



Issues and Activities Update December 2016

TRADE AND TRANSPORTATION POLICY

Transportation Policy Review

Following several months of stakeholder consultations and engagement sessions, the federal government has made a series of policy announcements on transportation-related initiatives over the last several weeks. On the multimodal and logistics fronts, Transport Minister Garneau delivered a speech in Montreal on November 3, in which he unveiled his long-term transportation strategy for Canada, entitled *Transportation 2030*. Elements of particular interest include the investment of \$10.1 billion in transportation infrastructure to help eliminate bottlenecks and build more efficient trade corridors, and the development of a more balanced, transparent, and efficient rail freight system (with legislation to be introduced in spring 2017). The government also recently announced that it has hired investment bank Morgan Stanley Canada Ltd. to review ownership options for the eighteen Canada Port Authorities and report on the privatization experiences of other countries.

On the marine front, Prime Minister Trudeau unveiled a \$1.5 billion national *Oceans Protection Plan* on November 7 designed to safeguard Canada's coasts and waterways. In addition to setting out a series of environmental measures (which are covered in greater detail in the environment section of this update), the plan also includes a commitment on the part of the government to undertake a review of the *Pilotage Act*, which was one of the key recommendations in our submission to the Minister. Although still in the early planning stages, we understand that Transport Canada is considering a review process that would be spread out over three years, with TC identifying issues and gathering stakeholder comments in years one and two, and introducing amendments to *the Pilotage Act* in year three. For our part, we have urged the government to complete the review in a timelier manner, and have also proposed avenues for addressing issues related to costs and regulatory powers in the interim.

CETA (Canada – EU Economic & Trade Agreement)

Following the signing of the Comprehensive Economic and Trade Agreement (CETA) between Canada and the European Union in Brussels on October 30, Canada's Minister of International Trade introduced Bill C-30 (an *Act to Implement CETA*) in Parliament on October 31. Of particular interest to the Federation are the Bill's proposed amendments to the *Coasting Trade Act*, which include provisions that would enable eligible ship owners to reposition their empty containers between Canadian ports on board their own vessels, and to transship cargo between Halifax and Montreal provided such movement is one leg of the goods' importation into and exportation from Canada.

Although the Federation strongly supports CETA's maritime provisions as a means of increasing the efficiency of the logistics chain for the benefit of Canada's importers and exporters, we are concerned that some of those provisions are drafted in a way that is inconsistent with CETA and would therefore deny stakeholders access to the full range of benefits negotiated under the agreement. We highlighted these concerns in a recent brief to the Standing Committee on International Trade, in which we drew particular attention to Bill C-30's narrow definition of the term "shipowner," which would result in a limited number of EU shipowners being able to engage in empty container repositioning. We also intend to raise these concerns with the Senate Committee on Foreign Relations and International Trade (which is expected to undertake a study of Bill C-30 early next year), and to work with Transport Canada on issues related to Bill C-30's implementation.

Canada – China Agreement on Maritime Transport

The Federation was part of the Canadian delegation that participated in Transport Canada's annual meeting with China's maritime authorities and marine industry representatives, which was held in Vancouver on December 7. The meeting is part of the *Canada-China Agreement on Maritime Transport*, and provides both countries with an opportunity to exchange information and raise issues related to developments in the maritime sector. As per our suggestions to Transport Canada, the agenda included discussion on each country's experience with implementation of the VGM requirement that came into effect on July 1st, and on recent CBSA initiatives to modernize Canada's border processes.

CUSTOMS ISSUES

Vancouver Container Exams

The Port of Vancouver is expected to issue a document summarizing the results of its consultations on how to recover the \$30 million cost of building a new container exam facility (CEF) near Roberts Bank in Tsawwassen in the near future. The Federation participated in those consultations and submitted a formal letter to the port, in which we strongly noted that any fees should be assessed directly against the cargo interest and that carriers should have no involvement whatsoever in the fee's collection. We also used the letter as an opportunity to reiterate our view that Section 5 of the *Customs Act* implies a financial obligation on the part of the ports to contribute to the financing of exam facilities. In addition, we expressed serious concern over the decision (made by the port, the terminal and CBSA) to conduct the majority of LSI (imaging) exams at the new CEF rather than on the terminal. Given the lack of transparency with which this decision was made, as well as the significant logistical and environmental challenges it will create, we strongly recommended that the decision be revisited and subjected to a consultative process that involves ALL relevant stakeholders, including marine carriers.

