



CANADIAN ASSOCIATION OF PETROLEUM PRODUCERS | ASSOCIATION CANADIENNE DES PRODUCTEURS PÉTROLIERS

**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 Canadian Association of Petroleum Producers**

**To the**

**Senate of Canada**

**Standing Committee on Transport and Communications**

**April 2019**

## **Introduction**

Canadian Association of Petroleum Producers (CAPP) welcomes the opportunity to provide the Senate Standing Committee on Transport and Communications with a written submission of our views on 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*.

CAPP had the pleasure of appearing before the Senate Transport and Communications Committee on February 26, 2019. In this submission we further elaborate on the views CAPP expressed at that time.

CAPP represents companies, large and small, that explore for, develop and produce natural gas and crude oil throughout Canada. Our member companies produce about 80 per cent of Canada's natural gas and crude oil and our associate members provide a wide range of services that support the upstream crude oil and natural gas industry. Together CAPP's members and associate members are an important part of a national industry with revenues from crude oil and natural gas production of about \$110 billion a year. CAPP's mission, on behalf of the Canadian upstream crude oil and natural gas industry, is to advocate for and enable economic competitiveness and safe, environmentally and socially responsible performance.

CAPP believes Canada's overarching goal should be as stated in the Prime Minister's mandate letter to the Minister of Transport: to ensure Canada's transportation system supports the Government of Canada's ambitious economic growth and job creation agenda. Canadians require a transportation system that is safe, reliable and facilitates trade and the efficient movement of people and goods.

We submit that Bill C-48 does not advance the above stated goal, as the proposed legislation will be a barrier to safe and efficient movements of goods by imposing a tanker moratorium on Canada's West Coast; a critical access point for Canadian goods to Asian markets. Rather than banning all oil tanker traffic – which Canada cannot do under international law – Bill C-48 targets the loading and unloading of large vessels transporting persistent substances including crude oil as the mechanism to implement the moratorium. The proposed moratorium would constrain market access for Canada's oil and natural gas sector, effectively banning export of crude oil to locations other than the United States – in direct contradiction of the government's stated goal to increase market access for the sector. From a marine safety perspective, this Bill would have no effect on the movement of the thousands of barges, refueling vessels, cruise ships and other vessels that currently traverse these waters.

CAPP submits that Bill C-48, as currently drafted, should be rejected. However, we believe the important, overarching objectives related to marine safety can and should be achieved through an alternative approach. The focus of legislative activity should shift from a moratorium to the implementation of best practices that balance economic development and environmental protection. As the Committee will have heard from shipping experts, existing frameworks such as the establishment of Particularly Sensitive Sea Areas (PSSAs), can enable the creation of a marine corridor on the north B.C. coast supported by targeted, evidence-based marine safety and response measures. This should be implemented with full consultation and participation from Indigenous peoples. A best practices

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approach will enable environmental and cultural goals in the region, while supporting access to Asian markets for an important Canadian commodity. This approach would have multiple benefits, including:

1. Diversify markets for Canadian crude oil in the most cost-effective manner.
2. Create supportive condition for the growth of Canada's Liquefied Natural Gas (LNG) sector.
3. Provide positive social and economic benefits for Indigenous communities.
4. Use scientifically based environmental risk assessments and modern, state-of-the-art technologies and practices to further enhance Canada's world-leading record of marine safety and environmental protection.
5. Ensure that the world benefits from more Canadian energy, which is produced with world-leading environmental standards.
6. Ensure Canadians receive fair value for our resource.

The following sections illustrate the case for not pursuing the moratorium proposed in Bill C-48, and alternatives to achieve the government's objectives.

## 1. Context

### Global Energy Demand

Global population increase, and efforts to improve standards of living, will increase demand for all forms of energy. The International Energy Agency estimates global energy demand will increase by 27 per cent by 2040 and more than 50 per cent of this demand will be met by oil and natural gas. If Canada does not supply this energy, other producers -- with less robust environmental and human rights standards -- will fill the void. Canada and the world will lose the benefits of Canada's responsible oil and natural gas production, which include reduced greenhouse gas emission growth.

### Crude Oil Production

In 2017, total Canadian crude oil production averaged 4.2 million barrels per day (b/d) —sixth largest in the world, with Western Canada accounting for about 95 per cent of production. The majority of western Canada's oil production (2.65 million b/d) comes from the oil sands, by both mined and in situ recovery.

