the legislation's schedule. It completely mischaracterizes the properties of several commodities. For example, the study inappropriately identifies Slack Wax as a mixture of oil and wax, when it is in fact a product derived from base oil and defined in the International Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk (IBC Code) and the International Convention for the Prevention of Pollution from Ships (MARPOL).

The Report fails to understand the commercial imperatives of both resupply to coastal communities, principally from tugs and barges, and larger ship movement of petroleum products by tankers. It fails to identify that most ship owners do not ship small quantities of a single product in a single sailing, but frequently have cargo left on board that is destined for other ports regionally and globally. In this manner, a ship owner leverages efficiencies through multiple orders of a single or similar product. Limiting the quantity of scheduled commodities to 12,500 metric tonnes could result in unintended consequences such as increased costs or a disruption in delivery schedules.

ESTABLISHING A PRECEDENT

Bill C-48 establishes a precedent in Canada for managing our national supply chain and is another layer of complexity on the already multi-faceted supply chain, thereby making Canada a more complex country in which to operate. The proposed moratorium is inconsistent with Canada's tradition of promoting and respecting international law and regulations established for international shipping. It does not appear that Transport Canada considered other internationally recognized frameworks to protect this region. There are many additional globally recognized sensitive ecosystems that have been afforded protection through internationally recognized frameworks.

It also unclear if Transport Canada has fully considered the potential inconsistencies of the proposed moratorium with Canada's commitment to the United Nations Convention on the Law of Sea or UNCLOS. The intent of Article 19 is to ensure that all ships, unless operating in a prejudicial manner to the peace, good order, or security of another country, shall be provided innocent passage. Article 24 reinforces this requirement on a coastal state, demanding that it shall not impose requirements on foreign ships which have the practical effect of denying or impairing the right of innocent passage.

RECOMMENDATIONS

If the Government of Canada intends implementing this legislation, the following is proposed:

1. The Report *Community and Industry Resupply of Oil on the North Coast of British Columbia* should not be used to inform the initial list of scheduled commodities;
2. Transport Canada should be immediately tasked with reviewing the list of scheduled commodities and the 12,500 metric tonne restriction, including consulting with commercial marine transportation experts; and
3. The legislation should contain language that would require a risk assessment to be conducted at a minimum of every five years such that it could inform the regulatory process of scheduled products. In this manner, Bill C-48 would be grounded in an evidence-based analysis that would engage affected stakeholders collaboratively and would also provide a responsible legislative framework that can be sustained over the long-term.