



**Review of Canada's Marine Oil Spill
Preparedness and Response Regime**

Submitted to the Tanker Safety Expert Panel

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SHIPPING FEDERATION OF CANADA

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Executive Summary:

The Shipping Federation of Canada, incorporated by an Act of Parliament in 1903, is the representative of the owners, operators and agents of ocean ships trading at ports across Canada, from the Atlantic to the St. Lawrence and Great Lakes to the West Coast. We wish to make the following comments and recommendations with respect to Canada's marine oil spill preparedness and response system:

General Positions:

- Canada's current marine oil spill preparedness and regime is already world class.
- Canada's future oil spill regime must continue to abide by the international conventions that Canada has ratified.
- The future regime must continue to provide adequate levels of service at a reasonable cost, without compromising the degree of preparedness or environmental protection that is provided under the current system.
- The future regime must avoid any arbitrary increase in response capacity that would have to be funded by all ships plying Canadian waters.

Elements of Improvement:

- Communication of the effectiveness of Canada's world class oil spill preparedness and response regime to the general public would go a long way towards improving the public's image of the business of oil transportation.
- The increased safety of vessel operations resulting from major gains in navigational and engineering technology that have occurred on board ships could be further enhanced by: 1) using wave rider buoys to provide data about environmental conditions; 2) requiring smaller ships such as fishing vessels and pleasure craft to have AIS capability on board; and 3) conducting more soundings and producing new charts, especially for the Canadian Arctic (to be done by the Canadian Hydrographic Service).

Social License:

- The current effort to examine the carriage of oil through the lens of preparedness and response does nothing to address the fundamental underlying issue, which is related to the social acceptance of oil extraction activities in Canada.



SHIPPING FEDERATION OF CANADA SUBMISSION ON CANADA'S MARINE OIL SPILL PREPAREDNESS AND RESPONSE REGIME

Introductory Comments:

The Shipping Federation of Canada, incorporated by an Act of Parliament in 1903, is the representative of the owners, operators and agents of ocean ships trading at ports across Canada, from the Atlantic to the St. Lawrence and Great Lakes to the West Coast. We are writing with respect to the review of Canada's marine oil spill preparedness and response regime, which we view as a very timely exercise given that almost 25 years have passed since the publication of the Brander-Smith report.

The Federation's role with respect to oil spill prevention, preparedness and response is to ensure that from an operational perspective, this multi-layered system functions adequately in Canada and is also aligned with the international regime. More specifically, the Federation:

- Promotes the implementation of international conventions and standards by Canada;
- Advises its membership about Canada's implementation of these standards, and monitors for compliance or enforcement issues that should be addressed at an industry level.
- Works with local authorities to manage local navigational challenges (such as navigating in ice or in specific waterways that require specific traffic management measures).

Therefore, our main interest is to ensure that Canada's future oil spill regime continues to abide by the international conventions that Canada has ratified, while providing adequate levels of service to our membership at a reasonable cost, without compromising the degree of preparedness or environmental protection that is provided under the current system. Our objective is to avoid any arbitrary increase in response capacity that would have to be funded by all ships plying Canadian waters, as we believe that the current regime is already world class. Although we are aware that one of the assumptions underlying the current review is that the current regime is not world class, we not only disagree with this opinion, but are unable to find any information that supports such a view.

This being said, our priority as an industry is to ensure the safety of vessel operations, and we firmly believe that this is where the greatest gains in reducing environmental risks can be achieved. As the volume of oil carried on Canadian routes has increased over the years, so too has the operational safety of the tankers carrying this cargo. Navigational technologies, safety management procedures, and the training of shipboard and shore personnel have also undergone a significant evolution in terms of safety and effectiveness since the 1989 Brander-Smith review. It is important that the government not only acknowledge the foregoing, but that it also foster public awareness of the world class status of our current oil spill preparedness, prevention and response regime. In our view, a more concerted effort to communicate the foregoing to the general public would ease concerns in many parts of the country.

With these general comments in mind, you will find below our responses to the panel's main lines of enquiry, with particular focus on our industry's efforts to ensure vessel safety (especially as this relates to the movement of hydrocarbon products) and on our assessment of the current status of Canada's oil spill prevention, preparedness and response regime.



General:

1. Does the current oil spill preparedness and response regime meet today's needs? What about future needs? What elements of the current regime could be improved to make it world class?