Crude oil production from the Western Canadian Sedimentary Basin (WCSB) continued to grow in 2018, owing to long-term investment decisions made in preceding years. Over the first nine months of 2018, WCSB crude oil production grew to 4.30 million b/d as new oil sands facilities started operation and output from conventional oil plays increased, reversing a declining trend in the previous two years.

According to Statistics Canada, in 2017 more than 3.4 million b/d of crude oil was exported to the U.S. while exports to other countries accounted for only 30,850 b/d. Those U.S. exports accounted for about 80 per cent of Canada's total crude oil production in that year.

CAPP's report *2018 Crude Oil Forecast, Markets and Transportation* noted "Western Canadian crude oil supply is forecast to grow from 2017 levels by about two million b/d to 6.2 million b/d by 2035. The

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growth of Canada's crude oil industry depends on new pipelines and new policies. It will need all three proposed pipeline projects – Enbridge's Line 3 replacement, TransCanada's Keystone XL, and Kinder Morgan's Trans Mountain expansion pipeline – if it wants to succeed as a global supplier."<sup>1</sup> Even with the increased takeaway capacity of 1.79 million b/d that would be provided by these three proposed pipeline projects, it is still not enough to meet expected production in 2035.

CAPP's projections are consistent with other independent assessments, such as the National Energy Board's *Canada's Energy Future 2018* that projected WCSB crude oil production will grow to 6.0 million b/d in 2030 and 6.7 million b/d in 2040, assuming that infrastructure is built as needed to access markets.<sup>2</sup>

### **Contributions to the Canadian Economy**

Today the upstream oil and natural gas sector accounts for 5.62 per cent of Canada's economy and 528,000 direct and indirect jobs across Canada.

The oil and natural gas sector remains the largest source of capital investment in Canada, but since 2014 the value of investment has dropped by more than 50 per cent –from \$81 billion in 2014 to a forecasted \$37 billion for 2019. This has had significant impacts throughout Canada's economy, including Canada's manufacturing sector.

Canada is losing investment at a time when global investment in oil and natural gas is increasing. According to a recent industry survey conducted by IHS Markit, global investment in the upstream oil and natural gas sector led by the U.S., has increased by more than 30 per cent from 2016 levels, to US\$1.1 trillion.

A major loss of employment has occurred across Canada due to the poor investment climate for the oil and natural gas sector. Based on data from Petroleum Labour Market Information (PetroLMI), since 2017, more than 60,000 jobs have been lost in exploration and production, oil and natural gas services, and oil sands construction workforces across Canada. With falling investment in 2019, an additional 12,500 jobs could be lost<sup>3</sup>.

### **Market Access**

The Government of Canada has stated its commitment to increase access to tidewater for export of Canadian natural resources, thereby ensuring trade diversification and associated long-term economic benefits for Canadians.

Canada currently has very limited access to international markets and as a result almost 99 per cent of Canadian oil exports go to the U.S. through a pipeline network that is largely at capacity. This lack of market access constrains industry growth and drives the ongoing price differential between the global price of oil and the price Canada can obtain. Producers currently lose between \$10.8 and \$15.6 billion in annual revenues due to market access constraints.

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<sup>1</sup> [2018 Crude Oil Forecast, Markets and Transportation](#), CAPP

<sup>2</sup> [Canada's Energy Future 2018: Energy Supply and Demand Projections to 2040](#), NEB

<sup>3</sup> PetroMLI, [2019 Oil and Gas Labour Market Update](#), April 2019

In fall 2018, the price differential between Canadian oil (Western Canadian Select - WCS) and West Texas Intermediate (WTI) widened to an unprecedented level, reaching over \$50 per barrel. The convergence of high production volumes, U.S. refinery maintenance that reduced demand, and no export alternatives contributed to a backlog of Canadian crude oil and higher levels of oil in storage in Alberta. As a result, Canada received a much lower price for oil than normal, effectively paying others to take our energy and creating immediate, negative impacts on employment, procurement, Indigenous benefit agreements and provincial royalty payments.

The driving factor behind the wide price differentials is lack of market access for the growing supply of Western Canadian oil production. Canadian energy is more than able to compete in global markets, but needs the ability to reach those markets. Canada needs a deep sea port in Western Canada, infrastructure to move product to market and a regulatory framework for project approval that creates reliable decisions.

### **Market Diversification: Significant Opportunities in Asia**

Asia represents a large new market opportunity for Canada's oil and natural gas resource sector. While the International Energy Agency projects global crude oil demand to grow 12 per cent over the period 2017 to 2040, crude oil demand in the Asia-Pacific region is anticipated to grow by 30 per cent increasing from 30.5 to 39.5 million b/d in 2040.<sup>4</sup> In contrast, North American demand for crude oil is anticipated to decline 13.5 per cent over this same period.

