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Chair

The Honourable Judy A. Sgro

Standing Committee on Transport, Infrastructure and Communities

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[Translation]

• (1530)

[English]

The Chair (Hon. Judy A. Sgro (Humber River—Black Creek, Lib.)): I call to order the meeting of the Standing Committee on Transport, Infrastructure and Communities. Pursuant to the order of reference of Tuesday, December 5, 2017, we are studying Bill C-64, an act respecting wrecks, abandoned, dilapidated or hazardous vessels and salvage operations.

I welcome to the committee Minister Garneau. Thank you very much for coming to this session with your officials.

I'll turn the floor over to you.

Hon. Marc Garneau (Minister of Transport): Thank you very much, Madam Chair. It's always a pleasure to be in front of this committee, which works very efficiently. I know I've kept it busy over the past two years passing quite a bit of transport-related legislation, so I thank it for its very efficient operations.

I'm pleased to speak about Bill C-64, the wrecked, abandoned or hazardous vessels act, legislation that will help us protect and preserve the health of Canada's marine ecosystems and the safety of the waterways on which our economy depends.

This is the result of a joint effort. The Honourable Dominic LeBlanc and I are supported by officials from Transport Canada and Fisheries, Oceans, and the Canadian Coast Guard. I'm glad that many of the officials are with me today.

Abandoned and wrecked vessels left in our waterways are a serious problem. They can pose safety, environmental, economic, and social risks, and they certainly are a long-standing and growing source of frustration for many shoreline communities.

Proper remediation of these problem vessels can be complex and costly, and up to now the financial burden has often fallen on Canadian taxpayers. It is estimated there are hundreds of these vessels in Canadian waters, ranging from small pleasure craft to large commercial vessels. Some are very problematic; others are less so. We must take action with a risk-based approach, or the challenge will only increase.

The vast majority of vessel owners act responsibly and dispose of their vessels properly; however, some owners see abandonment as a low-cost, low-risk option. This legislation will change that.

The legislation before you addresses the issue in a holistic way and fills the gaps in the existing federal legislative framework.

Up to now, the federal government has only had the authority to address some of the negative effects of abandoned or wrecked vessels, but not the vessel itself. The government has generally also lacked the ability to take proactive action in those situations to avoid placing a burden on taxpayers.

There are other gaps, as well. There is nothing in law today that generally prohibits an owner from abandoning their vessel. There are no requirements for vessel owners to carry wreck removal insurance, and insufficient authorities to order vessel owners to address their hazardous vessels or wrecks.

When a car reaches the end of its useful life, we don't accept owners leaving it by the side of the road for someone else to deal with. This should not be acceptable with vessels either. Our waterways should not, and cannot, be treated as disposal sites for junk vessels.

[English]

This is why we have introduced Bill C-64. Let me explain how it will work.

The proposed legislation would make vessel owners clearly liable for any costs incurred in the course of removing or remediating a wreck. This is critical to ensuring that accountability lies with the owner and not the general public. In 2007, the Nairobi International Convention on the Removal of Wrecks established such a regime, and this bill gives the Nairobi convention force of law in Canada. On September 21, 2017, the Minister of Foreign Affairs tabled the convention in the House of Commons.

The convention sets international rules on the rights and obligations of vessel owners, coastal states, and flag states with respect to wrecks. It also provides state parties with a global regime governing liability, compulsory insurance, and direct action against insurers. By acceding to and implementing this convention, Canada would ensure that vessel owners would be held liable for locating, marking, and, if necessary, removing any wreck resulting from a maritime accident and that would pose a hazard.

•(1535)

Furthermore, the proposed legislation would also extend these requirements to all Canadian waters. Owners of vessels that are of 300 gross tonnage or more would be required to have insurance or other financial security to cover the costs related to their removal if they become wrecked.

[*Translation*]

This legislation will also address irresponsible vessel management in a number of ways. It will prohibit abandonment, allowing vessels to become wrecks, leaving a vessel adrift for more than 48 hours without working to secure it, or leaving vessels in very poor condition in the same area for more than 60 days without consent. These are the kinds of vessels most at risk of becoming abandoned or wrecked.

Another important aspect of the bill is that it enables the federal government to address problem vessels before they become even greater problems with higher costs, including by providing the ability to direct owners to take actions. When owners don't act, the federal government would be authorized to take any measures deemed necessary to address all types of hazards posed by abandoned, dilapidated or wrecked vessels, and the owner would be liable for costs. This part would be led by the Canadian Coast Guard.

The proposed legislation also consolidates existing provisions that deal with wrecks and salvage in one place by incorporating existing Canada Shipping Act, 2001 provisions that pertain to the International Convention on Salvage, 1989, as well as the receiver of wreck. Several important amendments have been made to the long-established and critical function of the receiver of wreck to continue to protect and preserve the rights of owners of found wrecks, as well as the rights of salvors.

This bill has teeth. It would establish an enforcement regime that authorizes the issuing of administrative monetary penalties, establishes regulatory offences and sets out a penalty regime that is intended to deter non-compliance. The penalties are higher than in other marine legislation, to provide a deterrent that reflects the high costs of addressing these vessels. Enforcement of this new legislation will be shared between my department, the Department of Fisheries and Oceans and the Canadian Coast Guard. This sharing of responsibilities takes advantage of the distinct roles, mandates and capacities of both departments.

[*English*]

I want to stress that this proposed legislation is one element of a comprehensive national strategy to address abandoned and wrecked vessels that this government announced as part of the larger oceans protection plan in November 2016. The strategy includes a suite of measures to both prevent these problem vessels in the future and address those that litter our waterways now.

We are developing a national inventory of abandoned, dilapidated, and wrecked vessels, along with a risk assessment methodology to rank these vessels according to the risks that they pose. This will allow for decision-making based on evidence.

In 2017, the government launched two funding programs to support the cleanup and removal of smaller high-priority legacy abandoned vessels and wrecks. These programs will help get these boats out of the water, provide funding for educating vessel owners about their responsibilities and disposal options, and support research that will help improve boat recycling and design.

To address the costs of abandoned and wrecked vessels, large and small, in a sustainable way over the longer term, we're also looking at options to establish owner-financed remediation funds.

[*Translation*]

Our comprehensive strategy also includes improving vessel owner identification. We are currently working on improvements to large vessel registration, and working with provinces and territories to improve pleasure craft licensing.

•(1540)

We will continue to collaborate with provinces, territorial and municipal governments, indigenous groups, local and coastal communities, and stakeholders to implement the national strategy and the proposed legislation effectively.

[*English*]

Our coasts and waterways are the common heritage of all Canadians. They are crucially important to our environment, our communities, our economy, and our way of life.

To conclude, I would remind committee members of the unanimous adoption by the House of private member's motion M-40, which was tabled by my colleague the honourable member for South Shore—St. Margarets in the fall of 2016. It called for a comprehensive approach to dealing with the problem of abandoned and wrecked vessels. With this bill and the oceans protection plan's comprehensive national strategy, we are delivering on these commitments.

Thank you, Madam Chair.

The Chair: Thank you very much, Minister Garneau.