Canada's marine oil spill preparedness and response regime meet today's needs, and should be considered world class. In order to properly identify and measure issues related to ship-source oil pollution in Canada, we reviewed the annual reports of the Ship Source Oil Pollution Fund (SSOPF) from 2002 to 2012. These reports provide a general overview of the cases that required intervention from the authorities and/or response organizations in terms of either preventing or cleaning up ship source pollution in Canada. We found that over a ten year period:

- There were 133 ship-source oil pollution cases, with no pollution occurring in over 25% of these cases;
- In most cases, the spill occurred when the ship was in port;
- Most of the cases involved fishing vessels, older, derelict ships or bunkering incidents;
- Ocean vessels (our members) accounted for a total of approximately 73 mt of fuel oil spilled over the ten year period, of which 64 tons occurred on one ship during bunkering activities.

For the majority of cases, the SSOPF reports do not specify the quantity of oil spilled; rather, they mention that oil was either released or that there was an oil sheen in a given area.

What is perhaps most telling from these reports is that there has never been a major oil spill that has tested the total capacity of Canada's existing regime, which clearly attests to the robustness of the prevention system that is currently in place.

Although an increase in oil exports and associated vessel traffic will result in a higher level of risk, it will not necessarily change the level of preparedness or response required. It is true that high risk locations and points may change if more marine traffic moves through new ports. However, capacity must be evaluated by more than just the equipment associated with the response effort - it must also include an evaluation of the personnel available, the management structures in place, and the contingency system that have been implemented to ensure an accurate level of preparedness and response. For these reasons, should any changes be necessary, these should be supported by a robust risk assessment.

2 Does Canada's current regime, which is based upon a public-private response model in which industry-funded Response Organizations take the lead in preparing for and responding to an oil spill, continue to make sense for Canada? What changes, if any, would improve the model to world class status?

The measures that ensure a timely and robust response are the professionalism and preparedness of those who participate in the regime. The current public-private response model continues to make sense for Canada, especially in the current context of budgetary restrictions. Of particular importance in this respect is the fact that the Response Organizations are funded by industry and not government, which avoids any possibility of the regime's effectiveness being compromised by budget cuts.



- 3. In terms of oil spill preparedness and response, are the current roles and responsibilities for government and industry clear? Are they appropriate? What changes would you suggest to improve roles and responsibilities under the current regime?**

Industry (by which we mean both the marine transportation industry and the Canadian shippers and receivers of oil cargo) is the entity being regulated, and providing its own oil spill response regime under the Canada Shipping Act 2001 and Transport Canada governance. This should not change, nor should the regime's recognition that it is the "potential polluter" who is responsible for cleaning up marine oil spill pollution. The role of government is to ensure that adequate prevention, preparedness and response is in place and that these continue to be operational, functional and effective.

- 4. What future trends or emerging developments (for example, new petroleum products, new response techniques or increased vessel traffic) should be taken into account to enhance the current regime to world class status?**

We believe that these questions will be answered by the risk assessment that is being run in parallel to the current review and by the consultations accompanying the Northern Gateway project. We would, however, note the importance of remaining abreast of new developments, technologies and best practices in a rapidly changing world. We would also note that continuous improvement is a core element of environmental management and an essential part of the contingency planning process. A world-class regime is therefore a regime that benchmarks regularly and integrates best practices on an-going basis.

- 5. There are currently six Regional Advisory Councils (RAC) and one National Advisory Council (NAC) which provide advice and feedback to the Government of Canada on the current regime. What could be done to improve this feedback mechanism? Are the roles and responsibilities of the RAC and the NAC clear? Is this structure a best practice?**

This question does not relate to our organizations' direct interests or mandate.

- 6. Canada's current regime is standardized across the country, with all ports, ship-owners, oil handling facilities and Response Organizations operating under the same legislation, regulations and guidelines. Is this an appropriate model for Canada? What improvements could be made to the current model?**

We believe that the current regime, which includes all stakeholders across the country operating under the same legislation, continues to be an appropriate model for Canada. From an operational standpoint, if some waters are more treacherous than others, or if traffic is denser in certain parts of the country, this will trigger area-specific risk mitigation measures (such as buoy tending, traffic management, mandatory pilotage, etc.) from the authorities responsible for marine safety (Transport Canada, Canadian Coast Guard, pilotage authorities). Nevertheless, the various statutes, regulations and guidelines under which these federal organizations operate are standardized across the country.