Master Carrier AMPs

We are still awaiting a decision from CBSA on whether it will continue to issue penalties for ACI non-compliance to the master carrier in cases involving consortium arrangements, even in instances where the infraction was committed by one of the consortium partners. CBSA's legal and compliance departments have been studying this issue since last June, when the Agency agreed to our request to impose a moratorium on such penalties pending a review of our questions about the regulatory basis of such a practice, as well as our concerns about its appropriateness from a compliance and operational perspective.

eManifest

CBSA's efforts to implement the electronic house bill (eHBL) provisions of the eManifest program (which came into effect on November 7) continue to move forward, with the Agency recently issuing a Customs Notice confirming that in cases where the freight forwarder is not ready to transmit eHBL's, the pre-existing process of submitting supplementary data and presenting paper house bills on arrival can continue to be used. CBSA has also agreed to review the eHBL requirements as they apply to consolidated US import and export cargo. As a result, both US-origin export cargo moving via truck or rail to a Canadian load port, and US-destined import cargo discharging at a Canadian port and moving via truck or rail to the US, will be exempt from the eHBL requirement for the time being. This is welcome news for the Federation, given our concerns that such cargo would simply be re-rerouted through the US in order to avoid the Canadian port call altogether.

New President

John Ossowski was recently appointed as the new President of CBSA effective December 7, 2016. Mr. Ossowski was previously Deputy Commissioner of the Canada Revenue Agency and Associate Deputy Minister at Public Safety. He replaces outgoing President Linda Lizotte-MacPherson, who announced her retirement last month.

PILOTAGE ISSUES

Pacific Pilotage Authority (PPA)

Following the grounding of the articulated tug and barge, Nathan E. Stewart, this past October, the PPA immediately implemented new and interim measures regarding waiver exceptions for ships transporting petroleum cargoes. Prior to this grounding, ships over 350 GT, but less than 10,000 GT (mainly tugs and barges) were granted pilotage waivers under certain conditions. New measures have been introduced for these vessels stipulating reporting requirements for holders of PPA waivers, bridge manning requirements and a process for verification/validation by the PPA. While this does not directly impact international vessels, it can impact the movement of cargo along the BC coast.

Operational negotiations between the PPA and the BC Coast Pilots have begun, with additional meetings scheduled throughout December. The Federation has provided the Authority with a list of issues it would like to see addressed and has also expressed concern over the inclusion of safety-related items in the contract.

Although operational changes to the helicopter service have resulted in significant improvements, the Authority is still not breaking even on this service. The PPA will continue to review all options to maintain the service, especially with the recent pipeline approvals from Ottawa.

Laurentian Pilotage Authority (LPA)

At the urging of Transport Canada, the LPA and the District 1 pilot corporation have engaged in several attempts (unsuccessful to date) to reach an agreement over changes to the nighttime ordering process between Quebec and Montreal. The judicial process launched by the LPA has also continued to move forward, and the case was heard in federal court earlier this month. The judge presiding over the case recently indicated that he may not be able to render a decision by January 1, 2017 (which is the date on which the changes to the ordering process must be in place), and has therefore requested that implementation of the new process not occur before his decision has been issued.

Atlantic Pilotage Authority (APA)

The APA's proposed new tariff, which calls for a combined increase of 4.12% for 2017 and 3.33% for 2018, was published in Part 1 of the *Canada Gazette* on December 3. A portion of the increase is expected to be used for the financing of two pilot boats and the purchase of personal pilotage units (PPU's).

Great Lakes Pilotage Authority (GLPA)

Following discussion with stakeholders, the GLPA has proposed a tariff increase of 3 percent in 2017 and 2.55 percent in 2018, along with a training surcharge of 5 percent for 2017. In addition, the temporary surcharge of 11.5 percent (which has been in effect since 2010), will be rolled into the rate in 2017. It is anticipated that the increases will help reduce delays and improve service levels.

US Great Lakes Pilotage

The US Coast Guard issued a Notice of Proposed Rulemaking (NPRM) this past October, under which pilotage rates in the US Great Lakes would increase by approximately 14 percent in 2017. The NPRM also notes that the USCG will be seeking comments on how to proceed with weighing factors in the future, and is considering a new compensation benchmark based on the most relevant available information such as wage and benefit information from other pilot groups. The Federation recently submitted comments on the rulemaking as part of an industry coalition of Great Lakes shipowners and other interests. That same coalition is also awaiting a decision (expected to be released in early 2017) regarding its objection to the Final Rule on the US Coast Guard's rates for 2016.