We'll move on to Ms. Block for six minutes.

Mrs. Kelly Block (Carlton Trail—Eagle Creek, CPC): Thank you very much, Madam Chair.

I want to welcome the minister as well as all who are here supporting him as we begin to study Bill C-64.

Before I begin, I recognize that Ms. Jordan and Ms. Malcolmson have a vested interest in this study, but would it be appropriate to invite our colleagues who normally sit on this committee to also to join us at the table? There's probably no reason that they can't be here if they want to be. I would welcome them to the table if they choose.

The Chair: Of course.

Mrs. Kelly Block: Minister, I would also like to thank you for the reminder on motion M-40, which was passed unanimously by the House in 2016. In that spirit I will put a couple of things on the record for us to consider and for you to understand why we even fast-tracked it past second reading to come straight to committee.

In June of 2015 a former Conservative member of Parliament, John Weston, introduced a private member's bill addressing issues of wrecked, abandoned, and hazardous vessels. Also the 2015, Conservative Party platform included a commitment to support that bill that had been introduced in the House. Finally, as amended at the May 2016 national convention, the Conservative Party's policy declaration has a statement that says that the Conservative Party stands by its commitment to facilitate rehabilitation or demolition of abandoned and derelict vessels.

We have a strong commitment, then, to the issues that are being addressed in this bill. In fact, it was the previous Conservative government that was signatory to the Nairobi convention. I know you mentioned that in your opening comments as well. I was pleased to see that it was introduced in the House as well.

We're supportive. I think we look forward to the study and what we're going to hear from the numerous witnesses who are coming forward. Thank you for introducing this bill.

A couple of my questions are going to be a little more technical in nature. I'm wondering, based on the data you have, if most of the vehicles that are wrecked or abandoned in our waters are flagged under Canadian or foreign flags.

Hon. Marc Garneau: First of all, thank you very much for your opening comments, which I think very clearly indicate that we both, your party and my party, support the bill. I won't speak for the New Democratic Party, but I sense a very strong support there as well for going ahead with this bill. I remember when John Weston brought it up a little while back.

With respect to your specific question, I will get back to you on the answer. Part of our challenge here is to create that inventory. I suspect I know the answer but I don't want to give it unless I have accurate information.

As I mentioned in my opening statement, there are hundreds of these wrecks. One of the first tasks we need to do is to inventory them, and that would include establishing under which flag they operated and also assessing the risk they present at this point, either to navigation or the possibility of pollution.

The real answer to your question is going to take some time to establish because, as you know, Canada is a trading nation. Many ships come to us from foreign shores, but we also have a large number of Canadian ships as well. I think that's probably the best I can do at this point, although the majority of them, by the hundreds, are pleasure craft, so there's a strong suspicion they will be of Canadian origin.

• (1545)

Mrs. Kelly Block: Thank you.

I think I will leave it there because I don't think any other question I would ask would give you enough time to provide an answer.

Thank you, Madam Chair.

The Chair: We will move on to Ms. Jordan.

Welcome to the committee, by the way.

Mrs. Bernadette Jordan (South Shore—St. Margarets, Lib.): Thank you, Madam Chair.

Thank you, Minister, for being here, and thank you for this legislation. Coastal communities have been waiting a very long time to deal with the problems we've seen with abandoned and derelict vessels. As you know, in my riding I have a number of them.

I understand that the legislation is on a go-forward basis, but what happens to the people who have them in their communities now? How do we deal with the vessels that are already there, especially the bigger ones, the ones that a small community cannot afford to remove? I want to make sure that this legislation does address the problems we're facing in towns like Bridgewater.

Hon. Marc Garneau: Thank you for your question, and thank you for your motion M-40, which I think has been very important input to all of this.

Yes, there are hundreds of existing wrecks, and our legislation aims to make sure that we don't add to that in the future. We are putting in place measures that will create liabilities for the owners and more solid ways of identifying ownership, as well as a number of other measures.

In the meantime, what we have done is provide two sources of funds. One is called the abandoned boats program, which is run by Transport Canada. This fund is focused on working with communities that have wrecks in their local waters, to work with them on a cost-shared basis to find and to actually remove some of those wrecks. There is also a Fisheries and Oceans small craft harbours program specifically for small craft harbours. It is to do the same thing, essentially, where there are abandoned vessels or wrecked vessels.

Is that going to be enough? No, it's not going to be enough to cover the hundreds that we're talking about. We have taken some specific measures in special cases. Your own experience is in Shelburne, with the *Farley Mowat*. There is a larger program called the *Kathryn Spirit* in Lac Saint-Louis in Montreal. The *MV Miner* is another example, and sometimes the provinces have stepped into it. The *Manolis L* is another example; there has been removal of leaking oil, but there will be a contract let this summer for bulk removal.

However, there will be a requirement to have more money to deal with these many wrecks. One of the things we're exploring—and I talked about it in my presentation—is much the same as the ship-source oil pollution fund for shipping, which all shipping lines have to contribute to in the case of shipping spill. We may explore the possibility of having a fund that people who own vessels have to contribute into, a fund that is there to take care of incidents when we can no longer trace the original owner and we may have to access something like that. We're looking at ways we can build the funding that's necessary to take care of the existing wrecks that are out there.

• (1550)

Mrs. Bernadette Jordan: To that point, in Bridgewater we've had the *Cormorant*, which is a former naval vessel that has sunk at the wharf and then been refloated at great cost. It probably would have been easier to remove that vessel to refloat it and clean it. Now it's still sitting there, listing, and the possibility that it could sink again is still there.

The Town of Bridgewater has spent a great deal of time and effort and money revitalizing their downtown core. They have spent a lot of community time and effort to build parks and green spaces, and then you look out and you see this ship.

I just want to make sure there is a way for us to address those kinds of problems when towns are faced with an economic burden because of them. They don't own the wharf that it's at, but it's affecting their ability to capitalize on tourism and it's affecting their ability to use the river in the best way possible. I think it would be great to see that this bill can address those problems as well.

Hon. Marc Garneau: It will definitely address them going forward. For example, as I said in my remarks, there will be a rule that if a boat or a ship is 60 days in a location in a dilapidated condition, then we can take enforcement action. If it's just sitting there and clearly not going anywhere, we can take the actions that are necessary with this new legislation. The problem up until now is that we haven't had the tools and the power to take action.

Certainly there will be rules with respect to what we call dilapidated vessels just sitting at anchor and eventually sinking—and I see it, as transport minister, on a regular basis—or sometimes mysteriously catching fire or something like that. We don't want this kind of situation to occur in the future, so we will have measures in place.

It's the same thing for vessels that are abandoned out at sea. If they're drifting and no action is taken by the owner to do something about it, then we will take action in that kind of situation. We're trying to address all the situations in which we have an abandoned vessel that clearly presents a hazard through the possibility of sinking and costing the taxpayers a lot of money or of creating environmental problems.

The Chair: Thank you very much.

Go ahead, Ms. Malcolmson.

Ms. Sheila Malcolmson (Nanaimo—Ladysmith, NDP): Thank you, Chair.