Although the current review does not address prevention (which is mostly related to the safety of the vessel and its operations), prevention is linked to preparedness and response measures. This model is flexible enough from an operational standpoint to meet the specific needs and realities of the various regions covered south of the 60th parallel. We therefore believe that the same principles of standardization across the country with respect to response organizations should apply.

7. Does the current preparedness and response regime clearly define how it interacts and links with Canada's liability and compensation regime? What changes, if any, would improve the current framework to world-class status?

The current preparedness and response regime does not define how it interacts and links with Canada's liability and compensation regime, as each regime is supported by its own legislation and/or regulations, with no direct reference to the other. This being said, the links and interactions between the preparedness and response regime and the liability and compensation regime **are** clear from our industry's perspective, as it is our responsibility as "potential polluters" to pay for preparedness and polluters are to cover the response costs.

We believe that the current framework, which comprises both the preparedness / response regime and the liability / compensation regime, is already world class. The only improvement we would suggest is that information about this framework be disseminated to the general public, with a view to fostering the same level of public confidence in the system as that felt by the industry. We note that Transport Canada has launched a webpage describing the national oil spill preparedness and response regime and the framework in place to ensure safe transportation of hydrocarbons, along with oil spill prevention measures (which both ties in with the liability and compensation regime). We view this initiative as an excellent means of explaining how the different regimes work and how they are linked, which can serve as an accessible portal that can then reorient interested parties to the relevant supporting documents.

8. Canada currently has two regimes for marine oil pollution: one for ship-source oil pollution and one for oil pollution from oil exploration activities and offshore platforms. What are the benefits to having two separate regimes? What are the risks to having two separate regimes?

We consider that the best risk management tools for each industry are the implementation of measures to prevent spills and regulatory requirements (which are imposed by legislation and enforced by authorities) along with a safety management culture, and not the response regimes themselves (although response and liability measures will always be needed to cover residual risks). The marine oil pollution regimes for both ship-source oil pollution and oil exploration activities and offshore platforms cover different risks and sources of pollution using a separate regulatory framework.

We see the benefits to having two separate regimes as the following:

- Each industry bears its own risks and costs: there is no pooling of the risks and liabilities and no cross-subsidization of one industry by the other.
- There is a distinct governance framework for each industry, which makes the costs of the regime more transparent and acceptable to the industry that pays for the subject regime.



- The shipping industry is governed by a number of international conventions (including liability conventions), which have been incorporated into Canadian law. The liability conventions that govern ship-source oil pollution do not apply to offshore platforms.

This being said, there are risks to having two separate regimes, which include:

- A potential for gaps in terms of the coverage ensured by the two response regimes (although this is minimized by the fact that the Canadian Coast Guard leads response operations in both cases).
- A potential for additional costs due to the fact that there is no pooling of resources (and thus no economies of scale) between the two regimes. This being said, we have not had any indications from our industry that this is a concern.

All in all, we support the continuation of two distinct regimes, one for ship-source oil pollution, and one for oil exploration activities and offshore platforms oil pollution.

Preparedness:

- 1. Are the preparedness requirements for ports, ship-owners, oil handling facilities and Response Organizations adequate? What changes, if any, would improve the system to make it world-class?**

From a ship's perspective, the regulatory measures that are currently in place have proven to effectively prevent marine oil spills (as per the data mentioned in 1.1). Some of the marine safety regulatory measures that are already in place include:

<ul style="list-style-type: none">• Reliable charts/publications and navigational aids• Waterways management• Passage planning• Traffic separation schemes• Port procedures• Certified handling equipment• Procedural checklists for safe operations• ISM (International Safety management)• JIGGs (Joint Industry Government Guidelines)• LRIT(Long Range Identification Tracking)• AIS (Automated Identification System)	<ul style="list-style-type: none">• Port State Control• Coasting Trade licenses• Port and terminal Emergency Response Plans• Vessel SOPEP• Certification of marine personnel• Marine pilotage• Navigational and collision avoidance technology• Regulated vessel construction• Regulated vessel certification and insurance• OPRC Convention• Classification Societies
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The safety of marine transportation in general, and of hydrocarbons in particular, is based on a multi-layered system, which involves:



