

Bill C-30: Effects of CETA's Maritime Provisions on the ships and sailors of the Canadian Merchant Marine.

Marc de Villers, Helmsman, M.V. "Camilla Desgagnes",

After Senate Approval, C.E.T.A. can lift suspension on low wage European ships from trading in all of Canada's waters without further Assent from the Parliament of Canada.

- **European ships granted Rights to trade in all Canadian waters:**

C.E.T.A.'s Maritime Transport Chapter grants Maritime Cabotage Rights (the right to load and discharge cargo between the ports of a State), to European registered ships in all of Canada's waters (Chapter 14, Article 3, Paragraph 2: : " A Party shall permit... the other Party to supply feeder services between the ports of that Party.), a trade until now reserved for Canadian registered ships and their Canadian crews.

- **European ships operated mostly by low wage, Flag of Convenience crews:**

Because **European registered ships are mostly operated by low wage, Flag of Convenience crews** (paid at between 1/10 and 1/3 the wages of a Canadian crew and benefitting from often lower working and safety standards), these **enjoy overwhelming economic advantages over Canadian ships, which have Canadian crews.**

Canadian ships will be in immediate difficulty on those Routes where C.E.T.A. grants Maritime Cabotage Rights and **may eventually disappear as well as thousands of Canadian seafaring jobs,** due to Canadian acceptance to the use of low wage, Flag of Convenience crews by European vessels.

- **Canadian ships reflagged, including Great Lakes Bulk Carriers:**

Canadian ship-owners may be forced by competition from low wage, European ships, operated by Flag of Convenience crews, to **reflag their Canadian ships, lay-off their Canadian crews and hire Flag of Convenience ones** to stay in business.

This includes most Canadian ships up to and including **Great Lakes Bulk Carriers** from Canada's Inland waters, which would be permitted under CETA and made possible by Bill C-30 if either or both are approved unrevised by the Senate.

- **Canadian passenger-Ferries at risk of reflagging:**

Due to European Interests being granted the Right to bid on contracts for the provision of Canadian Government services, **crews operating Canada's passenger-Ferry services, notably in Newfoundland, Nova Scotia and British-Columbia, could be at risk.**

European Interests could make low bids for operating Ferry services and, upon their Canadian crew contracts expiring, lay them off, reflag the ships as European and hire Flag of Convenience crews.

- **Reservation II-C-14:**

However, **most Maritime Cabotage Rights granted to low wage European in CETA's Maritime Transport Chapter are suspended, perhaps only temporarily, by Reservation II-C-14 (pages 1209 and 1210 of CETA on-line at www.international.gc.ca/ceta-aeqg) except, largely, to transport International Cargo between Montreal and Halifax.**

- **Reservations a quick and easy form of Amendment, therefore easy to remove:**

Due to their legal nature in International Treaties, **Reservations**, which can be included unilaterally in an Agreement by one Party, do not require the assent of any other Party to be withdrawn.

Reservation II-C-14 could be withdrawn at any time after C.E.T.A. is approved by the Senate, without requiring any approval from the European Party.

- **CETA can let in low wage ships to all Canadian ports without further Parliamentary Approval:**

Removal of Reservation II-C-14 would **immediately restore Maritime Cabotage Rights** granted to mostly low wage, Flag of Convenience-crewed, European ships in C.E.T.A.'s **Maritime Transport Chapter**, to not only those between Halifax and Montreal, but **to all of Canada's territorial waters without any further Debate or Approval from the Parliament of Canada.**

- **Is CETA designed to admit low wage ships to more Canadian ports without further Parliamentary Approval?**

Should the intent have been for CETA's Maritime Provisions to limit access to Canada's ports from low wage, Flag of Convenience-crewed European ships to **only Montreal and Halifax, it could have been done without granting them Maritime Cabotage Rights to all Canadian ports in the Maritime Transport Chapter** and then suspending most of them, possibly only temporarily, with a Reservation (a quick and easy way to amend an International Treaty), **which would not need any further Debate or Approval from the Parliament of Canada.**

Should Reservation II-C-14 be withdrawn, due to its position in the hard copy (paper) version of CETA, low wage, Flag of Convenience European ships would gain access to all Canadian ports with removal from the Agreement of a single sheet of paper.

