



29 August 2019

Ms. Danijela Hong
A/Director
Labour Standards & Wage Earner Protection Program
Workplace Directorate, Labour Program
Employment and Social Development Canada
165 Hotel-de-Ville, Phase II du Portage
Gatineau, QC, K1A 0J9

Dear Ms. Hong,

We are writing to provide comments on Employment and Social Development Canada's (ECDC) proposed regulations to strengthen and modernize the regime governing federally-regulated employees by introducing a comprehensive and far-ranging suite of amendments to Part 3 of the *Canada Labour Code* (CLC).

The Shipping Federation of Canada is the association that represents the owners, operators and agents of foreign-flagged, deep sea ships trading at ports across Canada, from the Atlantic to the St. Lawrence and Great Lakes to the Arctic and West Coast. Our members are extensively involved in all of the international shipping markets, whether as the owners or Canadian representatives of ships that carry major commodities such as grain, coal and forest products from Canadian ports to export markets overseas, or as the operators of container shipping lines that serve Canadian ports by delivering intermodal containers to and from the rest of the world.

The deep sea ships that our members represent are generally not subject to the requirements of the *Canada Labour Code*, as they are governed by the domestic legislation of their "flag states" (the country of the ship's registration), which is based on international maritime labour standards as set out in the *Maritime Labour Convention* and similar instruments. This being said, we nevertheless believe that several elements of the government's planned changes to part 3 of the *Canada Labour Code* will have a potentially negative impact on Canada's marine transportation system. This is because Canada depends on an integrated logistics network in which all of the various parts – from ships and ship service providers to longshore and warehouse workers to rail and road operators – work at maximum efficiency in order to channel imports and exports to and from Canadian ports in the most seamless manner possible.

The proposed changes that raise the most concern in terms of their potential impact on the efficiency and fluidity of the logistics network include the requirement that an employer give 24-hour written notice for shift changes; the right of employees to refuse overtime; the right of employees to a 30 minute break for every 5 hours of work, and the right of employees to an 8-hour rest between periods of work or shifts. We wish to underline that we do not object to any of these provisions in

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principle – and indeed, we strongly support the need for ALL employees to have an appropriate work-life balance regardless of the sector in which they work. We do, however, have serious concerns that these changes do not recognize the 24/7 nature of the transportation industry and the “just-in-time” delivery philosophy on which it is based, and that they will conflict with provisions that have already been negotiated under various collective agreements or incorporated into existing work practices.

As an example, employees in the longshore industry (which involves the loading of export cargo onto vessels moving offshore and the unloading of import cargo from vessels moving inbound) work under collective agreements that establish terms and conditions for items such as dispatch, hours of work, overtime and shift extensions. These contractual provisions have been negotiated in a manner that protects the rights and working conditions of employees, without compromising the operational continuity and flexibility that are so essential to the efficiency and productivity of the transportation system overall. Given the highly interdependent nature of that system, any conflicts between these conditions and the proposed new CLC provisions will not only disrupt the flow and efficiency of vessel loading and unloading operations, but also create cascading effects throughout the supply chain in the form of terminal congestion, berthing delays at the port, potential disruptions to vessel sailing schedules, and additional costs to Canadian exporters and importers.

Another industry that will be similarly impacted by the CLC amendments is the rail freight sector, which employs thousands of Canadian workers and operates across a vast North American network to continuously pick up and deliver cargo. Working conditions in the rail industry are also governed by collective agreements which balance the rights of employees with the 24/7 operational realities of the transportation industry. Given the foregoing, conflicts between the terms of those agreements and the CLC provisions will have significant reverberations throughout the supply chain, with the impacts being felt by a range of stakeholders, from Canadian producers and exporters to inland warehouses and transload facilities to marine terminals and vessel operators.

In addition to our comments about the application of the CLC provisions to land-based transportation operations (and the resulting impacts on ship operations and supply chain efficiency overall), we also wish to underline our concerns about their impact on the efficiency and cost of marine pilotage, which is an essential service that is provided to ships navigating in Canadian waters. More specifically, and as noted in the submissions of both the Atlantic and Great Lakes Pilotage Authorities, the CLC provisions related to breaks and rest periods could result in the need to employ two pilots in all cases, which creates significant concern in terms both additional costs and reduced pilot availability overall. We therefore believe that the above-noted provisions must be clarified and / or amended in order to ensure that pilotage service can continue to be provided at a cost and level that is commensurate with user needs. This is particularly important in a context where pilotage service in Canada operates as a regulated monopoly that is provided without competition.

As noted throughout this submission, the transportation system is made up of a series of highly interdependent elements which each contribute to the system's ability to move cargo on a continuous and timely basis in an ever-changing environment – in the service of Canada's exporters and importers and for the benefit of the Canadian economy as a whole. Within such a context, it is essential that every effort be made to reconcile the proposed amendments to Part 3 of the *Canada Labour Code* with the operational realities of the freight transportation industry and its ability to provide continuous, uninterrupted service. This is especially important in cases where employee working conditions are already governed by collective agreements and / or established working

practices that are tailored to the realities of their particular sector, and where the imposition of new conditions will have a significant negative impact from a cost, service and efficiency perspective.

We appreciate this opportunity to provide comments on the proposed changes to Part 3 of the *Canada Labour Code* from the viewpoint of the international shipping industry, and would be pleased to provide any additional information as required.

Sincerely,

A handwritten signature in black ink, appearing to read "M.H. Broad". The signature is fluid and cursive, with the first name "Michael" and last name "Broad" clearly legible.

Michael H. Broad
President