### **Tanker Traffic and Safety**

The safe and reliable transportation of energy resource products by all means of transportation is critical to CAPP and its members. Modern tanker safety measures are robust and include, among many other advancements, state-of-the-art tanker navigation, double hull design, segregated ballast tanks, inert gas systems, compartmentalization, and seafloor mapping.

Since the 1970s the volume and frequency of oil spills has been decreasing worldwide. This has occurred while global production and transportation of oil has significantly increased.

Transport Canada statistics indicate Canada's East Coast accounts for the vast majority of oil tanker movements in Canadian waters. These movements are mainly for imports of oil to refineries in Atlantic and Central Canada from countries such as Saudi Arabia, Azerbaijan and Nigeria.

It is concerning that the Government of Canada is focused on banning export of Canadian crude oil products from the North Coast of B.C. – including from deep sea ports such as Prince Rupert and Kitimat – while freely allowing the import of crude oil on Canada's East Coast with little concern for the same environmental and marine safety issues the government has raised to justify the proposed moratorium on B.C.'s North Coast.

The arbitrary and contradictory aspect of the moratorium is reinforced by Transport Canada's defence of the government's marine safety record. Transport Canada applauds the "investments the Government

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<sup>4</sup> World Energy Outlook 2018, New Policies Scenario, Table 3.2 page 138

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of Canada has made in standards and capacity, [which] have allowed Canada to create a world-leading safety system that provides our land and coasts with the highest level of protection from spills of petroleum and other products.”<sup>5</sup>

If Canada has the “highest level of protection from spills” why is a ban on crude oil export from B.C.’s North Coast needed?

Canada has an outstanding record on marine safety due to stringent regulatory, monitoring, enforcement regime and world-class operating practices deployed by industry. Canada has extensive experience in moving crude oil and petroleum products by sea. For example, condensate has been safely imported on tankers for many years into Kitimat, on B.C.’s North Coast.

The federal government has been a leader in ensuring Canada has a world-class marine safety system that continues to evolve over time. The government had set up an independent Tanker Safety Expert Panel to review and assess Canada’s Marine Oil Spill Preparedness and Response regime. The panel concluded the regime is fundamentally sound and made some recommendations that were endorsed by the federal government. The Oceans Protection Plan launched by the Prime Minister will continue to ensure Canadian leadership in marine safety.

## 2. Politics over Evidence

During the 2015 election campaign, Prime Minister Trudeau, promised an audience in Vancouver that if elected he would impose a moratorium on oil tanker traffic on B.C.’s North Coast. As was well understood at the time, the goal behind this promise was to block the Northern Gateway oil pipeline project that had been recommended for approval following an extensive Joint Review Panel process and had already been approved by the then Government of Canada.

*Trudeau promises to safeguard northern B.C. coast from pipelines - The Globe and Mail*  
<https://www.theglobeandmail.com/news/politics/trudeau-promises-to-safeguard-northern-bc-coast-from-pipelines/article26317327/>

The promise carried through to the Prime Minister’s November 12, 2015 mandate letter to the Minister of Transport. The Minister was told to:

*“Formalize a moratorium on crude oil tanker traffic on British Columbia’s North Coast, working in collaboration with the Minister of Fisheries, Oceans and the Canadian Coast Guard, the Minister of Natural Resources and the Minister of Environment and Climate Change to develop an approach.”*

The only thing to be considered by the Minister was **how** to formalize a moratorium. There was to be no options or opportunities for:

- Examination of data pertaining to the safety of oil tanker traffic.
- Scientific assessment of risk.

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<sup>5</sup> [Our response to British Columbia’s Policy Intentions Paper for Engagement: Activities related to spill management](#), Transport Canada

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- Consideration of alternatives to the moratorium.
  - Consideration of the negative economic and social effects of blocking access to tidewater for resource-owning provinces.
  - Consideration for the lost opportunity for Canada's responsibly produced energy to displace other more polluting energy sources and suppliers in global markets.
  - Regard for the interests of Indigenous people who support resource and infrastructure development, and their loss of economic opportunity and benefits.
  - Regard for the economic and social interests of Canadians generally, who benefit from the investment, employment, and government revenues from resource development.
  - Consideration of the benefit of trade diversification that will be lost by blocking access to global markets.
  - Regard for the unfairness to investors in Northern Gateway or other proposed pipelines.
  - Regard for the negative impact a moratorium will have on Canada's reputation as a place to invest.