- **Bill C-30, Clause 92: Exemptions for European ship-owners between Montreal and Halifax:**

Moreover, **even though Rights to engage in Maritime Cabotage** by mostly Flag of Convenience-crewed European ships **is supposedly limited to between Montreal and Halifax, and that talks may be underway between Canadian Maritime Shipping Institutions with Transport Canada to crew these vessels with Canadian seafarers**, or at least grant foreign seafarers median Canadian wages on such Routes through enforcement of the Temporary Foreign Worker Program, **European Interests will be mostly exempted from them.**

Bill C-30, Clause 92, sub-paragraphs 2.3 and 2.4 exempt European ships from complying with the Temporary Foreign Worker Program when carrying International Cargo.

Because Canadian ships mostly carry raw materials for international export, **relatively little maritime cargo in Canada**, including that between Montreal and Halifax, **is considered domestic.**

- **Senate-Committee on Foreign Affairs and International Trade enquires into Bill C-30:**

Since, Thursday, 30/3/17, **the Senate-Committee on Foreign Affairs and International Trade has held Hearings, inquiring into Bill C-30, the enabling Legislation for C.E.T.A.**, the Canada-Europe Comprehensive Economic and Trade Agreement.

In testimony before the Committee, James Given, President of the Seafarers' International Union, stated (Quote from Interim Transcript of testimony, 13/4/17):

"... While the Shipping Federation of Canada and the Port Council of Sydney have been asking the committee to further deregulate cabotage laws, the S.I.U. contends that this request falls outside of the provisions of CETA and the scope of Bill C-30."

- **Sydney Mega-Hub Cargo Terminal Chief disagrees: CETA can extend to other Canadian ports:**

Muriel Usher, Chief Executive Officer of the Port of Sydney Development Corporation, in testifying before the Committee, answered Senator Jane Cordy's question (6/4/17, 11:24 am, abbreviated quotes from video testimony):

"... what effects is C.E.T.A. going to have on... ports in Atlantic Canada, but likely... ports across the country? Will you benefit from it?..."

Muriel Usher: **" We believe that we will benefit from it. There's been a lot of research and study by the Atlantic Canada Opportunities Agency into... how export and import will be affected by C.E.T.A. and we see a lot of incremental new traffic that will come to our ports both for cargo**

and container and therefore Port Hawkesbury and Saint-John and Yarmouth and all of the smaller ports...”.

The Port of Sydney has been dredged and **construction of the infrastructure necessary for a Cargo Mega Hub Terminal serving Canada and North America is scheduled to begin in 2018.**

Senator Woo; No European Consent needed to extend Cabotage Rights for low wage European ships:

Senator Yuen Pau Woo (6/4/17, 11:28 am) then asked:

“...my question is principally for the Shipping Federation and the Port of Sydney and it has to do with your plea to make modifications to the C.E.T.A. Agreement, essentially, as I understand it, by **further Unilateral Liberalization** because these are... concessions that we would give without asking Europeans for anything else, in the case of... adding Sydney to the list of designated Ports... it’s really an internal debate in Canada, we wouldn’t have to reopen negotiations with the E.U.... my question is the feasibility of further Unilateral Liberalisation on C.E.T.A., which would not affect our counterparts in negotiations but would have some domestic ratifications. Could this be done? How could it be done?”

Witnesses were asked by the Chair, Senator Percy Downe (Liberal, Prince Edward Island, Charlottetown.) to provide written answers to the Clerk due to time constraints.

- **CETA Negotiator Steve Verheul: Expanding Rights granted in Trade Deals is easy:**

Committee Chair Senator A .Raynelle Andreychuk (Conservative, Saskatchewan) asked Steve Verheul, Chief Trade Negotiator (Canada-European Union) (3/4/17, abbreviated quote from Interim Transcript of testimony):

“So, we’ve now said that these are the routes that should be... but... how do we change CETA after that?”

Steve Verheul: “It’s always easy to further liberalize a trade agreement. That’s not usually a problem to negotiate, amend, or just do it in practice.”

- **Did the Government of Canada fail to enforce the Coasting Trade Act and the Temporary Foreign Worker Program?**

The S.I.U. of Canada initiated a lawsuit against the Canadian Government because Transport Canada apparently awarded waivers to foreign-registry ships to engage in Cabotage in Canadian waters without verifying whether Canadian registry ships were available and that the Temporary Foreign Worker Law, which would have permitted Canadian sailors to work on such ships and grant median Canadian wages to all foreign crewmembers, was not enforced.

In testifying before the Senate-Committee, James Givens, President of the S.I.U. of Canada, stated (13/4/17, 12:13 pm, abbreviated quote from video testimony):

“The basis of our Lawsuit was that it was not enforced. There was no enforcement of that Legislation...There was no M.L.I.A. done to see that there were no Canadians available, which as of last

year, there was, at 15% unemployment and the wages paid to crewmembers were the wages under their existing employment contracts which were...\$3.24: No one inspected the vessels to make sure that they were being done.”