Thank you to the minister for being here, and all of our supporting crew.

As you know, I had hoped to see legislation. I brought some forward that was blocked by the government. It would have included some of the pieces about recycling, prevention, turn-in programs, and so on. In that spirit, I'm going to feel out what your ministry is doing here. Because I'd love to fit in as much as possible, are you amenable to yes-or-no answers as much we can?

Hon. Marc Garneau: Sure, I'll try that.

Ms. Sheila Malcolmson: Great. Thank you. I appreciate it, Minister.

Here's my first question. Is the oceans protection plan contingent on the Kinder Morgan pipeline going through? We heard quite a lot about this in my riding in Nanaimo just over the last couple of days, and I'd like to be sure that it's going to proceed no matter what.

Hon. Marc Garneau: The oceans protection plan will proceed no matter what.

Ms. Sheila Malcolmson: Thank you very much. I appreciate that very much.

Also, when I was elected to Islands Trust Council, a local government in British Columbia, whenever I said “derelict vessels”, it triggered live-aboards. People got very concerned. This is more of a west coast phenomenon than east coast. I've started saying “abandoned vessels”, and every time I could, I have tried to reassure people who are living on board their vessels that my legislative solution would not negatively affect them, would not limit them. When I read in clause 30(1) that:

It is prohibited for an owner of a dilapidated vessel to leave it stranded, grounded, including on the shore, anchored or moored in the same location...for a period of 60 consecutive days...

without

the express consent to leave the vessel from...the owner, manager or lessee of the location

that worries me.

Does your legislation restrict or limit live-aboards in any way?

Hon. Marc Garneau: That's not covered by Transport Canada because it's covered by municipal and provincial rules that also address the question. I'm very familiar with live-aboards in a number of provinces, but we don't come directly into it federally.

However, I want to tell you that in the municipalities and provinces where there are live-aboards, there are different rules and laws in that respect. They also address the issue that we're concerned about, which is that the ships could represent a hazard if they sink. It's not directly under us. They're sort of a special case that is not federal.

•(1555)

Ms. Sheila Malcolmson: We heard a lot from live-aboards who do recognize that there is a continuum. A live-aboard may not be well cared for. People are facing affordable housing problems, and people fall on economic hard times. In the absence of a vessel turn-in program, as other jurisdictions have developed, people sometimes simply aren't able to keep their boats afloat. I note that the ship-source oil pollution fund in its reporting said that over a 10-year period, 51% of the people to whom they sent a bill for cleaning up an abandoned vessel lacked financial assets to pay that bill. Many of them were not found, unknown, or did not respond.

I'm concerned that someone who gets sent a fine under this program is not going to be able to pay it anyway. Did you design this legislation with the express intent of looking at the affordability problems and economic hard times, and also people's ability to pay?

Hon. Marc Garneau: The intent of our legislation is to make shipowners, vessel owners, or pleasure craft owners accountable. It is not fair, in our opinion, for taxpayers to have to—if I can put it this way—clean up a problem that they had nothing to do with because the owner either allowed the ship to become a risk or an environmental hazard or just walked away and disappeared into the night. Those are the things that have created the situation of hundreds of vessels—

Ms. Sheila Malcolmson: With respect, Minister, I'm very well familiar with it. You and I are talking on the same page here. My question is about whether the remedy you've designed is not going to work because a lack of economic means is at the heart of this problem. Sending shipowners and boat owners a bill when it's already evident from the ship-source oil pollution fund that they cannot pay—how does that protect the environment?

Hon. Marc Garneau: Well, we're going to make it very clear from the beginning that those who acquire a boat or a vessel—and we will work with the provinces with respect to licensing and registration—understand that they have a responsibility from the moment they acquire the vessel until they dispose of it. That will be put in place.

Will that guarantee, 100% of the time, that we will recover any funds if somebody walks away? It will not, but it will significantly improve the situation, and there will be measures that can be taken, such as administrative penalties and pursuits for those who are not going to respect those regulations.

Ms. Sheila Malcolmson: Thank you, Minister.

I have one more question.

The reporting that you sent to us said that under the new funding available for removal and assessment of abandoned vessels, you've received only seven applications, and only three of those are for boat removal. Were you surprised at how small the take-up was on this big program?

Hon. Marc Garneau: Yes, I was a little bit surprised, and I'm encouraging more take-up with the funding available. Perhaps we need to work a little harder to make more municipalities and locations aware of this program.

Ms. Sheila Malcolmson: I really appreciate your department being able to answer at such short notice the question that our committee asked. Thank you very much.

The Chair: Thank you.

Go ahead, Mr. Fraser, for six minutes.

Mr. Sean Fraser (Central Nova, Lib.): Thank you so much for being with us today, Minister and staff. I'd like to say as well that I appreciate the bipartisan support for cleaning up abandoned and wrecked vessels from Canadian coastlines.

I'd like to build upon some of the questioning from my colleagues, the MPs for South Shore—St. Margarets and Nanaimo—Ladysmith. I very much appreciate that this legislation is designed with a preventative approach, whether it's prohibiting abandonment, requiring insurance, or putting in costs as a potential deterrent, but I'll follow up on Ms. Jordan's comments about vessels that exist within our waters today.

One of the issues that I see and have seen in my own riding is the scenario in which a vessel owner is unable or unwilling to move the vessel and doesn't have the capacity to finance its removal. Is there anything in the legislation we're dealing with presently that would prevent the federal government from taking enforcement action in removing the vessel from our shores in the event that the vessel owner doesn't have the capacity to cover the costs?

•(1600)

Hon. Marc Garneau: I can tell you, first of all, that we hope that in the future this is not going to happen, and I would remind you that if the vessel is above a certain size, the owner will need to have insurance specifically to deal with the issue of taking care of an abandoned vessel and/or a wreck. However, ultimately, if there is a situation where, for whatever reason, the owner is not taking up their responsibility, even though we will take action against that person, yes, the government can take action at that point specifically. It will be on a risk-based assessment basis, specifically if it represents a navigation or environmental hazard, but we hope that we're not going to get to that situation with this new legislation.

Mr. Sean Fraser: Of course.

Staying on the topic of the problems that certain communities are facing today, you said in response to Ms. Malcolmson's question that you want to encourage more uptake of some of the funds that are available to help move these vessels from our shores.

Not to get too parochial here, but I have the community of Marie Joseph in my backyard, along the eastern shore. It's gorgeous. The wild islands along the eastern shore are subject to a tourism expansion project that the federal government is partnering with. At the same time, it has a 1,300- or 1,400-tonne former Canadian Coast Guard vessel, the CCGS *Tupper*, bolted into the side of the provincial highway and sitting in federal waters. It's an eyesore for the community.

How can I as a local representative bring to the attention of the municipality and the community at large information about the programs? What advice would you give them for partnering with us to move this vessel out of their community?

Hon. Marc Garneau: The current program, the abandoned boats program is, I believe, probably tailored more towards smaller vessels. You mentioned 1,300 or 1,400 tonnes. You also mentioned this is an ex-federal government ship, so if the town where this is located wants to communicate with the federal government, we can certainly look at that and get back to them on that specific case. We're now talking about a larger size, one of the many that are in the country at the moment, and we would have to get back and look at that specific case.