Transport Canada officials, charged with executing on this election promise and Ministerial mandate, then engaged in a 'consultation.' When Transport Canada met with CAPP in September 2016, CAPP representatives asked what studies had been done to support the need for a moratorium, what assessment of gaps in safety or other assessment of risk might call for a moratorium. Transport Canada representatives confirmed that no science-based studies or risk assessments were done and that Transport Canada was following the Prime Minister's mandate letter to the Transport Minister.

The consultation process undertaken by Transport Canada was slow to begin and very brief. In CAPP's view, there is no opportunity for meaningful consultation when officials are charged with executing a mandate to impose a moratorium that is aimed at blocking oil pipelines over which those officials have no jurisdiction. Some stakeholders might focus on the supposed need for a marine tanker moratorium, but other stakeholders want to discuss **why a moratorium is needed at all** or what other options might exist to achieve the goals of marine safety and protection of the marine environment.

CAPP advised Transport Canada that CAPP does not support the moratorium because it is not supported by science. CAPP made it clear that there were no science-based gaps in safety or environmental protection identified that justify a moratorium. Moreover, there was no risk-based analysis provided to support a moratorium of any length of time (short- or long-term). Furthermore, the evidence of oil tanker safety performance and the many safety enhancements implemented over the years demonstrates that a moratorium is unnecessary.

CAPP looked for middle ground and proposed a marine corridor, with specific risk-based requirements that would preserve oil tanker access on B.C.'s North Coast. CAPP also reiterated its longstanding commitment to marine safety and environmental protection.

The text of CAPP's letter of September 30, 2016 to the Honourable Minister of Transport is attached to this submission.

On May 12, 2017, the Government of Canada introduced the *Oil Tanker Moratorium Act* that would implement an oil tanker moratorium on B.C.'s North Coast. The moratorium would prohibit oil tankers from loading and carrying more than 12,500 metric tons of crude oil or persistent oil product.

Had there been sound science and an evidence-based risk assessment to support a moratorium, there would be science and evidence based principles and criteria that would allow a determination of the changes required to lift the moratorium. In the absence of these principles and criteria, the moratorium is simply a ban of indefinite duration focused on crude oil and other petroleum exports on B.C.'s North Coast while ignoring any similar issues that may be present with importing oil on Canada's East Coast.

### **3. Specific Concerns and Implications of Bill C-48**

#### **Elimination of Optimal Market Access Options**

Loss of the market diversification opportunity presented by access to deep water ports on B.C.'s North Coast means severely diminished ability for Canada to diversify oil exports beyond U.S. markets and prevents Canada from obtaining full world market value for its oil. This impacts not only the resource-owning provinces but also the federal government, which derives significant revenues directly and indirectly from the energy resource industry.

As an example of cause and effect, the cancellation of Northern Gateway contributed directly to the oversupply of crude oil in Alberta. The cancellation prevented timely and urgently needed access to offshore markets via a deep water port that can handle Very Large Crude Carriers (VLCCs) that enable effective and efficient competition for – and diversification into – growing Asian oil markets. The Port of Vancouver can only handle smaller tankers and the Trans Mountain expansion is relatively small compared to the need for increased market access. This moratorium would cut off a vital link to tidewater for western Canadian crude oil and block any other pipeline development such as the proposed Eagle Spirit project.

Bill C-48 effectively eliminates Canada's ability to develop a deep water port for oil export on Canada's West Coast and introduces an additional barrier to market access that will significantly and permanently constrain the global export of Canadian crude oil and other petroleum products. This stands in direct contradiction to the Government of Canada's stated economic and trade diversification objectives, runs counter to the economic, social and environmental interests of Canadians and will further erode investor confidence in Canada's energy sector.

#### **Implications to Natural Gas and LNG Industry**

Marine transport is the only way for Canada to access potential new markets in Asia and Bill C-48 would cut off the most efficient and economic path in North America for exporting petroleum products to Asia; Canada has a two-day transportation advantage to Asia over other North American ports.

The expansive definitions contemplated in the Bill could also prevent global export of future condensate production derived from Canadian liquids-rich natural gas (LRNG) and light tight oil plays. These liquids-rich resource plays are closely connected to Canada's nascent liquefied natural gas (LNG) industry. While most are in the early stages of exploration and development, results to date have been

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very promising, providing a strong indication that their continued development would offer a significant, long-term economic opportunity for Canada.