- **Did non-enforcement of the Coasting Trade Act and the Temporary Foreign Worker Program cost Canadian seafarers thousands of jobs?**

“It’s a ghost Industry that everyone has ignored and that’s been a major, major problem. “It could have created 2,100 jobs in Canada last year, good paying middle-class job, if that Legislation had been enforced.”

- **Transport Canada and Global Affairs Canada say Temporary Foreign Worker Program will be enforced under CETA:**

In earlier testimony during the Hearing, President Given stated: “Thankfully, Transport Canada and Global Affairs have assured us that changes in CETA will in no way allow EU ship-owners to bypass the Temporary Foreign Workers Program, which would allow feeder services to operate between Montreal and Halifax. Foreign crew members onboard will have to obtain temporary foreign worker permits.”

“... The S.I.U. of Canada filed a lawsuit against the Federal Government *resulting in a recent settlement that will see round table discussions take place between government and the domestic industry to make sure this doesn’t happen again.*”

However, Clause 92, sub-paragraphs 2.3 and 2.4, exempts European vessels, when carrying international cargo between Montreal and Halifax, from hiring Canadian seafarers or paying foreign ones median Canadian wages and obeying the requirements of such laws as the Temporary Foreign Worker Program.

Because of Clause 92, most European registered ships exercising Cabotage Rights granted under CETA between Halifax and Montreal will not need to hire Canadian seafarers or pay foreign seafarers median Canadian wages since by far most cargo will be international.

Though some have sought solace in that C.E.T.A.’s Maritime Provisions only cover international cargo and not domestic, because Canada has an economy based on raw materials, most marine cargo in Canada is by far intended for export. *Little marine cargo (perhaps 10% or less being domestic) is not covered by the Agreement.*

- **Union President uncertain whether Canadian wages to be paid on European ships exercising Cabotage Rights in Canadian waters under CETA:**
- When Senator Andre Pratte asked (12:15 pm, abbreviated quote from video testimony):

“... under C.E.T.A., that will not happen again and seafarers on European ships in Canadian waters will be paid the prevailing wage?”.

President Given: " That is our **hoped outcome of that process but that is not a guaranteed outcome**...so, yes, in a perfect world, the outcome would be that."

- **Lawsuit may not be resumed should Canadian wages not be paid on European ships exercising Cabotage Rights in Canadian waters under CETA:**

Senator Pratte then asked (12:16 pm, abbreviated quotes from video testimony):

"And, **if that doesn't happen, you could sue again?**".

President Given: "We could if we can find **an extra 2 or 3 million dollars**, correct."

- **Union Leaders uncertain whether Canadian wages to be paid on European ships exercising Cabotage Rights in Canadian waters under CETA:**

When Senator Jane Cordy asked (12:19 pm, abbreviated quote from video testimony)

"... You did say that you've won the case...that **while they're in Canadian waters they'd be treated as foreign workers so that they'd get the prevailing wage** but *neither of you sounded extremely optimistic that that would be the case*, so is there a way to actually enforce it or monitor it...?"

President Given answered (abbreviated quote from video testimony):

"I don't want to say "won": We "settled" the case... The problem is inspections of the vessels and these are few and far between. They haven't been done and there's not enough people to do them... but if the Legislation is there then we have to try and enforce it as best we can."

- **Bill C-30: Exemption for European ships exercising Cabotage Rights between Montreal and Halifax on paying Canadian wages to foreign seafarers when carrying international cargo:**

*Besides the C.E.T.A. Maritime Provisions saying nothing about Canadian seafarers being hired on European ships granted Cabotage Rights within Canada and being paid Canadian wages as well as those foreign seafarers remaining aboard, **Bill C-30 makes exceptions for the transport of international cargo, in Clause 92, subparagraphs 2.3 and 2.4, freeing European Interests from the requirement of hiring Canadian crews or paying median Canadian wages to foreign crew-members, except for residual domestic cargo.***

- Should Reservation II-C-14 be removed; Disappearance of Canadian ships and sailors could follow:

*Should C.E.T.A. come into Application unrevised and Reservation II-C-14 be revoked, Maritime Cabotage Rights, already granted in the Maritime Transport Chapter, would come into force and permit low wage European ships to trade in Canada, not only between Montreal and Halifax, but **throughout***

tCanada's territorial waters and, through their economic and other advantages, **cause the Canadian merchant Marine to disappear as well as its' thousands of Canadian seafaring jobs.**

