



Comments to Fisheries and Oceans Standing Committee – Marine Cargo Container Spills

April 7, 2022

Thank you, Mr. Chair and Committee Members.

My name is Chris Hall and I am the President and CEO of the Shipping Federation of Canada. Our organization was founded in 1903 through an Act of Parliament, with the purpose to act as a national association that represents the owners, operators and agents of ocean ships that carry Canada's imports and exports to and from world markets.

These ships, which are all ocean going and foreign flagged, carry virtually all of Canada's international, seaborne trade. and therefore, play an essential role in connecting Canada's importers and exporters to the world.

By way of background on myself, I served in the Canadian Coast Guard for several years, before moving to the commercial sector, where I was engaged in deep sea salvage towing, the offshore oil and gas sector, and harbour towing services. Prior to my recent appointment at the Shipping Federation of Canada, I held an executive position at a key Canadian Port Authority.

The first point that I wish to make is in respect to the Hazardous and Noxious Substances Convention, the HNS Convention for short. The Federation would assert that the HNS Convention should be the sole mechanism for establishing liability for container spills involving such materials.

Much like the International Convention on Civil Liability for Oil Pollution Damage has proven to be a successful mechanism for holding the polluter liable for oil spills, so too will the HNS Convention create the same level of effectiveness for a spill of an HNS nature. This Convention will greatly improve the responsibility and accountability of the polluter. To contemplate charging additional fees on the cargo, or to the carriers, would be both counterproductive and detrimental to Canada's competitiveness, and would undermine the intent of the HNS Convention itself.

I would now like to turn my comments to Canada's marine emergency management regime. The Federation would like to acknowledge and commend the level of commitment from both Transport Canada and the Coast Guard in responding to environmental incidents in Canadian

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Waters. That being said, I believe there is an opportunity to improve the effectiveness of our regime by making it more proactive rather than reactive.

In 2014, the federal government's Tanker Safety Expert Panel concluded a review of Canada's ship-source pollution and response regime, which included hazardous and noxious substances. Chapter 3 of that report notes that the management of marine casualties is a complicated undertaking in Canada due to the multiple levels of government that are involved. In some cases, there are overlapping jurisdictions that cause delays and often confusion. As an example, Transport Canada is the lead agency regarding assigning a place of refuge for a vessel, yet the Canada Marine Act grants similar powers to Canada Port Authorities. This creates an opportunity for conflict between agencies and delays in decision making.

The essence of the report's recommendation is that timely decision making can minimize marine spills or prevent them before they occur. In order to achieve this, Canada should model its regime on what has been in place in the UK and Australia for many years. Those regimes provide for a position known as the Secretary of State's Representative for Salvage and Intervention, or SOSREP, which acts in the public's best interest and has a range of powers that are designed to mitigate environmental impact through the use of timely decision making and early intervention.

Unfortunately, this portion of the Expert Panel's recommendations were never implemented in Canada.

We believe that the recent container spill on our West Coast could have been positively influenced under such a system, given the observations made by the ship's charterer that it was unclear who was in charge and who was coordinating response efforts. The fact that neither Transport Canada nor the Coast Guard had full and complete jurisdictional control over the evolving emergency created inefficient communications, delays in decision making, and left the Master of the ship being relatively unsupported.

The Federation urges the Federal Government to re-visit Chapter 3 of the Tanker Safety Expert Panel with a view to adopting its recommendations. Such action would greatly improve the timeliness and effectiveness of Canada's response to an evolving marine incident and create a more proactive system overall. It would also address the jurisdictional gaps that currently exist between Transport Canada and the Coast Guard.

Thank-you for your time and I look forward to addressing your questions.

Respectfully,



Capt. Chris Hall
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