Although the Bill does not prohibit the export of natural gas, prohibiting the export of oil products – potentially including condensates – will have a negative impact on the production economics of LRNG plays in B.C. and Alberta. These plays are a critical resources that will be needed to supply proposed and approved west coast LNG export terminals. CAPP's *2018 Crude Oil Forecast* indicates that the liquids-rich Montney and Duvernay formations are expected to produce about 500,000 b/d of pentanes and condensates by 2026.

Recent General Equilibrium Modeling conducted by Navius Research shows that an incremental \$14 billion per year of spending on LRNG and LNG development sustains an average increase in Canada's real GDP of \$37 billion by 2030. Furthermore, the modelling shows incremental activity would provide an additional 80,000 Canadian jobs in the oil and natural gas, construction and service sectors, and would increase government revenues from LRNG royalties by an average of \$1.6 billion per year by 2030.

## **Negative Implications for Indigenous People**

The voices of the many Indigenous groups involved in energy infrastructure projects, such as Northern Gateway or the proposed Eagle Spirit, have been lost in the politics of oil pipelines and the rush to impose a moratorium.

Many Indigenous groups and First Nations have stated they were not adequately consulted by the Government of Canada in preparation for implementing the Bill. The limited consultation goes against the spirit and objectives of reconciliation put forward by the Government of Canada. The moratorium will also have negative consequences for many Indigenous communities in British Columbia, Alberta and Saskatchewan.

Indigenous involvement in Canada's oil and natural gas sector – from on-reserve production to procurement and equity partnerships – presents a significant opportunity for inclusive, sustainable growth and prosperity for Indigenous communities that aligns with the Government of Canada's reconciliation objectives. As an example, the opportunity cost to local Indigenous communities for the Government of Canada denying Northern Gateway was over \$2 billion in long-term economic and educational benefits as well as the opportunity for 33-per-cent ownership in the project, which would have provided ongoing benefits.

Responsible resource development contributes to economic reconciliation and Indigenous self-determination by supporting sustainable Indigenous economies and communities. The evidence that employment and income are tied to health and well-being is incontrovertible. Opportunities in the resource sector also provide Indigenous communities with local options for wealth creation that prevent population loss to urban centres and enables maintaining language and cultural practices.

Policies that harm the resource sector – such as the proposed moratorium – also harm the potential for Indigenous prosperity and undermine reconciliation. Evidence clearly shows that economic downturns, loss of opportunity and the sense of self-determination are detrimental to physical and mental health and

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are connected to negative outcomes including increased suicide rates. Studies have shown that economic downturns are felt more severely and for a longer duration by Indigenous communities<sup>6</sup>.

The oil and natural gas sector is among the largest employers of Indigenous peoples across Canada and provides many opportunities for businesses owned by Indigenous peoples with corresponding benefits to Indigenous communities.

Oil and natural gas growth drives opportunities for Indigenous people across Canada:

- Indigenous peoples represent six per cent of the oil and natural gas sector's labour force, compared to four per cent for all other industries.
- Preliminary data from reports submitted to Natural Resources Canada shows that oil and natural gas companies made more than \$75 million in reportable payments to Indigenous governments in Canada from June 1 to December 31, 2017 (this data was reported under the Extractive Sector Transparency Measures Act - ESTMA).
- In 2015-16, oil sands companies alone purchased \$3.3 billion of goods and services from 399 Indigenous-owned businesses or partnerships; contributed \$48.6 million for community investment, including community activities, in-kind investments and contributions to community infrastructure; and provided \$40.79 million for consultation capacity funding.
  - For comparison, between 1997 and 2014, the Government of Canada procured an annual average of \$290 million from Indigenous businesses, representing all sectors of the economy, not just oil and natural gas.

## **Over-reliance on the U.S. as a Customer**

The United States is now one of our major competitors and is exploiting its own export market opportunities utilizing marine transport. Between 2008 and 2017, the U.S. increased its production by 87 per cent and now produces almost 11 million b/d of crude oil. The U.S. Energy Information Administration (U.S. EIA) has projected that U.S. crude oil production will increase to about 14 million b/d by the mid-2020s.<sup>7</sup>

In 2015, the U.S. lifted a ban on crude oil exports introduced in the 1970s. Most recent data from the U.S. EIA shows U.S. exports of oil and condensate was 2 million b/d of oil in 2018. U.S. oil exports are expected to increase as domestic production increases. Currently, Canada is a net importer of condensate but over the next three to five years, with the expected growth of LNG, there is an opportunity for Canada to become a net exporter of condensate.

This moratorium places Canada in the position of having no export options should the U.S. no longer require Canadian product. It is important for Canada to act now to enable market diversification. Bill C-48 works against this objective.