- The ship and its equipment
- The crew, ship management and operations
- The flag administration, port state control and enforcement
- Waterways management, marine communication services and other marine services in support of marine safety (icebreaking, pilotage, tugs, etc...)
- Classification societies and insurers
- Best practices

In addition to the foregoing (and speaking from a shipowners' perspective), we believe that the following measures have the potential to even further improve ship safety Canadian waters:

- Enhanced information about environmental conditions that mariners have at their disposal could be made available to port authorities, ships and oil handling facilities through the use of Wave Rider buoys (which are capable of providing such data at the entrances to ports where oil is transported by ship);
- Given the significant role that the mandatory carriage of AIS has played in avoiding collisions, consideration should be given to requiring mandatory carriage of AIS transponders by smaller ships such as fishing vessels and pleasure craft;
- We also recommend that the Canadian Hydrographic Service should undertake more soundings and produce new charts, especially for the Canadian Arctic.

We also wish to note the importance of ensuring a high level of compliance with the measures and regulations that are already in place, and of allocating resources for continuous education with respect to regulatory enforcement. In terms of government funding, we believe that Canadian government vessels and aircraft which are used to monitor / manage spill response should have stable funding resources, that Regional Environmental Exercises Team (REET) oil spill response exercises with municipal and public participation should be re-established. We also think that regular reviews and updates to Transport Canada's *National Preparedness Plan* and *National Places of Refuge Contingency Plan*, along with the Canadian Coast Guard's *National Response Plan* should be undertaken. As a general comment, we hope that enforcement levels will remain at their current levels with a context of budget equilibrium, as they foster a culture of regulatory compliance.

If we move from a shipowners' perspective to a more general perspective, useful references include a report series summary developed by the International Petroleum Industry Environmental Conservation Association (IPIECA) entitled *Oil Spill Preparedness and Response*¹. Other useful references include technical information papers developed by the International Tanker Owners Pollution Federation (ITOPF) entitled *Contingency Planning for Marine Oil Spills*² and *Leadership, Command & Management of Marine Oil Spills*³. These document reviews the necessary elements for a comprehensive contingency planning for, and response to, marine oil spills. It includes information on several items considered under the current process, such as requirements for a risk assessment, sensitivity mapping, choosing a spill response option to minimize damage, oil spill exercise planning, and oil spill compensation, to name just a few.

¹ <http://www.ipieca.org/publication/oil-spill-preparedness-and-response-report-series-summary>.

² <http://www.itopf.com/information-services/publications/documents/TIP16ContingencyPlanningforMarineOilSpills.pdf>.

³ <http://www.itopf.com/information-services/publications/documents/TIP10LeadershipCommandandManagementofMarineOilSpills.pdf>.



2. Does research and development play a strong enough role in the current regime? Who should be responsible for funding and conducting research and development related to the oil spills?

Government should foster support for research and development in the field of oil spill response, along with factual and pilot project testing of prevention and preparedness measures. The results of these projects should support not only risk assessments, but also improvements to the regulatory regime, and be made available to the public.

3. Is there a need for a greater degree of coordination between government departments, between different levels of government (federal, provincial, municipal and international) and between government and the industry in respect to training, exercises and research and development? What could be done to make the coordination of these activities more effective? What steps should be taken?

The Commissioner of the Environment and Sustainable Development raised several important points in this respect in his fall 2010 report entitled *Oil Spills from Ships*⁴. This includes the need to update risk assessments on a regular basis using a consistent methodology, and to ensure that all emergency management plans are up-to-date. The Report also notes that the Canadian Coast Guard needs to develop a national approach to training, testing and maintaining its equipment, and that it should establish procedures to verify its preparedness level should a spill occur. Finally, the report also raises concern about the lack of consistent and systematic documentation following a response to a ship-source spill.

As far as preparedness for ship-source oil pollution is concerned, the provinces need to be aware of and take part in oil spill response exercises (and many do already participate). Moreover, the awareness of coastal communities and the inclusion of oil spill response into their emergency response plans (if they have one) is not universal, although it should be. The provinces can take leadership by providing access to coastal communities, municipalities and associations which can help with efforts to increase public awareness of the regime. One feature of the preparedness and response regime that needs to be further defined is the allocation of response and disposal space for recovered oil⁵, since waste disposal is a provincial matter.