- Should Reservation II-C-14 remain, wages and conditions on Canadian ships could drop to low levels and the threat to Canadian vessels and crews remain:

Should C.E.T.A. come into Application unrevised and Reservation II-C-14 remain, wages and working conditions on Canadian ships will drop to low levels due to seafarers' fear of triggering the Reservation's removal by requesting better ones and flooding Canada with low wage foreign ships and crews, **as well as causing Canadian ships to be reregistered European, their Canadian crews dismissed and Flag of Convenience crews retained.**

Maritime shipping companies may fear triggering Reservation II-C-14's removal and, **because of the inexperience of foreign, low wage crews, the increase of liabilities such as groundings, collisions and the possible blocking of the Saint-Lawrence Seaway, risks concurrent with the long pilotages, extended and narrow channels, heavy traffic and, possibly, frequent moorings in the locks,** characteristic of Canada's Maritime seascape.

- **CETA was thought to be approved prior to Employment Contracts between seafarers and major shipping companies being concluded:**

Bill C-30, having been fast-tracked, was hoped to be approved in the House of Commons by the end of the Fall Session of Parliament, 2016, **so that CETA might have obtained Parliamentary Approval during the Winter and be in provisional effect by April 1st, 2017.**

Though Bill C-30 and CETA was only approved by the House of Commons on Wednesday, 8/2/17, and approved in the European Parliament a week later, it was still hoped that CETA could be provisionally implemented by April 1st.

Employment Contracts between Canadian seafarers and maritime shipping companies, including the 3 largest in Canada (Canada Steamship Lines, Algoma Central Marine and Desgagnes Transport) were only thought to begin being concluded after the expected approval of CETA.

The consternation and disappointment of seafarers in Montreal on Monday, 5/3/17 at the contract offer made by Canada Steamship Lines, Self-Unloaders, to it's crew-members, perhaps the first major employment contract proposal since the House of Commons and the European Parliament approved CETA, is perhaps indicative of what may come.

One change is that some crew-members going to fill a vacancy on a ship will have to cover their own travel expenses, whereas previously this was a charge that had been borne by the shipping company.

Because many seafarers may come from as far away as Newfoundland to work, this is but one of the changes which show what is to come, **even though Bill C-30 has yet to be approved by the Senate.**

- **Trade Minister Champagne questioned: Trade deals have deepened Canada's trade deficit:**

Testimony before the Committee revealed other problems with the Agreement. On the first day of Hearings, 30/3/17, the Minister for International Trade, Francois-Philippe Champagne, was questioned by Vice-Chair Senator Percy E. Downe (Liberal, Prince Edward Island-Charlottetown).

Chair of the Senate-Committee on Foreign Affairs and International Trade, Senator A. Raynelle Andreychuk (Conservative-Saskatchewan) (abbreviated testimony quoted from interim transcript):

"... if you can make your questions crisp, everyone will get a chance to put their questions forward."

Vice-Chair Senator Downe: " I'll try to be crisp... Minister, there has been criticism that ***with regard to a number of trade deals we have signed, our trade balance has deteriorated after we signed them as opposed to the year before we agreed to them...*** The former co-C.E.O. of Blackberry, Jim Balsillie, has commented publicly recently in the media, and I'll quote him..."

"...Canada currently has 14 Free Trade Deal Agreements, 10 more than it had a decade ago *yet, our export volumes are shrinking...*"

Mr. Francois-Philippe Champagne, Minister of International Trade: "...I'm happy that you're referring to at least one in particular that I think is the **free trade agreement between Canada and Korea. I saw the numbers recently going down...**"

Senator Downe:" Thank you, Minister. You're correct about Korea. **The year before we signed the agreement, our trade deficit was \$3.1 billion. Last year it was \$6.2 billion** There's also Honduras. The year before we signed a trade deal with them, **our trade balance was a \$191 million deficit. It was \$313 million in 2016.** With Costa Rica, the year before we signed the trade agreement, **the trade deficit was \$126 million, and it is \$364 million in 2016.** And Mexico was **\$2.9 billion, and last year it was \$2.25 billion. I could go on and on.** This is information from Industry Canada"

- **Senator Downe questions Minister Champagne on increased security risks and CETA.**

"... my last question concerns another part of the trade deal... **one of the things Canada appeared to give up was lifting visa requirements for Bulgaria and Romania.** I'm just wondering what the **increased risks for Canadians are because those security environments were removed.** I know you're not the minister responsible..."