This might be similar to the kinds of things we did with the *Kathryn Spirit* and the *Farley Mowat* and others that are a little bit outside of the range of the abandoned boats program and the small craft harbours program as well.

Mr. Sean Fraser: Excellent.

This is perhaps my final question, depending on the time.

I assume there will be some sort of a prioritization to deal with the most urgent vessel removals first, based on environmental risk, public safety risks, or potentially the economic benefits to regions such as the community I mentioned, based on their tourism industry, for example.

Could you lay out for us how the prioritization will be designed to ensure that we're tackling the most serious problems first?

Hon. Marc Garneau: The plan is to create an inventory of all of the abandoned vessels. We'll be looking to co-operate with municipalities and provinces across the country so that we can identify where all of them are.

We will then assess them in terms of the risk they represent. That risk can be environmental, because they still contain fuels and oils that could eventually seep out, as we all know, or they might represent a navigation hazard because they stick up from the bottom of the water or whatever, so the real depth of the water where they're located would represent a navigation hazard, or it could be social, if they're an eyesore that's really having a profound effect on tourism. Those are the kinds of factors we will examine in coming up with our risk matrix. Obviously, those at the top will be the ones we will focus on before we focus on the rest.

• (1605)

Mr. Sean Fraser: Excellent. Thank you very much.

The Chair: Thank you, Mr. Fraser.

We go now to Mr. Hardie.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): Thank you, Madam Chair.

Thank you, Minister, and to your helpers here.

The British Columbia government published a paper called "Dealing with Problem Vessels and Structures", and one of the things they mentioned in there is that the definition of a vessel, at least to them, could be problematic to us. They don't consider, for instance, a ship that's had the motors taken out and been converted to a floating restaurant or an oil tank barge used as an office next to a pier or a forestry barge camp to be vessels.

Will we have any difficulties with definitions or with defining what, in fact, needs to be cleaned up?

Hon. Marc Garneau: We have definitions, and I could read them to you if you would like—

Mr. Ken Hardie: You could just aim us at the section; that would be fine.

Hon. Marc Garneau: I don't know if that's section 2 of my document, but we'll aim you at the definition, because obviously we need to do that.

There are exceptions. I know that out in British Columbia, for example, there are some ships that I might even have served in that are in the bottom of the water. They've had all of their equipment removed, but they're used as sites for scuba diving. There are special exceptions.

You mentioned floating restaurants and those kinds of situations, but I believe that as far as definitions are concerned, our legislation will ensure that we cover all of the relevant vessels that we're concerned about.

Mr. Ken Hardie: I know that probably parrots and eye patches are out of style, but there are some real pirates out there in the international scene, shady characters who move from jurisdiction to jurisdiction, spreading all manner of misery. How do we manage the people who simply don't play by the rules anywhere in the world?

Hon. Marc Garneau: It depends on what they're doing. If they're breaking the law, then we do pursue them. We have laws, and they may not necessarily be pertinent in the case of this legislation. That's why we have the Coast Guard. I don't know if the Coast Guard would like to chime in on that, but with respect to illegal behaviour out at sea—

Mr. Ken Hardie: With respect to this topic, they slide in under cover of darkness and leave something with no way of tracing it back to them. It's not like an automobile with vehicle identification numbers etched in various places—or is it?

Hon. Marc Garneau: If they come into our waters under cover of darkness, just abandon a vessel that they have not registered in any way, and have managed to slip through without being detected, then we could have an issue with respect to that abandoned vessel. Our intention is that for all law-abiding shipping coming into Canadian waters, these measures will address the requirement for them to have insurance, clear ownership, and identification.

Mr. Ken Hardie: Officer Lick, would you comment?

Mr. Gregory Lick (Director General, Operations, Department of Fisheries and Oceans): To add to the minister's points, if an illegal person comes in and abandons their vessel, if we can deal with it through the new act, through monetary penalties and so on, that's one aspect. The other aspect is that we will take action no matter what in dealing with the risks posed by the vessel. The environmental risks, the tourism risk, the economic risk—that side of it will be taken care of no matter what.

Mr. Ken Hardie: I noticed that mineral resource vessels on location are excluded because they're governed by other legislative regimes, the Canada Oil and Gas Operations Act and the National Energy Board Act. In dealing with these vessels, is there a risk that we have too many agencies operating without complementary provisions in place?

Hon. Marc Garneau: We're trying to make it coherent. The examples you cited apply when an oil rig is in its location and doing actual drilling in the recovery of oil. It's covered by different legislation. However, if that oil rig is being dragged out from St. John's harbour on its way to its location, then it comes under this legislation.

• (1610)

The Chair: Go ahead, Mr. Chong.

Hon. Michael Chong (Wellington—Halton Hills, CPC): Thank you, Madam Chair.

Thank you, Minister, for appearing.

Does this bill apply to Canada's internal and territorial waters as well as the waters in our exclusive economic zone?

Hon. Marc Garneau: It does apply to our exclusive economic zone waters, and it will apply.... As you know, we're working on making amendments to the Navigation Protection Act, and—

Hon. Michael Chong: Does it also apply to vessels using innocent right of passage?

Hon. Marc Garneau: It applies to all vessels in our internal waters or coastal waters.

To finish what I was saying, because the Navigation Protection Act deals with free and unfettered navigation, when a vessel is abandoned, it represents a potential obstruction. That is one aspect we're looking at in the Navigation Protection Act amendments. We might transfer it to this legislation to cover it.

Hon. Michael Chong: So it does apply to our internal waters.

You mentioned that it applies to the waters of our exclusive economic zone. Does it apply to vessels traversing these waters—not going to port, but using right of innocent passage within the waters of our exclusive economic zone?

Hon. Marc Garneau: Yes, it applies in Canadian waters, whether it's transiting through or in our exclusive zone.

Hon. Michael Chong: Could you speak to the committee about how this is going to be applied with respect to American-flagged vessels? I ask because the United States is not a party to either the UN Convention on the Law of the Sea or the Nairobi convention. The U.S. has explicitly stated its concerns with respect to both of these UN treaties, and they do not believe the treaty can be applied to American-flagged vessels in territorial waters. Maybe you could speak a bit to the Canadian government's position if this bill in front of us should become law.

Hon. Marc Garneau: I recognize that the United States has not ratified the Nairobi convention. From our point of view, if a vessel becomes derelict or abandoned or a wreck in our Canadian waters, Bill C-64 will apply regardless of the country the vessel comes from. We will have to make other countries aware that these rules will apply even though they may just be transiting.

Hon. Michael Chong: I don't have any further questions. Thank you.

The Chair: We'll to on to Mr. Badawey.

Mr. Vance Badawey (Niagara Centre, Lib.): Thank you, Madam Chair.

Thank you, Minister, for attending this afternoon.

I do want to express my appreciation to members opposite, especially with respect to supporting motion M-40 when it was brought forward by my colleague and having that kick-start this process for the most part.