Finally, it is worth noting that the *Canada - US Joint Marine Pollution Contingency Plan* could be impacted by any potential change to the current regime, as the two countries recently initiated a Regulatory Cooperation Council (RCC) that has been mandated with harmonizing regulatory requirements when possible.

⁴ http://www.oag-bvg.gc.ca/internet/English/parl_cesd_201012_01_e_34424.html.

⁵ In its document entitled *Leadership, Command & Management of Marine Oil Spills*

(<http://www.itopf.com/information-services/publications/documents/TIP10LeadershipCommandandManagementofMarineOilSpills.pdf>), ITOPF mentions that the amount of waste produced from clean-up operations can be up to ten times the quantity of oil spill.



4. **How should risk information related to the potential for an oil spill and its possible impacts be used to inform the elements of the regime? What other information should be taken into consideration when government and industry formulate their preparedness and response plans?**

This question does not relate to our organizations' direct interests or mandate.

5. **What other preparedness requirements should be incorporated into the regime?**

This question does not relate to our organizations' direct interests or mandate.

Response:

1. What could be done to make the response to oil spills more effective and efficient?

To reiterate our previous comments, we believe that the existing regime works and is world-class. This being said, we would direct your attention to a document entitled *Oil Spill Preparedness and Response* published by IPIECA which notes that any response process must take into account the circumstances of the spill, the practicalities of the clean-up response, the relative impacts the oil and clean-up options, and the relative importance of social, economic and environmental factors. According to the organization, consideration and prioritization of the latter 3 elements would help in making the response effort more efficient⁶. ITOPF, in its document entitled *Leadership, Command & Management of Marine Oil Spills*⁷, also includes emphasis on the organisational structure that is scaled appropriately to the situation, which allows for an efficient management of the response.

In a Canadian context, a number of practical initiatives would help enhance the efficiency of response efforts, including:

- Appropriate placement of icebreakers and mandatory icebreaker escort requirements in certain ice infested waters, as is the case with the Confederation Bridge;
- Re-establishment of REET oil spill response exercises with municipal and public participation⁸;
- Constant readiness of Canadian government vessels and aircraft to be able to monitor / manage spill response, including in remote areas;
- Regular exercises and updates to Transport Canada's *National Preparedness Plan* and *National Places of Refuge Contingency Plan*, along with the Canadian Coast Guard's *National Response Plan*;
- Provision of waste reception facilities for materials recovered during a response effort. It is our understanding that such capacity is under provincial responsibility, and we strongly encourage the government to at least perform an evaluation of what is available on a provincial basis so that these materials can be disposed of quickly should a response effort occur.

⁶ <http://www.ipieca.org/publication/oil-spill-preparedness-and-response-report-series-summary> (p. 22).

⁷ <http://www.itopf.com/information-services/publications/documents/TIP10LeadershipCommandandManagementofMarineOilSpills.pdf> (p. 2-3).

⁸ The above-mentioned IPIECA document provides additional guidance on oil spill exercise planning, such as parties to be involved, exercise categories, planning process, design phase, development phase, conducting the exercise and its review (p. 32-33).



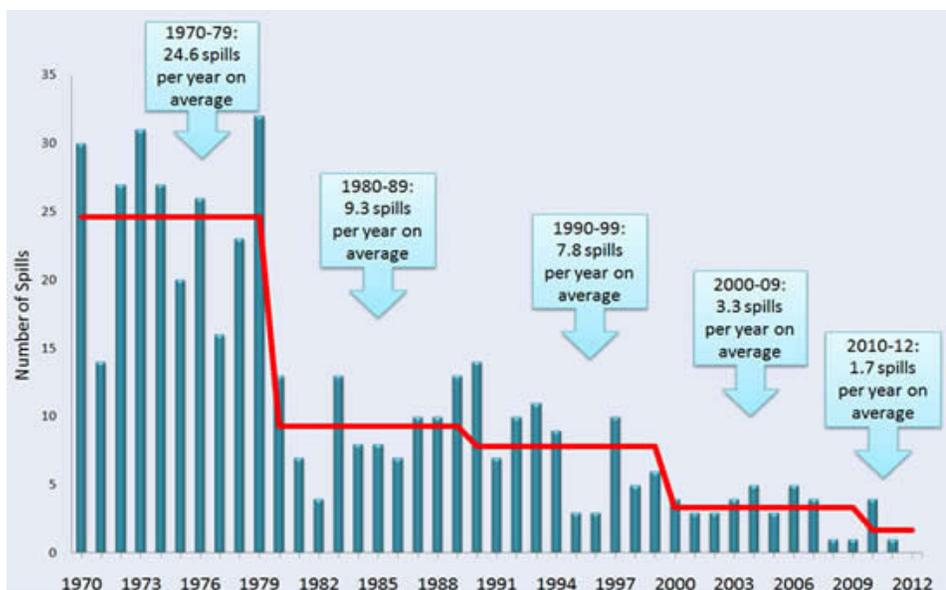
2. Is there adequate oversight of the Response Organizations under the current regulatory framework? Are the current *Response Organizations Standards* adequate? What, if any, changes should be made? Is the certification process for Response Organizations adequate and is there sufficient expertise present during this process?