OPERATIONAL ISSUES

Icebreaking

After years of raising concern about the condition and renewal of the Coast Guard's icebreaking fleet, we finally appear to be seeing some concrete movement on this file. On November 17, the government issued a call for Letters of Interest / Requests for Information regarding potential pricing and availability of interim measures to provide icebreaking and towing services over the next few years. The first step in the procurement process was an Industry Day held in Ottawa on December 8, at which Public Services and Procurement Canada (PSPC) indicated they are looking for options to supplement towing capacity (3 ships) on the West Coast and icebreaking capacity (5 ships) on the East Coast, with priority on the towing vessels. The closing date for the process is February 27, 2017.

Agriculture Issues

Several agriculture-related issues are currently on the Federation's radar, including the Canadian Food Inspection Agency's (CFIA) efforts to develop a new policy on the inspection and disposal of shipborne dunnage (i.e. raw wood that is used to brace cargo on board the ship). More specifically, CFIA wishes to work with stakeholders to develop a policy that would allow ISPS compliant dunnage to be either re-used or disposed of without the need for any further treatment (which is not currently permitted). Following a round of preliminary discussions on this issue with CFIA early in 2015, it now appears that the Agency is ready to start moving forward on this matter once again. CFIA is also working on the development of a comprehensive in-transit program for plant health, with a view to minimizing instances of plant pests and other potentially harmful organisms entering Canada when shipments move across the border on an in-transit basis.

Seaway Closing

The St. Lawrence Seaway has announced that the closing date for the 2016 navigation season will be December 31 at 1200 hours. Stakeholders have been participating in regular conference calls to ensure an efficient closing, and no major issues are anticipated at this stage.

ENVIRONMENT ISSUES

Oceans Protection Plan

Scott Galloway and Bill McKinstry from the Federation's west coast office were present at Prime Minister Trudeau's announcement of the government's \$1.5 billion national Oceans Protection Plan, which took place in Vancouver last month. The plan is built around four main priority areas, which include creating a world-class marine safety system that improves responsible shipping and protects Canada's waters; restoring and protecting marine ecosystems and habitats and taking measures to address abandoned boats and wrecks; strengthening partnerships with Indigenous communities (e.g. by building local emergency response capacity); and investing in oil spill clean-up and research methods to ensure evidence-based decisions during emergency situations.

Among the specific initiatives to be implemented under the plan, the following are of particular interest to the Federation:

- Equipping the CCG with towing capability for major vessels on all coasts, and increasing west coast towing capacity to enable rescue towing of large vessels and container ships;
- Requiring greater sharing of marine traffic information with local communities in real time;
- Providing new navigation aids and modern hydrography and charting in key areas of high commercial traffic;
- Improving the availability of science-based expertise during incidents by placing additional emergency and enforcement officers on the Pacific and Atlantic coasts;
- Strengthening the "polluter pays" principle by amending the Ship-source Oil Pollution Fund to ensure adequate compensation for those affected by oil spills, and developing a stricter liability regime for abandoned and derelict vessels; and
- Establishing tougher requirements for industry to provide quicker action in response to spills.

The objectives set out in the plan are quite broad and diverse, and the various departments involved (Transport, Fisheries and Ocean, Environment Canada, etc.) will now have to develop concrete implementation plans for the measures that fall under their jurisdiction. Transport Canada is expected to revert to stakeholders in early January to discuss next steps in this respect.

Announcements on Pipelines and Tanker Moratorium

Earlier this month, the government approved Kinder Morgan's Trans Mountain expansion project which, if constructed, will twin the existing Trans Mountain pipeline between Edmonton and Burnaby, and nearly triple the pipeline's capacity to up to 890,000 barrels a day. This would result in an increase in tanker traffic from the Port of Vancouver of up to about 35 tankers per month. The expansion project is subject to 157 binding conditions, some of which relate to maritime transportation (including enhanced oil spill response capacity for the area, enhanced tug escort, development of a marine mammal protection plan, etc.).