With that, Madam Chair, I do want to dig a bit deeper into this legislation as it relates to what happens when.

When a vessel is abandoned and contaminants of concern are established, based on the condition of the vessel, there will be obvious effects on the surrounding area, whether they be in water, on water, or on the surrounding land areas, and not just within the specific area but leaching out to further areas downstream.

My question to the minister is this: when would an environmental assessment and/or a site-specific risk assessment take place? Who would then be responsible for that, and what partnerships or protocols would be established through this legislation that would help instigate as well as solidify a process to take care of the challenges that would arise from a derelict vessel?

Mr. Gregory Lick: The minister has asked me to take the question, but I'll just clarify a couple of points.

If there is an abandoned vessel or derelict vessel currently that poses an environmental risk from oil pollution or from pollutants aboard or whatever, we will take action right now. Captain Wootton has dealt with many of those vessels on the west coast, and I will ask him to speak on a couple of examples.

During prosecuting the incident, we've dealt with the pollution, but then we have to deal with impacts of the pollution after the fact. That's where we've started to get into handling environmental assessments—handling, in our case, particularly with our department, fisheries impacts such as impacts upon the clam beds or oyster beds or whatever it might be.

If you don't mind, maybe I'll ask Captain Wootton to talk about one or two incidents.

• (1615)

Mr. Brian Wootton (Regional Director, Incident Management, Western Region, Department of Fisheries and Oceans): As my colleague suggests, the process for an abandoned vessel, whether it's just happened or whether it's a wreck that's been on the beach for some time, is that as soon as it starts to present, through the environmental response program and using our current authorities, we'll size up the scene and the extent of the damage and use our ER assets, our environmental response assets, to mitigate it.

In some cases, this turns into a full-blown remediation of the wreck. For example, in Ladysmith over the last 18 months, there have been seven full vessel removals. These were vessels that were alongside and had been for some time, and the Coast Guard didn't have the authority to take immediate action because the pollution threat wasn't imminent.

The new legislation will allow us to reach in sooner, without waiting for the vessel to sink, for example. The *Anapaya* is one that comes to mind in Ladysmith. This is an old converted fish packer that sank alongside the dock. Our program responded to that. Canada funded the response. Now, post incident, we're pursuing ownership to look for cost recovery.

Mr. Vance Badawey: If I may, Madam Chair, in terms of cost recovery and responsibilities, are both the cost and protocols fully the responsibility of the federal government, or are other partners utilized as well, such as the provincial ministry of environment, local municipalities, or other partners?

Mr. Brian Wootton: In the case of the *Anapaya*, the Coast Guard was the sole responder. For the contractors we used, the Coast Guard absorbed those expenses and is now pursuing the owner. We have the ship-source oil pollution fund while we're looking for ownership.

In some of the bigger cases, when there is a known polluter, it will be a co-operative incident command framework. The incident action plan is approved by the known owner, and we work with the province and local government to develop the action plan. Those that are part of the incident command structure would have their expenses funded through the owner during the actual incident. If the owner is unknown, then the Coast Guard will get the job done, and we pursue the cost recovery after the operation is over.

Mr. Vance Badawey: Thank you, Madam Chair.

Hon. Marc Garneau: Madam Chair, may I take just a second to correct something I said to Mr. Chong?

The Chair: Yes, please do.

Hon. Marc Garneau: Thank you.

My answer was perhaps a little too simplistic.

In the case of a U.S. vessel, if it is in Canadian waters, it will come under this legislation, but it will not in the economic zone, because they are not a signatory to the Nairobi convention. However, for countries that are, such as France and Germany, the legislation will apply in the economic zone for them as well.

Does that answer your question?

The Chair: Go ahead, Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair, and I want to take the opportunity to give a big thanks to the Coast Guard. Ladysmith harbour has had a huge concentration of abandoned vessels through no fault of its own. Bylaw enforcement by bigger port authorities pushed the boats into our harbour, and the Coast Guard has really gone above and beyond.

The *Viki Lyne II* is a poster child example. After the marine survey said that the vessel was an imminent risk to sink and it might only be held together by corrosion on the hull, it still took us four years to have the previous fisheries minister order removal, which we are very grateful for.

When I got into local government, one of the pieces about abandoned vessels was the runaround, and here's an old chart of what to do if you find an abandoned vessel. I think I've got a copy of this for you, Minister, and for the other committee members. Some ratepayers' groups, for 10 years, got the runaround, being told there wasn't a hazard to navigation, or it's provincial or it's federal....

This flow chart is not tenable, and I know that you know this. Is this the new flow chart? Can you assure me that this legislation really ends the runaround? That's one of the prime pieces that I was trying to achieve in my Bill C-352.

•(1620)

Hon. Marc Garneau: Yes, I think that we certainly approached it from that point of view. We want to stop the runaround and in fact we want to have rules and regulations in place, because the reality was that in the past, if there was an abandoned vessel and we knew about it, all we could do was address the problem of environmental pollution or navigation, but we couldn't do much more. We couldn't hold the owners accountable. There were no clear rules. If somebody reported to us that they had found an abandoned vessel, what were we going to do? There was no clearly established legislative means for us to take action.

Therefore our intention is to try to make this as clear as possible and to have accountability. We think that this will be the case. We're want to build on the issue of public reporting, so if there's a public reporting of a problem vessel, it will be made to the Canadian Coast Guard operations centre.

Now we have to get the information out that they are the people you have to go to, not necessarily—

Ms. Sheila Malcolmson: This is in your briefing book, your enormous briefing book. You do say a single federal point of contact. That is the question, but it doesn't exactly answer it. Does this mean that any local government, any first nation—

Hon. Marc Garneau: Anybody.

Ms. Sheila Malcolmson: —any citizen group can phone the Coast Guard and tell them they've got a problem vessel, and then it's the Coast Guard that sorts out which federal ministry should be the lead on it, or what the mechanism is?

Hon. Marc Garneau: Yes.

That gets it into identification, first of all, adding it to the inventory, assessing the risk, and then deciding on the action, trying to locate the owner—which hopefully in the future will be a more straightforward process—and then taking the necessary action to deal with it, hopefully at the owner's expense.

Ms. Sheila Malcolmson: Thank you. That's a big win for coastal communities. Thank you.

The Chair: We have time for one more question from Ms. Block and one more question from Ms. Jordan.

Mrs. Kelly Block: Thank you very much, Madam Chair.

I'm wondering about what comes next in terms of the regulations. Is the department already contemplating the regulations, and if they are, do you know how long it will take before those regulations would take effect?

Hon. Marc Garneau: I can answer in a general way. I can't give you a specific date. It depends on when this piece of legislation gets through, but certainly with respect to regulations—and there's a process there, as you know, the gazetting process, the consultation process—where there is that kind of process, we would like to do it as quickly as possible. This is a piece of legislation that has been a long time coming, and we want to get on with it as quickly as possible.

The Chair: Do you have another question?

Hon. Marc Garneau: Again, to correct myself—because it is a complicated piece of legislation—we're only talking legislation.

