Seafarers’ International Union of Canada

Senate Standing Committee on Transport & Communications

Study on Bill C-49

An Act to amend the Canada Transportation Act and other Acts respecting transportation and to make related and consequential amendments to other Acts

Introduction

The Seafarers’ International Union of Canada (SIU) has been serving seafarers working on board vessels on the Great Lakes, St. Lawrence River, East Coast, West Coast and Arctic regions since 1938. On behalf of the 3,500 members that comprise our membership, the SIU respectfully submits this brief to the Senate Standing Committee on Transport and Communications for its consideration during the study of Bill C-49, the Transportation Modernization Act.

Specifically, the SIU is concerned with the proposed amendments to the Coasting Trade Act, S.C. 1992, c. 31, that build upon amendments to the Act put forth through the Canada-European Comprehensive and Trade Agreement Act, Bill C-30, that will allow for the first time, foreign vessels to engage in maritime cabotage without first having to obtain a Coasting Trade waiver.

As it currently stands, Section 3(1) of the Coasting Trade Act requires that “no foreign ship or non-duty paid ship shall, except under and in accordance with a license, engage in the coasting trade.” The broad definition of coasting trade under section 2(1) of the Act means that marine activity of a commercial nature in Canadian waters is restricted to Canadian flagged vessels, including the carriage of goods or passengers by ship from one place in Canada to any other place in Canada (“Coasting Trade” or “Cabotage”). A foreign ship may be imported into Canada to engage in Coasting Trade if the Canadian Transportation Agency, on application, determines that no available or suitable Canadian-flagged and Canadian-crewed vessel can be used for the required operation (a “Coasting Trade Waiver”).

Proposed Amendments to the Coasting Trade Act

Prior to Bill C-49, the CETA Implementation Act, Bill C-30, made amendments to the Coasting Trade Act by providing that foreign ships that are owned by European Union citizens or flagged by a European Union member state may engage in the following Cabotage activities without a Coasting Trade Waiver: (1) transporting empty containers between two Canadian ports; (2) dredging activities; and (3) the carriage of goods between the ports of Halifax and Montreal as one leg of the importation or exportation of goods to/from Canada.

In addition, Section 70(1) of Bill C-49 would further amend the Coasting Trade Act to allow any foreign vessel, regardless of flag of registry, to perform the repositioning of empty containers between Canadian ports without obtaining a Coasting Trade Waiver.
SIU Perspective on Potential Amendments

As a labour union that represents Canadian seafarers working in the Canadian maritime industry, the SIU cannot support these amendments because they actively undermine legislation in place to support the seafarers working in domestic trade and Canadian shipowners. Under the current cabotage framework, a foreign ship may already enter Canadian waters to perform Cabotage operations when it is determined that no suitable Canadian vessel is available. This system, when followed correctly, ensures the fair practice of giving Canadian shipowners, who employ Canadian seafarers, the first right of refusal to any available work.

Under this system, foreign shipowners that are granted temporary access to Canadian cabotage must then apply for temporary work visas for their foreign crew by obtaining positive Labour Market Impact Assessments to also determine that no work is being taken away from Canadian citizens or Canadian permanent residents in favour of importing temporary foreign workers. Removing the provision of obtaining a Coasting Trade waiver does not exempt foreign vessels from the requirement to obtain work permits for foreign crew members but it does unjustly harm Canadian maritime interests by allowing under-regulated foreign vessels employing cheap labour to gain a foothold into the Canadian maritime market, rendering it more difficult for Canadian operators to compete in the same market.

The SIU has always contended that giving away Cabotage rights to the European Union through CETA was an unnecessary concession that has the potential to cause potentially irreversible harm to the Canadian seafaring industry. With the exception of Container movements, in the United States, for example, access to maritime cabotage is much more restricted under the Jones Act (46 U.S.C. § 55102 et seq.) and no waiver-exemption system is in place for any foreign vessel to enter the U.S. domestic maritime transport sector without explicit approval from MARAD during a crisis situation. Canada already has a liberalized version of maritime cabotage and further relaxation of cabotage restrictions, specifically those involving dredging and feeder services between Canadian Ports, does not benefit Canadian shipowners or Canadian seafarers who depend on competitive Canadian labour and domestic market trade for their livelihoods.

Further to the issue is the specific amendment to the Coasting Trade Act in Bill C-49 of allowing both first and second registry vessels to gain access to Canadian maritime markets. As announced by Minister Garneau, the proposed amendment to allow the movement of empty containers by any vessel, regardless of registry, was done at the request of the Shipping Federation of Canada which represents very few Canadian maritime shipping operators. Meanwhile domestic maritime stakeholders, including Canadian shipowners and maritime labour, were not in favour of that proposal during consultations.

The SIU does not speak on behalf of Canadian shipowners who may or may not have had an interest in the container repositioning market prior to it being given away as a concession. However, the premise of international shipping interests being given preferential treatment over those of domestic maritime stakeholders is troublesome to this labour union that
represents the majority of seafarers employed through Canadian shipowners. The domestic Canadian shipping industry is a source of direct and indirect employment for over 100,000 Canadians and yet the concerns of Canadian maritime stakeholders appear to have been generally ignored in favour of one organization representing international shipping agents whose vessels operate under mostly Flag of Convenience registries and employ crews paid well below the prevailing wages in the Canadian maritime industry.

When discussing global shipping, it is important to distinguish that the Canadian vessel registry is much more advanced in terms of working conditions than the majority of global maritime flag-states and Canada does not have an international or second registry for vessels. In Canada, seafarers working on board Canadian-flagged vessels are required to be Canadian citizens or Canadian permanent residents, are certified by Transport Canada in the required internationally-recognized certifications, are protected by the Canada labour code, all federal health and safety codes and are predominantly protected under collective bargaining agreements with guaranteed wages and benefits. Global shipping is a highly diversified industry and sadly one that has seen deteriorating labour and wage conditions define it increasingly over the years.

