

Transport Canada Update

CBMU Spring Conference 2018





OVERVIEW

- Compulsory Insurance for Ships Carrying Passengers
- Bill C-64 & Wreck Removal Convention
- Carriage of Goods Regime
- 2010 HNS Convention
- Disruptive Technologies



COMPULSORY INSURANCE FOR SHIPS CARRYING PASSENGERS

- TC has been working on compulsory insurance regulations for passenger vessels for several years
- In 2009, the *Marine Liability Act* (MLA) was amended to exclude adventure tourism (e.g., white water rafting, jet boating) from Part 4 as that sector would not have been able to comply with proposed insurance requirements
- The proposed *Regulations Respecting Compulsory Insurance for Ships Carrying Passengers* were pre-published in the Canada Gazette, Part I in December 2016



COMPULSORY INSURANCE FOR SHIPS CARRYING PASSENGERS

The proposed Regulations would:

1. Require Canadian registered passenger vessels engaged in domestic voyages to maintain liability insurance in an amount of \$250,000 multiplied by the passenger capacity of the vessel
2. Require evidence of insurance to be demonstrated upon demand
3. Enhance the financial protection of marine passengers entitled under the MLA

COMPULSORY INSURANCE FOR SHIPS CARRYING PASSENGERS

- Stakeholder response to pre-publication was positive and some minor changes made to draft Regulations
- TC hopes to finalize the Regulations in the near future for publishing in the Canada Gazette, Part II
- TC will work with CBMU to inform stakeholders of the new insurance requirements when the Regulations come into force which is expected to be **by the end of 2018**



BILL C-64 & WRECK REMOVAL CONVENTION

- The Oceans Protection Plan includes a comprehensive national Strategy to Address Abandoned and Wrecked Vessels
- Bill C-64, the *Wrecked, Abandoned and Hazardous Vessels Act*, was introduced in the House of Commons in October 2017
- Bill C-64 is currently awaiting 3rd Reading in the House of Commons



BILL C-64 & WRECK REMOVAL CONVENTION

Bill C-64 focuses on:

1. Strengthening owner liability for their vessels;
2. Addressing irresponsible vessel management, including prohibiting vessel abandonment;
3. Enhancing federal powers to take proactive action on problem vessels, including undertaking hazard assessments to inform measures;
4. Introduces compliance and enforcement regime with offenses and penalties;
5. Clarifies roles and responsibilities between Transport Canada and the Canadian Coast Guard



BILL C-64 & WRECK REMOVAL CONVENTION

- Bill C-64 implements the *Nairobi International Convention on the Removal of Wrecks, 2007* which entered into force on April 14, 2015
- TC had consulted stakeholders in 2010 and 2015 on Canada's adoption
- Convention makes the registered owner strictly liable for the costs of locating, marking and removing the wreck
- No limit of liability for the shipowner – Canada took a reservation permitted under the 1996 Limitation of Liability for Maritime Claims Convention (LLMC) in 2008
- Canada will extend its application in all of its waters

BILL C-64 & WRECK REMOVAL CONVENTION

- Owners of ships of 300 GT and above will be required to maintain insurance or other financial security
- Will apply to all Canadian ships and foreign ships calling at Canadian ports – similar to 1992 Civil Liability Convention and 2001 Bunkers Convention
- Insurance is in accordance with limits set out in 1996 LLMC
- TC will issue certificates of insurance to all Canadian ships and ships registered in non-state parties calling in Canada
- Convention will enter into force 3 months after Canada accedes – estimated to be Summer 2019 if Bill passes by end of 2018



CARRIAGE OF GOODS REGIME

- **Hague-Visby Rules** are currently Canada's law on cargo liability in the marine mode in keeping with its international trading partners
- Section 44 of the MLA requires the Minister to consider whether the Hamburg Rules should replace the Hague-Visby Rules and report findings to Parliament every 5 years (next due in January 2020).
- TC is reviewing Canada's cargo liability regime, including:
 1. The requirements set out in the MLA; and
 2. An evaluation of the international shipping landscape



CARRIAGE OF GOODS REGIME

- The review will also consider how disruptive technologies and autonomous vessels may impact cargo liability law:
 - Hague-Visby Rules require the carrier to ensure that the vessel be made seaworthy as well as be properly manned, secured, equipped and supplied.
 - Carrier is also required to properly care for and discharge the goods carried on board the vessel.
 - Requirements for information on the bill of lading to be in writing.



2010 HNS CONVENTION

- Establishes a two-tier regime covering pollution damage from HNS carried by ships:
 - Tier 1: Shipowner liability with compulsory insurance
 - Tier 2: International Fund made up of contributions from receivers of HNS in bulk
- TC consulted stakeholders in 2010 on Canada's adoption
- Amendments to the MLA were adopted by Parliament in 2014
- Regulations for the reporting requirements of HNS receipts were adopted in 2016



2010 HNS CONVENTION

- Shipowners are strictly liable for damage caused by HNS carried as cargo – whether in bulk or packages/containers
- Shipowners will be required to maintain or other financial security in accordance with amounts in the Convention:
 - Minimum of 10 million SDR for ships 2,000 GT or less;
 - 82 million SDR for ships of 50,000 GT;
 - Maximum of 100 million SDR
- Only ships under 200 GT carrying packaged HNS trading domestically would be excluded
- Certificates attesting that insurance or other financial security is in force will be required
- Convention will likely enter into force in the next 5 years

2010 HNS CONVENTION

- Three states have ratified: Norway, Canada and Turkey
- Canada ratified on April 23, 2018
- Clear momentum as Convention now needs 9 more states
- European Union issued a Decision in 2017 instructing member states to ratify by 2021

www.hnsconvention.org





DISRUPTIVE TECHNOLOGIES

- The emergence of disruptive technologies, including autonomous vessels and other digital technologies, is changing the face of maritime shipping
- TC has begun to analyze issue domestically and internationally, focusing on safety and security, efficiency, and environmental aspects
 - Efficiency aspect by working to ensure a legislative and regulatory framework that facilitates and enables the adoption of new technologies
 - Engaged at the IMO through review of existing rules for safety, liability, salvage, etc.
 - Also considered as part of Ports Modernization Review



THANK YOU!

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