We're not talking about actually going through the gazetting process with regulations. This will be addressed through legislation. As soon as it gets royal assent, we're off to the races in terms of implementing it.

Mrs. Kelly Block: Thank you.

The Chair: Go ahead, Mrs. Jordan.

Mrs. Bernadette Jordan: Thank you, Minister.

I have one final question with regard to vessels of concern and how you determine your priorities. What's the strategy? How is the department going to look at this? What needs to be removed? What's the priority? How does the department determine those priorities? How can communities like mine get on the list to make sure their vessels are looked at?

Hon. Marc Garneau: Again, this will go to creating the inventory list of wrecks that exist and then assessing which ones need to be addressed most urgently. Some wrecks are not necessarily obtrusive, or they're not necessarily leaking, or they may not represent a navigation hazard. They would be lower on the priority list. Others would be higher on the priority list for tourism reasons, environmental reasons, and navigation reasons. We can then say we have our list—and it will be long—and this will be the order in which we need to address them.

•(1625)

The Chair: Minister Garneau, thank you so much for giving us that full hour. I understood you were supposed to leave early, so we appreciate the fact you were here for all of these questions from the committee.

I understand you're going to leave, but your officials will remain.

I'm going to suspend so that we can get back to work. Thank you.

•(1625)

_____ (Pause) _____

•(1625)

The Chair: I'm calling back to order the meeting of the Standing Committee on Transport, Infrastructure and Communities.

Welcome to all of the officials we have at the table. Please introduce yourselves, starting with Mr. Bertin, and indicate your role in the department.

Mr. Marc-Yves Bertin (Director General, Marine Policy, Department of Transport): Good day. *Bonjour.*

[*Translation*]

My name is Marc-Yves Bertin, and I am the director general of marine policy at the Department of Transport.

[*English*]

Ms. Ellen Burack (Director General, Environmental Policy, Department of Transport): Good afternoon. I'm Ellen Burack. I'm the director general of environmental policy at Transport Canada.

Mr. Gregory Lick: Good afternoon. I'm Greg Lick. I'm the director general of operations for the Canadian Coast Guard.

Mr. Marc Sanderson (Acting Director General, National Strategies, Department of Fisheries and Oceans): My name is Marc Sanderson. I'm the acting director general of national strategies with the Canadian Coast Guard.

Mr. Brian Wootton: Good afternoon. My name is Brian Wootton. I'm the regional director of incident management for western Canada.

The Chair: Thank you all very much.

We have about 45 minutes during which we'll go through the questions and answers.

We will begin with Mrs. Block.

Mrs. Kelly Block: Thank you very much, Madam Chair.

I was just having a conversation with my staff, and I didn't realize we were going right into questions.

Besides the insurance requirement, are there any other measures in this bill that you could speak to that would mitigate a vessel becoming wrecked, abandoned, or hazardous?

The Chair: Who would like to answer that?

Ms. Ellen Burack: I'll give it a shot.

With respect to the insurance, the insurance doesn't per se prevent the event. What it does is prevent challenges after the event when it comes to who pays for cleaning up and what have you. There's much in the legislation that does that, starting with the efforts the government will be able to make to pursue responsible vessel management—not only the prohibition on abandonment, but also the ability to provide notices that a vessel owner needs to act to address a challenging situation and the ability to follow up if the vessel owner does not take the action that's requested in order to address a potential hazard. Those are all the things that contribute to preventing incidents.

This legislation really is kind of like bookends around an incident. It lays out a number of requirements and actions that the government can take to prevent an incident from happening, and also to make it easier to deal with the incident after the fact in terms of identifying the lead role of the Coast Guard, for example, in assessing hazards related to an incident, who pays, etc. From that perspective, there's quite a lot in the bill with respect to prevention.

• (1630)

Mrs. Kelly Block: Thank you.

It's my understanding that the Nairobi convention addresses vessels of a certain size. I think it's 300,000 tonnes. Is that correct?

Did you consider lowering the gross tonnage requirement to carry insurance for foreign-flagged vessels?

Mr. Marc-Yves Bertin: I don't have the stats immediately in front of me, but if my memory serves me, about 98% of foreign-flagged vessels calling on Canadian ports actually are at the 300-gross-tonne mark or above. From that perspective, the vast majority of foreign-flagged ships would therefore fall into the class of vessel that's being captured.

That said, the issue of the threshold was something that was discussed within the context of the IMO, but also domestically with

stakeholders. In the context of the IMO, there are a number of aspects to the way the discussion unfolded, such as whether we should go towards looking at this through the length of a vessel versus the tonnage. In the end, the issue of 300 tonnes was the subject of a conversation around whether or not it should be higher and not lower, as is the case in other conventions. From that perspective, the 300-tonne threshold was something that was negotiated, and it was also something that was consulted upon domestically.

Mrs. Kelly Block: Okay. Thank you.

The Chair: Thank you very much.

Ms. Jordan is next.

Mrs. Bernadette Jordan: Thank you, Madam Chair.

My questions are for the Coast Guard, and for Mr. Lick particularly.

With regard to the process once a vessel has been declared a vessel of concern, or when it's something that people are interested in finding more about, what's the process for something like, say, the HMCS *Cormorant*, which is a vessel in my riding that has been at a wharf, has sunk, and has been raised? What would be the process for the community to get rid of that vessel?

Mr. Gregory Lick: I'll address the first part of your question.

As the minister already talked about, one part of our initiative is to prepare the inventory of all vessels of concern across the country and to prioritize them in terms of risk assessment, but a risk assessment that is broader than what we have had over the last number of decades, which involved just environmental and navigation hazards. The act will allow us to broaden that into tourism impact, economic impact, and that type of thing. That will help, in essence, deal with more vessels of concern to communities like yours.

In terms of the *Cormorant*, we are taking action, and we have taken action, to deal directly with the environmental risk, and we continue to deal with that as the vessel takes on more water. We continue to monitor it. That part of our actions we are taking now.

In terms of what the government has done, as part of the oceans protection plan, the government has provided the Coast Guard with some funding to deal with the technical assessments of what we consider the priority vessels of concern across the country. That's a very small list at this point in time, but it is getting us started on dealing with them.

We've dealt with the *Manolis Lin* in terms of the technical assessment, and we're now taking action to get a contractor in place in the spring to deal with it.

We dealt with the *Farley Mowat*, and I'm very happy that we saw the thumbs-up on that one a little earlier in the year. The *Cormorant* is among those initial vessels for which we're going to take the funds to do a technical assessment, to look not just at the immediate environmental risk and what we have to deal with for that but also at how we deal with the vessel as a vessel of concern over the long term. It is already on the list.

• (1635)

Mrs. Bernadette Jordan: With regard to smaller vessels, we have an old fishing vessel in Woods Harbour that's at risk of sinking. The owner will not release it, so the municipal unit or the harbour authority could apply under the small boats program. Is there a way to force the owners to release the vessels or to deal with them if they're just not willing to do it?

Ms. Ellen Burack: There will be under this legislation.

Mrs. Bernadette Jordan: Can you elaborate a little bit on what the process will be, so that going forward people can make sure that this ongoing problem stops?