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<sup>6</sup> National Coalition of Chiefs, Submission to the Senate Standing Committee on Transportation and Communications, "[An Assessment of the Negative Health, Social and Economic Effects of Bills C-48 and C-69: An Indigenous Response](#)" March 2019

<sup>7</sup> [Annual Energy Outlook 2019](#), U.S. IEA

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## Negative Signal to Investors

The overall message Bill C-48 sends to the world is that even after a project has been approved in Canada, through the prescribed, independent and rigorous regulatory assessment process, the project can still be quashed by a political decision or effectively blocked by legislation such as Bill C-48.

In short, there is an overall negative impact on Canada's reputation as a reliable place to invest.

The Government of Canada proposes that investors will be reassured by the massive overhaul of the environmental and regulatory assessment process now before the Senate in the form of Bill C-69. It is the government's view that Bill C-69 reflects Canada's commitment to science and fact-based decisions through a fair process.

*"We made a commitment when we formed government to regain public trust and help get Canada's resources to market. We committed to put in place new, fair processes that would ensure major project approvals are based on science and indigenous knowledge, that serve the public interest, and that allow good projects to proceed."*

Catherine McKenna, Minister of Environment and Climate Change  
House of Commons, June 12, 2018<sup>8</sup>

As CAPP and many others have told the government, Bill C-69 in its current form does not restore or improve investor confidence in Canada. For one thing, no one can discern what counts as a 'good project' until a proposal is before Cabinet. CAPP has put forward many proposed amendments to improve Bill C-69.

The development of Bill C-69 provides an example of how science, facts, and rigorous due process inform political decisions about 'good projects' – the ultimate decision on major projects is left to a final political decision based on a host of opaque criteria.

Killing the approved Northern Gateway project contributed directly to the loss of 5,500 construction jobs, more than 560 permanent jobs and a multi-billion-dollar investment in Canada's economy. Investors increasingly wary of previous government actions, proposed new legislation, and increased court challenges, have opted to invest in jurisdictions with lower investment risk and greater assurance of project completion.

In a 2019 discussion in Toronto,<sup>9</sup> RBC CEO David McKay said energy makes up 10 per cent of the country's GDP, and Canada could add another 1.1 per cent to its annual GDP if the oil and natural gas industry gains access to the right markets and investments.

"That's the equivalent of creating a new auto sector in Canada right in front of us," according to McKay. He added that also at stake is just under \$200 billion in government tax revenue over the next 10 years.

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<sup>8</sup> [Catherine McKenna on Impact Assessment Act](#), OpenParliament

<sup>9</sup> ["We're squandering an opportunity": CEOs of RBC and Enbridge urge action on energy strategy](#), Calgary Herald

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McKay is not alone among financial sector leaders to raise these concerns and to propose a better vision for Canada.

## 4. Important Considerations

### Voluntary Exclusion Zone

It is important to clarify that the oil tanker moratorium is not a ‘formalization’ of the current Voluntary Exclusion Zone (VEZ) enacted in 1985. The VEZ is an agreement (not legislation) between the U.S. and Canadian Coast Guards that defines an area along B.C.’s coast that tanker traffic avoids. The agreement does not ban tanker traffic or prohibit the transportation of certain goods such as crude oil along Canada’s West Coast.

Transport Canada indicates the “size of the [voluntary exclusion] area was based on calculating the worst possible drift of a disabled tanker with a cargo, versus the time required for help to arrive” and “[l]oaded oil tankers servicing the Trans-Alaska Pipeline System between Valdez, Alaska and Puget Sound, Washington must travel west of the zone.”<sup>10</sup>

In relation to the moratorium, international vessels carrying the same crude oil products the federal government seeks to ban could still transit through the proposed moratorium area as long as they are not loading or unloading the specified product at Canadian ports within the area in question. This suggests that Bill C-48 is better described as a self-imposed export ban on Canadian crude oil products off B.C.’s North Coast.

### International Tools and Best Practices

Parties such as the Canadian Chamber of Shipping, have spoken to the ways in which legitimate concern with tanker traffic could be addressed, through changes to regulation that would not involve the negative precedent Bill C-48 sets for Canada’s reputation in the international maritime community.

As the Chamber of Shipping observed in its appearance before the Committee on February 26, 2019, Canada has taken steps to further increase its regulatory tools for marine safety by means of Bill C-86.

If the goal of the federal government is to enhance marine safety measures in B.C.’s North Coast environment, then this can be established through different means, such as invoking a PSSA, as some stakeholders have advocated. A PSSA or similar framework would complement Canada’s recent investment of \$1.5 billion in marine protection, leverage existing tools such as powers under Bill C-86 and enable risk based management of the region aligned with international norms.