The government also recently announced its intention to introduce legislation in spring 2017 to implement a moratorium for crude oil tankers on British Columbia's north coast. The geographical area encompassed by the moratorium will extend from the Alaska/BC border to the northern tip of Vancouver Island (including the Dixon Entrance, Hecate Strait and Queen Charlotte Sound), which will raise several issues with respect to the right of passage of ships under international law. It is expected that the moratorium will apply to crude oil and persistent oil products, including partially upgraded bitumen, synthetic crude oil, bunker C fuel oil that is carried as cargo, and pitch (but not including LNG, gasoline, naphtha, jet fuel and propane). Tankers carrying less than 12,5000 tonnes of any of the prohibited products will be exempted from the moratorium to allow oil products to reach local communities and industries. Although it appears that the moratorium will not be limited in time, the list of oil products covered could be amended through regulations, should developments in science and clean-up technologies support a review.

Joint US-Canada Arctic Statement

On December 20, Canada and the US jointly announced a ban on offshore Arctic oil and gas drilling. This means that in Canada, any future offshore Arctic oil and gas licensing is to be reviewed every five years through "a climate and marine science-based life-cycle assessment." As part of these measures, Canada and the US also committed to identifying "low impact shipping corridors" for marine transportation in the Arctic. On the Canadian side, this appears to be a continuation of ongoing work under the "Northern Marine Transportation Corridors" initiative to identify locations where infrastructure and navigational and emergency response services are needed. The joint statement also notes that Transport Canada and the US Coast Guard will be consulting on the development of proposals on a "phase down" of heavy fuel oil usage, for submission at the next meeting of the IMO's Marine Environment Protection Committee (MEPC) in the summer of 2017.

IMO Ballast Water Convention – Implementation in Canada

Although the IMO Ballast Water Convention will enter into force on September 8, 2017, it is our understanding that the process of amending Canada's *Ballast Water Control and Management Regulations* will not be completed until mid-2018. As a result, vessels entering Canadian waters between September 8, 2017 and mid 2018 would continue to be required to conduct ballast water exchange as per the current regulations, while vessels which are equipped with an approved ballast water treatment system would be able to use such a system on a non-mandatory basis. It is worth noting that the US Coast Guard approved its first ballast water management system on December 2, which is a filtration / ultraviolet system manufactured in Norway.

Underwater Noise – Impact on Whales

The *Oceans Protection Plan* also reinforces the federal government's commitment to minimizing the effects of shipping on whales, and the Federation is part of several groups related to this issue. On the west coast, we are a member of the Port of Vancouver's ECHO Program Vessel Operator Committee, which is exploring ways of implementing concrete mitigation measures that will protect whales while limiting costs for shipowners/operators. Similar discussions are taking place on the east coast as part of the protection strategies for the St. Lawrence belugas and the North Atlantic right whales, with a view to addressing both the risk of collisions and the impacts of vessel underwater noise. Finally, Green Marine is developing a new environmental performance indicator related to the management of vessel underwater noise, which should be ready for implementation in 2018.

PASSING OF NORMAN STARK

We regret to note that Norman Stark, Senior Advisor to the Shipping Federation of Canada since 2013, passed away at his home in Tsawwassen, BC on December 14, 2016. Norman was a well-known and highly respected member of the Canadian maritime industry, and was President and CEO of the Port of Vancouver for a number of years. He also served as CEO of TSI/GCT from 2001 to 2009, and was active in numerous local charities.

OPENING OF WEST COAST OFFICE

The Federation's Vancouver office, located at 1066 West Hastings Street (23rd Floor), officially opened on November 1, 2016. In addition to providing a permanent workspace for both Scott Galloway and Bill McKinstry, the office will also serve as the new location for West Coast District Committee meetings, and for meetings with local stakeholders. Indeed, the WCDC held its first meeting in its new premises on December 8, as per the photo below.



REMINDERS

- **January 5** (tentative): Information webinar on IJC Plan 2014 (Montreal)
- **January 10**: SFC Pilotage Committee meeting (Montreal)
- **January 12**: SFC Environment Committee meeting (Montreal)
- **January 25-26**: Mariners' Workshop (Vancouver)
- **February 17**: West Coast District Committee meeting (Vancouver)
- **March 7**: SFC Board Meeting & Government Relations Day (Ottawa)

For further information about the Federation and its activities, please visit our website at www.shipfed.ca, or contact us at info@shipfed.ca.