Ms. Ellen Burack: Were the legislation in place right now, we would be able to notify the owner that they need to do something, tell them what they need to do, and give them a timeline for that. Then if they didn't do that within that timeline, we would have the capacity to move to administrative penalties or other measures to address the violation. We would then also have the ability to act to address the problem vessel by ourselves.

The act is structured precisely to not allow owners to choose to be irresponsible.

Mrs. Bernadette Jordan: One thing that still amazes me is that it's not illegal to do this right now. Up until now there's been no recourse for anyone to be held accountable when someone has chosen to leave a vessel for someone else to deal with.

If someone refuses to deal with an ongoing issue, have there been discussions about what types of fines or penalties will be in place for that? How do you go about collecting those? A lot of the time, these people seem to be very good at getting around the system, and I'm wondering how we address those kinds of problems as well.

Ms. Ellen Burack: The minister was talking before about how it won't require regulation to put it into effect, and that's because the administrative penalties and other penalties are hard-wired right into the legislation itself. The day that the legislation is effective, the enforcement regime is effective as well.

The penalties themselves are laid out quite clearly. There are two categories of offences: lesser offences that might be related to recording things, and then larger violations of not having taken action that's been required.

The AMPs have been set at levels that will serve as a deterrent, because we needed to make sure that the AMP regime was muscular enough to serve that deterrent function.

There is the possibility of jail time should there be a problem in collecting. A number of options are provided in the penalty regime, and the situation might require the use of different measures, depending on what type of violation and how the process is going.

• (1640)

The Chair: Thank you very much.

We will move on to Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

Thank you to the witnesses.

Who among you is the best for me to direct questions to about the state of the vessel registration system?

This is a major problem for us, at least on the west coast. I'm getting a lot of questions from local government leaders asking how you are going to send a fine or a bill to the owner of the vessel if you don't know who that owner is, and a lot of the problem vessels we have are pleasure craft.

I note this Transport Canada quote: "Improvements to vessel ownership identification systems linked to licensing of pleasure craft are not part of the proposed Bill". How are you going to fix this?

Ms. Ellen Burack: Minister Garneau mentioned this morning that this bill is one piece of a national strategy on abandoned and wrecked vessels, and improving vessel owner information is a key part of that strategy.

When it comes to pleasure craft licensing, we have a couple of streams of activity. In the very short term, we're making some improvements to the national system and automating certain elements. Perhaps more importantly, we're working very closely with provinces and territories to look at how to benefit from their deep and wide experience on vehicle and other licensing to ensure that as soon as possible we can have a better system for accessing information about vessel owners.

This is recognized as a challenge, but we are actively working on the solutions. It's just outside the legislative framework.

Ms. Sheila Malcolmson: With respect, it's a major missing piece. The Canadian Maritime Law Association says that vessel registration is incomplete. Many ships in Canada cannot be linked to a specific owner. We had the ship-source oil pollution fund say, in a number of their annual reports, that in some situations involving abandoned and derelict vessels, the name of the shipowner is not readily available. They were only able to recover 2% of the funds they put out for dealing with abandoned vessel rescues because 25% of the owners were unfound or did not respond, not to mention that half of them are lacking financial assets.

Then the chief registrar of the Canadian Register of Vessels has no requirement to table an annual report and apparently has never reported on the bad state of the vessel registry.

I'm very concerned that the public not get overly invested in how great this legislation is going to be unless we have the confidence at the same time that the improvements to vessel registration, for pleasure craft as well as the larger boats, are happening in a parallel path. You're hearing that too. You must be.

Ms. Ellen Burack: Absolutely. I think it's important that committee members understand that there are two separate systems. There is the pleasure craft licensing system in Canada, and a large vessel registry.

With respect to the large vessel registry, I am not aware of as many problems as on the pleasure craft licensing side. We have just launched a study to look at the opportunities for improving the large vessel registry. Issues such as deregistration and other things are being looked at to ensure that the information contained in both those repositories is as robust as possible.

Ms. Sheila Malcolmson: Another area I heard a lot about when I was in Nova Scotia this summer touring my legislation, but also on the west coast, is the number of federal vessels that are out there that have a Coast Guard logo on the front, or else they're old navy ships. I don't understand why this legislation doesn't include some kind of remedy, as Washington State does, to limit departments' and agencies' ability to sell these government assets as surplus to their requirements without putting conditions in place that ensure that the next owner actually has the means to deal with them responsibly. The *Cormorant* is a great example of that.

•(1645)

Ms. Ellen Burack: What I will say is that sometimes with federal assets it's not the first sale but the second or third sale that results in an issue. We're aware of the issue and are looking at ways to address it.

Mr. Gregory Lick: I will add one thing to that.

We recognize the problem, whether it's the *ex-Tupper* or other vessels like the *Ricker*, which we just recently decommissioned, and have yet to dispose of. As we go through the process, we're going to take stronger measures, stronger ownership, of not only just selling the asset but of thinking about who we are selling it to and whether we should actually sell it at all or whether we should have it dismantled in a more environmentally friendly way. We are taking action within the Coast Guard to be able to consider that more than just getting the money through a disposable asset.

Ms. Sheila Malcolmson: That's helpful. I just note for the committee's benefit that this is in Washington State's legislation and it's not in Transport Canada's proposed bill.

The Chair: Ms. Malcolmson, your time is up. We will move on to Mr. Hardie.

Mr. Ken Hardie: Thank you, Madam Chair.

Thank you, again, to the witnesses.

What do other countries do? Do we have a sense of any best practices out there or any other nations that have a really good registration system and a more effective way of chasing down the owners of vessels?

Ms. Ellen Burack: We definitely do have quite a bit of information. We have done extensive research on what other countries are doing.

In many countries this is not done at the national level, as it is in the U.S. It's a combination of national and state legislation and programs that create their abandoned and wrecked vessel strategy, to the extent they have a coherent strategy. We have been looking not just at licensing and registration and best practices. I would note that our own provinces are quite expert in that area as well, and that's why we've been looking to them for their support.

However, we looked extensively at legislation and programs, particularly in Washington, Florida, and many of the coastal states in the U.S. Washington was of particular interest because of the similarity between their conditions and the conditions in B.C.

Mr. Ken Hardie: I guess the question is whether anybody out there is doing a good job, in your estimation.

Ms. Ellen Burack: Absolutely.

Mr. Ken Hardie: Who would that be?

Ms. Ellen Burack: We've looked at what's happening in Europe, we've looked at what's happening south of the border, and we have modelled a lot of what's proposed to be done through the national strategy on Washington and Florida.

Mr. Ken Hardie: Okay. Thank you.

With respect to some of the international-flagged ships, in our experience so far, are we dealing with vessels that are owned by shell companies, such that it would be almost impossible to find a person who would be responsible for that ship? The same sorts of transactions and cloaks and daggers that happen in a lot of other areas must be happening in the shipping business as well.

Ms. Ellen Burack: The legislation definitely makes provision for not finding "a" or "the" person responsible. There are a range of players—directors in companies, etc.—who are able to be pursued as we're dealing with these problem vessels.