This question does not relate to our organizations' direct interests or mandate.

3. Is the current regulated response capacity of 10,000 tonnes sufficient or should it be increased? What could be done to improve on this current model for regulated response capacity?

The figure below includes recent statistics compiled and published by the International Tanker Owners Pollution Federation (ITOPF) showing the number of large spills (more than 700 tonnes) from 1970 to 2012⁹. What is particularly telling in these statistics is the degree to which large spills have decreased over time (as a result of which they are at an all-time low for the current decade).

Figure 1: Number of Large Spills (> 700 tonnes), 1970 to 2012



Source: ITOPF (2013).

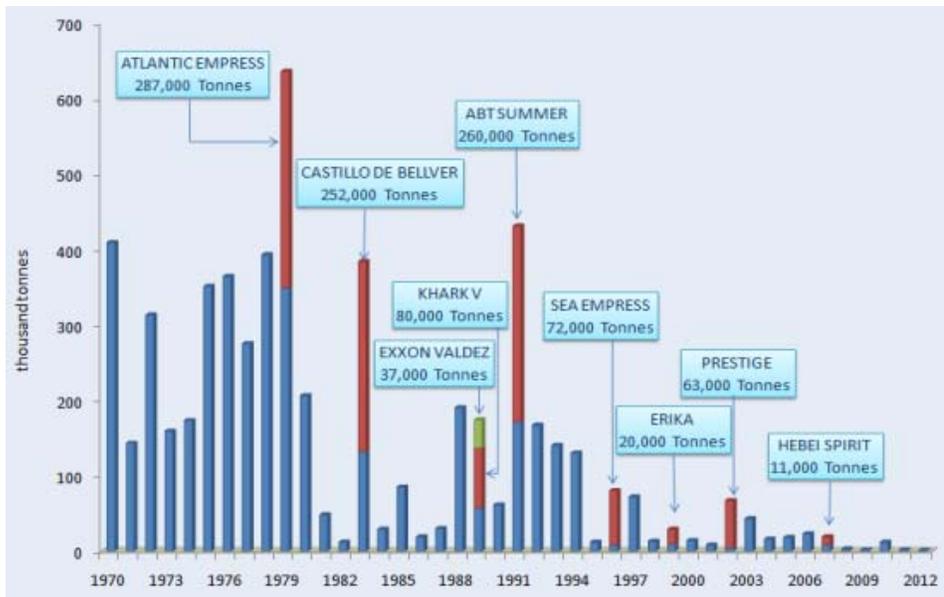
Similarly, figure 2 below¹⁰, indicates that the quantities of oil spilled have also decreased over time.

⁹ <http://www.itopf.com/information-services/data-and-statistics/statistics/index.html> .

¹⁰ <http://www.itopf.com/information-services/data-and-statistics/statistics/index.html>



Figure 2: Quantities of Oil Spilled > 7 tonnes, 1970 to 2012
(spill size rounded to nearest thousand)



Source: ITOPF (2013).

It is important to note that our intent in highlighting these figures is not to minimize the significance of the spills that occur, or to move away from the “zero tolerance” policy that is the objective of both government and industry. However, to put the figures into perspective, the volume of oil spilled during 2012 represents **less than one millionth** of the total quantity of oil transported by sea. As ITOPF’s figures have historically been rounded to the nearest 1,000 tonnes, the volumes spilled recently are now so low that they can be said to be at baseline levels.