Mr. Champagne: "**... I take your point about the trade deals. I'm not sure we can make the correlation between the trade deals and the numbers you quoted.**"

Mr. Champagne:“... Coming to the visa requirements, as you said, the Minister for Immigration would probably be better placed than me... there is no direct link between that issue and CETA. Visa policy, as you know, is not a part of CETA and this is a separate issue...” (Abbreviated quotes from testimony.)

Mr. Champagne: “*Chair, for the record, I want to say this has never been about security...*”

Senator Downe: “I appreciate that you are not the minister responsible, but **I would argue it’s directly related. The Prime Minister personally called the leaders of these two countries, assuring them that if they supported CETA, the visas would be lifted. There’s a direct connection. Romanian and Bulgarian parliamentarians have told me that. It has been in the European media as well. They did not qualify for visa lifting. Suddenly they were lifted when CETA was on the line...**”

Chair: “ I think at this point I have to redefine “crisp” into “short” ...”

Summarizing:

- **Canada’s Passenger ferries could be reflagged, and their Canadian crews replaced by foreign, low wage Flag of Convenience crews** due to CETA granting Rights to European Interests to bid on contracts for the provision of government services.
- **CETA’s Maritime Transport Chapter** grants Maritime Cabotage Rights **to mostly low wage, Flag of Convenience-crewed European registered ships to trade between any port in Canada (Articles 14-3.2 and 14-1, broad definition of “Feeder services”)**, which until now has been a trade reserved for Canadian registered ships and their Canadian crews.
- **Due to their large economic advantages**, due to low crewing costs and frequently lesser working and safety conditions, **European ships could cause the disappearance of Canadian ships and their thousands of Canadian jobs**, including reflagging Canadian ships to operate them with foreign, low wage crews.
- These **Maritime Cabotage Rights** are mainly suspended **only by Reservation II-C-14** which make the Maritime Provisions of CETA only **appear** to restrict the Maritime Cabotage Rights of European vessels **to only between Montreal and Halifax.**
- The **possibility that Canadian crews could work on European ships between Montreal and Halifax**, or that foreign crew remaining be paid median Canadian wages **is almost entirely removed by Bill C-30, Clause 92, paragraphs 2.3 and 2.4, which exempt these ships from such rules while carrying international cargo.**
- **Reservation II-C-14 can be easily removed once CETA is approved, without permission from Europeans or any further Debate or approval from the Parliament of Canada.** Even without being revoked, **Reservation II-C-14 could severely reduce wages and conditions through fear of it being lifted.**

It is to be hoped that Members of the Committee will consider recommending to the Senate that Bill C-30 not be approved until such weaknesses in CETA’s Maritime Provisions, which put the Canadian Merchant Marine at risk and the livelihoods of its’ thousands of seafarers in jeopardy, have been either revised or withdrawn.

“... last week we had a witness who said that we cannot give up our Values for a Trade Deal and I think all of you agree with that today.

Senator Jane Cordy, Liberal, Nova Scotia (13/4/17,12:16 pm, abbreviated quote from video testimony.).

“...Je note que... pour tout l’expertise et l’importance financiere de votre Industrie aurait justifie une consultation prealable et je suis tres decue d’apprendre que ca n’a pas ete le cas avant que l’Accord ne soit conclu...”

Translation: “... I note that... for all the expertise and financial importance of your Industry would have justified prior consultations and I am very disappointed that that hasn’t been the case prior to the Agreement being finalized...”

Senator Raymonde Saint-Germain, (ISG), Quebec-De La Valliere, addressing Maritime witnesses (6/4/17, 11:19 am, abbreviated quote and translation from video testimony.).

“Thank you all, thank you all again for your presentations. I think each one of you, the Canadian Labour Congress, Unifor and the Seafarers’ Union have expressed a fair degree of concern with C.E.T.A. and the lack of consultation which I find, actually, surprising and baffling that you could get here 8 years later and not have extensive consultations...”

Senator Sarabjit S. Marwah, (ISG), Ontario (13/4/17,12:31 pm, abbreviated quote from video)

“I’m surprised Canada made such a fuss of protecting Cabotage for our own Domestic Airlines that they’ve kind of thrown you away to the wolves.”

Senator Nicole Eaton,(6/4/17, 1100 am, abbreviated quote from video testimony), (Conservative, Ontario), to Senate-Committee Maritime witnesses on Bill C-30.

Marc de Villers,

Helmsman, “Camilla Desgagnes”,