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<sup>10</sup> [\*Safe routing, reporting and restrictions for vessels\*](#), Transport Canada

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## 5. An Alternative Approach

CAPP's recommendation to the Government of Canada is that Bill C-48 should not be adopted.

However, given the Senate's role, CAPP proposes the following two recommendations to improve the legislation.

**Recommendation 1:** Amend Bill C-48 to allow for deep sea port access and one or more marine corridors for Canadian oil and other petroleum products off the B.C. North Coast, as well as the development of a plan to increase marine safety and protect the environment.

**Recommendation 2:** The development of a plan and of marine corridors should leverage the work under the Ocean Protection Plan as well as best practices from Canada's East Coast and international best practices for marine shipping in sensitive areas.

In 2016 the Government of Canada launched the \$1.5 billion Ocean Protection Plan. We applaud the government for investing these funds into improving marine safety and responsible shipping. CAPP believes this work should be expanded and we encourage the government to:

- a) Create strong Indigenous partnerships on B.C.'s North Coast to work on a number of items together, including:
  - i. Identify areas of culturally important food places and sensitive areas.
  - ii. Work together to establish protected areas under Canada's marine protected area and/or nominate Particularly Sensitive Sea Areas to the International Marine Organization.
  - iii. Facilitate involvement in marine monitoring and response through increasing assets and training.
- b) Undertake a strategic risk assessment of shipping on B.C.'s North Coast by working with scientists, academics, the shipping industry and others to identify key shipping risks and identify additional mitigation measures.
- c) Continue research to improve emergency response and decision making, including shoreline mapping, ocean modelling, oil spill behaviour in water and emergency response technology.

CAPP believes these recommendations provide an approach that would allow better protection of the marine environment while also benefitting Canadians by allowing oil to access Asian markets and obtain fair market value for our energy resources.

## 6. Conclusion

CAPP does not support the tanker moratorium and does not believe the moratorium is supported by scientific evidence.

The focus of activity should shift from discussion of a moratorium to the creation of a marine corridor on B.C.'s North Coast to enable access to Asian markets utilizing the most efficient VLCC ships that will support Canadian oil competing in these growing global markets.

The government currently has the power to implement a marine corridor with provisions for the study and protection of sensitive areas and the enhancement of response capacity under Bill C-86. Bill C-48 can be amended to achieve these aims but is redundant in terms of the real, legitimate purpose of environmentally responsible marine transportation.

CAPP hopes that this submission can help Canada protect the marine environment while achieving the overarching goal from the Prime Minister's mandate letter to the Minister of Transport: to ensure Canada's transportation system supports our ambitious economic growth and job creation agenda.

Respectfully submitted by:



Tim McMillan  
President and CEO, CAPP

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## Text of CAPP Letter to Minister of Transport September 30, 2016

September 30, 2016  
Hon. Marc Garneau  
Minister of Transport  
330 Sparks Street  
Ottawa, Ontario  
Canada, K1A 0N5

### **Subject: Proposed Crude Oil Tanker Moratorium on the British Columbia North Coast**

Dear Minister Garneau,

The Canadian Association of Petroleum Producers (CAPP) appreciates the opportunity to provide comments on improving marine safety and the proposed moratorium on the British Columbia North Coast.

#### Marine Safety

Canada has an outstanding record on marine safety due to its stringent regulatory, monitoring, and enforcement regime. The oil and natural gas marine transport industry has adopted very stringent standards which exceed regulatory requirements. Many preventative measures have been adopted to make tanker traffic as safe as possible. Our industry's safety record has been excellent in large part because of these measures.

Canada has extensive experience in moving crude oil by sea. The federal government has been a leader in ensuring that Canada has a world-class marine safety system. In 2013, Canada adopted the following ten measures to strengthen the tanker safety system:

- Tanker inspections;
- Systematic ship surveillance and monitoring;
- Incident command;
- Pilotage requirement review;
- Public port designations;
- Scientific research on fate and behaviour of crude oil;
- New and modified aids to navigation;
- Modernize navigation system;
- Amendment to the Canada Shipping Act, 2001 (Safeguarding Canada's Seas and Skies Act); and
- Created a Tanker Safety Expert Panel to review and assess the Canada's Marine Oil Spill Preparedness and Response regime.