Based on the data displayed above, we believe that the current 10,000 tonnes of regulated response capacity is sufficient for Canadian waters. As a consequence, we would oppose any arbitrary increase (that would not be supported by a sound risk assessment) in response capacity that would have to be funded by all ships plying Canadian waters. Moreover, we note that the Canadian system uses a tiered approach, which ensures that resources can be mobilized rapidly to provide an efficient and timely response to any oil spill. And, as indicated in the IPIECA report, a number of additional factors can also help improve the efficacy of a tiered spill response effort, including those related to operations, setting of the spill, response capability and the legislative context¹¹.

As noted above, equipment alone does not make a response regime more efficient. Any effort to increase Canada’s current spill response capacity would have to be preceded by a comprehensive risk assessment, which would first focus on the likely size of a spill in a Canadian context, along with the desired response times. Should such an assessment result in a decision to adjust the regulated response capacity, a number of factors would then have to be considered in order to determine the level of efficiency and preparedness required. These include:

- Spill assessment and notification process

¹¹ <http://www.ipieca.org/publication/oil-spill-preparedness-and-response-report-series-summary> (p. 36).



- Management framework and roles and responsibilities
- Response strategies
- Equipment
- Response personnel
- Training programme for all stakeholders
- Exercises to test and practice the arrangements and
- Escalation and integration for people, equipment and other resources

4. What could be done to increase the capacity to respond to spills of unconventional oil products (e.g. diluted bitumen)?

This question does not relate to our organizations' direct interests or mandate.

5. What role should the Canadian Coast Guard take during the response to an oil spill?

This question does not relate to our organizations' direct interests or mandate.

6. What improvements could be made to better integrate government and non-government stakeholders into the overall management of a response?

This question does not relate to our organizations' direct interests or mandate.

7. Is there a role for other parties to play in the response to an oil spill, particularly in more remote areas of the country? What factors would need to be considered if there is an increased role for them?

This question does not relate to our organizations' direct interests or mandate.

8. The current response regime is based around mechanical recovery. Are there alternate response techniques that should be considered in addition to mechanical recovery for spill response? What are the pros and cons of these alternative mechanisms? How could these additional methods be included into the current regime?

This question does not relate to our organizations' direct interests or mandate.

Liability, Compensation and Funding:

1. How should a world-class oil spill preparedness and response regime be funded?

The existing ship-source oil pollution regime is privately funded and operated, and should remain so. A world class oil spill preparedness and response regime should be funded by the stakeholders whose activities generate an oil spill risk, which is an extension of the polluter-pays principle. Each industry and / or stakeholder should finance the regime according to the level of risk associated with their activities. The Certified Response Organizations are profit-making corporations rather than not-for-profit corporations. As long as they support themselves and repay their debt to shareholders, there is little incentive for the majors to back out of the regime. Cross subsidization between industries should be avoided to the extent possible, i.e. to the extent that



micromanagement of various types of potential polluters and their associated pollution risk does not become excessively burdensome and costly and therefore counterproductive.

The taxpayer's contribution should be limited to ensuring that the regime's regulations are enforced and that Canada fulfills its international obligations arising from the relevant International Maritime Organization Conventions. In the event of an oil spill, any fees associated with Coast Guard monitoring of the response is recoverable from the polluter. This current policy of a privately funded and operated regime should not change.

2. Is the current fee structure fair, reasonable and transparent, and does it meet the current regime's requirements?

As far as our industry is concerned, the current fee structure is fair, reasonable and transparent, and it meets the current regime's requirements. Although structure is not perfect, improvements would come at a cost. For example, small fishing vessels and pleasure craft do not contribute to the regime, yet they are a steady source of oil pollution (through small but numerous spills). Should they contribute to the regime? Would the benefits of including such vessels in the regime outweigh the related management costs and hurdles? Would this make a sizable difference in the fees currently paid by our industry to support the regime? We have yet to hear concerns with respect to the current exclusion of these smaller vessels from the regime. This is likely due to a number of factors, including the fact that asking such vessels to contribute to the financing of the regime may be viewed as proportionally unfair, the fact that such vessels are not involved in major spills, and the fact that the inclusion of pleasure craft in the regime would not have any meaningful impact on the fees that industry pays.