For example, some first registries, and many second registries, are qualified by the International Transport Workers’ Federation (ITF) as being Flag of Convenience (FOC) shipping registries. These are registries used by international shipping operators because they typically have low taxes, lax labour standards, little to no industrial regulations and no national crewing requirements. What this translates to is an underpaid and underrepresented work force of mostly third-world seafarers who work in an unsafe and unregulated industry with little to no working regulations in place to protect their rights. In 2017, ITF inspectors in Canada boarded hundreds of foreign vessels while operating in Canada, including approximately fifteen vessels operating Cabotage on CTA waivers where foreign crews were working on Temporary foreign work permits. The rate of non-compliance with some form of Canadian regulations was nearly one-hundred percent. The abuse of foreign crews on board the vessels the SIU is referring to is not an anomaly and not something that can be generally ignored in favour of international business interests.

It is also worth noting that second vessel registries are often so unregulated that typically a vessel registered in a second registry of a country is not even permitted to operate cabotage inside of its own domestic market and must return to the first vessel registry in order to become compliant with domestic regulations on coastal shipping operations including the movement of a vessel between two ports in the same country.

FOC shipping is a major global issue that has yet to be dealt with in a sufficient and acceptable way to secure the safety and well-being of all seafarers. To allow access to Canadian cabotage by these vessels without first obtaining a Coasting Trade waiver would be unprecedented. The SIU of Canada is actively involved in securing the rights of all seafarers working in Canada and will work diligently to ensure that every foreign vessel brought into Canada to operate in Canadian cabotage is in compliance with federal standards of labour and foreign crews are
being paid the prevailing industry wages and are being protected as stipulated in the Temporary Foreign Worker Program requirements.

Recommendations from the SIU

- Maintain the current waiver system in place that requires any foreign vessel performing cabotage to first obtain a CTA waiver. This method ensures a greater level of compliance and control over vessels entering Canadian waters and most importantly gives Canadian shipowners priority for any domestic maritime operation.

- Reject the proposed amendments in their current form that would permit second registry vessels, or vessels of any registry for empty container movements, to operate Coasting Trade in Canada. As stated, many of these vessels are not permitted to operate cabotage inside their own domestic markets, and so obtaining unrestricted access to Canadian domestic markets should be rejected outright.

- Support and promote increased ESDC / IRCC inspections through the Temporary Foreign Worker Program to ensure that any foreign vessel entering Canada with foreign crews who have been approved for temporary work permits are operating under the regulations of the program and are abiding by Canadian standards on wages and work conditions. Under regulations in the TFWP, foreign seafarers must be paid the prevailing industry wages and seafarers must be paid owed amounts before departing the Canadian continental shelf.

- Support Transport Canada and other designated agencies including the International Transport Workers’ Federation, through Port State Control to ensure foreign vessels are routinely inspected, audited and if necessary detained if they are found to be negligent of safe working conditions, labour standards or environmental regulations.

- As a signatory to the Maritime Labour Convention 2006, Canada has a legal responsibility to uphold all international regulations as outlined in the agreement regarding seafarers’ pay, living conditions and working conditions on board vessels operating in Canada.

Conclusion

As a labour Union, the SIU’s priority is to ensure Canadian workers have opportunities for employment in the Canadian maritime industry and we remain opposed to any further relaxation of maritime cabotage regulations. We believe that the proposed amendments to the Coasting Trade Act contained in Bill C-49 undermine the importance of maintaining cabotage restrictions in place to protect Canadian maritime transportation, strengthen commercial trade and maintain a qualified pool of domestic maritime workers.
Part of the importance of the *Jones Act* in the United States is to ensure there is an operational collection of U.S. flagged vessels and American maritime workers trained and available through both peace time and war and to ensure that cargo moved within the United States is done so on board American vessels that operate according to strict domestic regulations. Over eighty-percent of all goods are moved by vessel and eroding cabotage regulations in Canada will be severely detrimental to Canadian shipowners’ ability and willingness to invest in fleet renewal and new technology. Uncertainty in the industry also undermines ongoing efforts by maritime labour unions to recruit new candidates to the industry and while domestic cargo volumes continue to increase, and opportunity continues to grow – the government has shown itself to be unwavering in its resolve to open markets to free trade without consideration of the detrimental effect that using Cabotage as a trade concession may have on an entire industry of thousands of hard working Canadians and a maritime tradition that dates back over a century.

While securing employment opportunities for Canadian seafarers remains the primary mandate for the SIU, we also have a responsibility to ensure all seafarers, both domestic and foreign, are properly treated, are working in safe conditions and are paid prevailing industry wages while in Canada. Canadian seafarers have an international reputation of being amongst the most well-trained and highly-qualified maritime workers in the world. As such, Canadian seafarers and Canadian vessel operators should reserve the right to retain the first opportunity to engage in any domestic maritime operations prior to permitting access to a foreign vessel operator.

The SIU remains committed to working with our partners in government in order to establish a workable and acceptable solution to the growing amount of trade in Canadian ports. We believe that Canada’s international trade ambitions can be achieved while also supporting a strong domestic shipping policy that does not facilitate the entry of cheap foreign labour through FOC shipping registers, nor grant unrestricted market access to foreign vessel operators who do not have the same vested interest in the Canadian economy or Canada’s maritime environment as Canadian seafarers.

On behalf of the Seafarers’ International Union of Canada, we thank the committee for the opportunity to comment on this important matter. Please do not hesitate to contact our offices if we may be of further assistance.

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