In 2014, the Tanker Safety Expert Panel released its report "A Review of Canada's Ship-Source Oil Spill Preparedness and Response Regime – Setting the course for the Future". The Panel concluded "overall preparedness and response regime is fundamentally sound, but that the federal government can and should make important improvements". The report contained 45 recommendations to strengthen oil spill prevention, preparedness and response. All the recommendations were endorsed by the federal government and led to a number of additional measures. These new measures include:

- modernizing navigation systems;
- new area response planning and resources in four areas across the country;

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- legislative amendments to allow alternate response measures that provide a net environmental benefit; and
  - introducing legislative and regulatory amendments to the liability and compensation regime consistent with the polluter pay principle.

CAPP fully supports the Tanker Safety Expert Panel recommendations.

Tanker safety is an international and an industry priority. Canada is a party to several international agreements which provide very rigorous standards the safe management and operation of vessels. Our industry has established a number of additional protocols to enhance marine safety and protect the environment. One such protocol is the Ship Inspection Report Programme (SIRE) under the auspice of the Oil Companies International Marine Forum (OCIMF). This programme is designed to ensure that vessels meet enhanced industry safety standards over and above those dictated by regulatory requirements. This provides a unique tanker risk assessment tool with a large database of up-to-date inspection information that is used by OCIMF, charterers, ship operators, terminal operators and government bodies. Since its introduction, more than 180,000 inspection reports have been submitted to SIRE. Currently there are over 22,500 reports on over 8,000 vessels for inspections that have been conducted in the last 12 months. Its increasing use corresponds with our oil industry's efforts to better ascertain whether vessels are well managed and maintained.

Tankers carrying oil in Canada are put through a rigorous vetting process by the purchasers and sellers of the oil that far exceeds the current regulatory requirements for tankers or any other marine vessels. CAPP believes that vessels not meeting the highest level of compliance with regulations and enhanced industry standards should be denied access to Canadian ports. CAPP suggests following additional measures to enhance marine safety:

- High levels of vessel crew training - above minimum flag state requirements – including courses such as bridge resource management, human element leadership and management training, and reoccurring simulator training for shipboard operations and emergency situations.
- A national pilotage program to ensure best practices, number of pilots, training and competency are maintained across the country including reoccurring simulator training and human element training.
- Real time escort-tug tow-trials utilizing tankers in the ballast and laden condition. This will significantly enhance the competency of tug crews and marine pilots in emergency situations
- Additional Transport Canada inspectors or use of industry certified inspectors to assist in maintaining vessel oversight in ports throughout country. OCIMF inspectors have to meet experience and training requirements in order to become a qualified inspector. Only inspectors in good standing can be selected to complete audits on behalf of the member companies.
- Working with communities to demonstrate the industry's ability to maintain a high standard of vessels based on vetting practices and having stakeholders see first-hand, spill response capability, tug and vessel capability through meetings and workshops and potential vessel visits. Vetting of vessels including structural components, verification of implementation of safety management system and crew experience. These meetings should be regularly scheduled and provide opportunities for concerned parties to ask questions regarding tanker operations. These meetings would also provide a forum for local interests to share information that may potentially impact tanker traffic i.e. seasonal fisheries, proposed marine construction or surveys, enhancement to navigational aids, etc.
- Vetting of vessels including structural components, verification of implementation of safety management system and crew experience.

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- Enhanced pre-arrival checklist and supporting database with penalties for incorrect or inadequate information or falsified information.
  - Enhanced weather forecasting and real-time weather data at various points in the transit.

#### Proposed Crude Oil Tanker Moratorium on the British Columbia North Coast

Transport Canada has not identified any science-based gaps in safety or environmental protection that might justify a moratorium. Furthermore, no risk based analysis has been provided to support a moratorium of any length of time (short-term or long-term). As such, CAPP cannot support a moratorium. If the federal government deems it necessary to impose a moratorium, it should be limited in time and scope. In addition, the terms and conditions should be linked to science-based risk assessments or recommendations included in the Tanker Safety Expert Panel report.

CAPP recommends that the federal government considers creating a marine corridor, with specific risk based requirements, to allow for the transportation of crude oil by tanker.

CAPP shares the concerns of others, such as the Chamber of Shipping, about the precedent and potential consequences in both Canada and internationally. The proposed moratorium could have significant economic and reputational impact as it is not based on science and facts.

CAPP acknowledges that the perception of risks is a concern to the public and encourages Transport Canada to take a leadership role in the gathering and dissemination of facts and relevant data on marine shipping in Canada.

CAPP is committed to the continued enhancement of marine safety and environmental protection. We hope that these comments are helpful and would welcome an opportunity to discuss further with you or your staff.

Regards,



Tim McMillan  
President and CEO