As well, our ships must subscribe to response coverage either as non-tanker or tanker vessels. There is only one response organization available (and mandatory) for the subject coast, and one applicable tariff for each type of ship. The response organization has a certified capacity for 10,000 metric tons of oil spill. Our industry has not expressed concerns so far with respect to the current fee structure, nor to the fact that the stand-by service offered under this mandatory regime may be larger than the size of an average oil spill. There could probably be other types of fee structures that would also meet the regime's requirement and that our industry could find reasonable – for example through the addition of new players in the response organization's field. However, the current system is simple (and therefore user friendly) and reasonably affordable, which compensates for its imperfections.

3. Canada's liability and compensation regime provides coverage for the costs associated with responding to an oil spill from a ship. Are there specific costs where the coverage for responding to an oil spill is potentially not adequate? Are there current limitations on the coverage that may impact a response to a spill?

Our view is that the existing ship source oil pollution regime, which is privately funded and operated, should remain as is. International compensation regimes cover ship source spills only to approximately \$1.3 billion per spill plus the spill coverage of the Ship Source Oil Pollution Fund (SSOPF) of about \$250 million. The Canadian Government does not pay Canada's contribution to the international regimes; it is funded by the SSOPF which was collected from Canadian receivers of oil. This has proven to be a robust regime.



Under section 8.1 of the ECRC and WCMRC (non-bulk oil) contracts and 4.10 of the ECRC and WCMRC (bulk oil) contracts, the response organization is not responsible for the disposal of waste products (recovered oil and waste). This is an important limitation to the coverage, as the shipowner-polluter is responsible for the disposal of the waste, and the availability of reception facilities may be (and often is) non-existent or disproportionately costly. Coverage of waste disposal would provide a more adequate and user-friendly response regime.

- 4. There exist several models for funding the preparedness costs to an oil spill as well as providing access to emergency funds during an ongoing response. Would the dedication of a set amount of emergency funds similar to what is in place in the United States be an improvement to the capability to effectively manage a large spill? What improvements should be made?**

This question does not relate to our organizations' direct interests or mandate.

- 5. Could the Ship-Source Oil Pollution Fund be used more effectively for the purposes of preparedness and response?**

SSOPF is very rarely (if ever) used by our industry or for spills caused by our industry. For this reason, we will defer comments to other organizations which may have more direct interests in this matter.

Concluding Comments:

As shown in our comments, the existing regime works and is cost effective. Canada definitely has the right model, and this model is world-class. To ensure the continuation of a robust regime, the government needs to be positive about the regime we have and foster greater public and political awareness of both its existence and its benefits. The few areas in which we believe some improvement would be warranted are listed below:

- Communication of the effectiveness of Canada's world class oil spill response regime to the general public would go a long way towards improving the public's image of the business of oil transportation.
- Since the inception of the current regime, navigational and engineering technology aboard ships has radically improved. When the current regime was introduced, GPS had only just been discovered and e-mail with ships at sea was still in its infancy. A whole new generation of tankers is now at work providing energy to the world more reliably than ever. This is especially relevant when assessing whether Canada has a world-class regime in place, given that ship operations and safety management have evolved greatly over the past 20 years.
- In our view, the current effort to examine the carriage of oil through the lens of preparedness and response does nothing to address the fundamental underlying issue, which is related to the social acceptance of oil extraction activities in Canada. Although we support the creation of this Panel, particularly within a context of rapid technological developments and significant changes in the trade patterns of Canadian hydrocarbons, we



doubt that the results will address the concerns of those who are oppose any further development whatsoever of hydrocarbons in Canada.

We trust that our comments on the review of Canada's Marine Oil Spill Preparedness and Response Regime are helpful. Before closing, we would like to take this opportunity to reiterate our willingness to collaborate with Transport Canada in its efforts to assess the regime's effectiveness, not only now but also when the second phase of the review (focusing on the Arctic and the development of a hazardous and noxious substances regime) will proceed next year. In the meantime, we would be pleased to provide any additional clarification or information you may require, and remain available to provide input in the future.

Respectfully submitted,

Caroline Gravel
Director, Environmental Affairs
Shipping Federation of Canada

The Shipping Federation of Canada (The Federation), incorporated by an Act of Parliament in 1903, acts as the pre-eminent voice of shipowners, operators and agents involved in Canada's world trade. Its overall objective is to work towards a safe, competitive and environmentally sustainable marine transportation system.