Mr. Ken Hardie: In your estimation, does the insurance industry have the capacity to provide the kind of coverage that you're looking for—for pleasure boats on the one hand, and larger vessels as well?

Ms. Ellen Burack: The insurance requirements are only for larger vessels of 300 gross tonnes and above. I'll ask my colleague to comment on insurance availability.

Mr. Marc-Yves Bertin: This was one of the dimensions of the conversation at the IMO and one of the reasons we landed on 300 gross tonnage as a threshold. Generally speaking, larger commercial vessels are typically part of what are called protection indemnity associations, or P and I clubs. These are basically associations of owners that pool together their third party risk and therefore help each other out.

Right now, P and I clubs account for about 90% of global tonnage. When we consider the number of states that are party to this convention, which is 41, their ships account for about 75% of global tonnage at this stage. The market exists, it's being taken up, and with just 41 countries, it's already up to 75% or thereabouts.

• (1650)

Mr. Ken Hardie: We have to recognize that a lot of effort and thought went into this issue in the past. Ms. Block detailed what the previous government had done. Ms. Malcolmson certainly took a good tilt at coming up with legislation, and Ms. Jordan similarly made it a focus of concern for the entire House of Commons. What we've seen here in the material now coming forward from the ministry suggests this was a pretty complex matter. Can any of you give us the breadth and depth of the things you had to think about in coming up with this legislation?

Ms. Ellen Burack: We're going back many years, with the most active consideration being in the last couple of years. We had to look at roles and responsibilities across the country. This is not a federal-only challenge; this is a challenge for provinces, territories, and municipalities. We had to look at the boat owners and shipowners and at what was possible. We had to look across many pieces of legislation that dealt with it a little bit here and a little bit there, identify all the pieces, figure out where the gaps were, look outside of Canada at where folks have done well at filling those gaps, and compare those different approaches to identify what might work best in a Canadian context. It was many years of peeling the onion and finding more and more layers of complexity.

We also needed to sort through—and have done that extremely effectively, if I may say so—the roles and responsibilities between Transport Canada as the policy-maker and regulator and the Canadian Coast Guard as the eyes-and-ears, boots-on-the-ground, operational expert.

The Chair: Thank you very much, Ms. Burack.

Go ahead, Mr. Fraser.

Ms. Ellen Burack: Madam Chair, do you mind if I go back on one small point related to Ms. Malcolmson's earlier question?

I wanted to mention that the legislation gives us the capacity for making regulations. It gives us the power to impose conditions on the sale of vessels. That is an area where, although it's not in the legislation, one could look to do something with respect to federal vessels.

Mr. Sean Fraser: Thank you.

Before I get into my more detailed questions, I've been thinking about a response you gave to Ms. Jordan earlier, and I wanted to....

For anybody who might be interested or watching back home, it seems today that Canadians living in coastal communities should be

shocked at how little there is on the books to actually do something about this problem. Can you confirm that there are no tools to deal with the situation of someone just abandoning a dilapidated vessel on our coastal communities today?

Ms. Ellen Burack: Are you asking specifically if it's illegal at this point in time to abandon a boat?

Mr. Sean Fraser: I want to know what's out there today. What's our starting point? The response I heard earlier was more or less that there's nothing really preventing a person from doing this today.

Ms. Ellen Burack: It's correct to say that there is no prohibition to abandonment in Canada today.

Mr. Sean Fraser: It just blows my mind to hear those words spoken, but thank you nevertheless for the answer.

I was looking over part 2 of the legislation. One of the items that was flagged is the problem with leaving a dilapidated vessel in the same area for more than 60 days without consent. Is that the consent of whoever is responsible for the area? Could you elaborate on whose consent we might be dealing with in a given circumstance?

• (1655)

Ms. Ellen Burack: It would be the consent of whoever is responsible for that location. It might be the owner or the operator of the marina, whatever it is—

Mr. Sean Fraser: Or the municipality—

Ms. Ellen Burack: —the municipality—

Mr. Sean Fraser: —or potentially the federal government if it's in a small craft harbour.

Ms. Ellen Burack: Potentially it could be, exactly. It's whoever is responsible for that location.

Mr. Sean Fraser: I'm curious about the 60-day timeline. What's the magic to 60 days? I want to make sure we're not just creating an incentive to encourage someone to move the vessel around every two months to avoid scrutiny of the legislation. Why is a 60-day period appropriate?

Ms. Ellen Burack: There are legitimate situations in which someone might need to leave a vessel somewhere. It was felt that 30 days, for example, was too short in the case of those emergency situations; therefore, we went with the 60 days.

Do you want to add to that?

Mr. Gregory Lick: The only other piece to add is that when we think about a dilapidated vessel, it's one that generally is not meant to navigate, so moving it around every 60 days would be fairly challenging in any case.

Mr. Sean Fraser: Then we're essentially recognizing that it might take some time to deal with the special type of issue that the dilapidated vessel might be facing and that the person who's an expert in repairing that type of thing might not be readily available. That's the circumstance I'm imagining.

Is that a fair picture of what this is meant to address?

Ms. Ellen Burack: Yes, and it's important to note that you can't just move it 100 feet farther down the water. There's the three-nautical-mile requirement as well.

Mr. Sean Fraser: Sure.

Just on that issue, is there anything actually preventing a person from doing that, if they can find somebody to tow them every once in a while? Is this still open for abuse if a person were to say, "Look, my time is almost up; can I just move it down the coast a little more?"

Ms. Ellen Burack: They would have to be willing to pay to move the vessel outside the three nautical miles every 60 days. That seems to be a significant investment. The feeling was that someone who was not willing to act on their vessel responsibly is not likely to be making that type of investment.

Mr. Sean Fraser: Eventually it would be cheaper to dispose of it, in any event, than to continue to tow it around.

Mr. Lick, would you comment?

Mr. Gregory Lick: There are also much more stringent requirements that Transport Canada and marine safety have now put on the towing of vessels as a result of many of the sorts of towing incidents that have occurred over the last number of years with the *MV Miner*, the *MV Lyubov Orlova*, and those types of incidents. Transport Canada marine safety inspectors have much more stringent criteria that are applied to a tow.

Mr. Sean Fraser: I have a question about the administrative monetary penalties. I think it's a maximum of \$50,000 for an individual. Is that right?

It seems to me that it is quite a significant figure for an individual, of course, but there was some talk about ensuring that the owner remains liable for the costs of removing. Is that in addition to the administrative monetary penalty? I'm trying to figure out if it's a punitive or a compensatory model of damages.

Ms. Ellen Burack: The penalty is assessed once they have not taken the action. It's not punitive; it is compensatory—well, I don't know if I would use the word "compensatory", but it is intended to be a deterrent. It should generally cost less or at least be comparable to the cost for them to actually take the action, so that it would be a deterrent to inaction.

Mr. Sean Fraser: Sure.

As a final question, it would still be possible, though, if it were a \$3-million removal that I refused to do, that you might give me the \$50,000 fine up front, but I'd still be liable for the full amount should a problem arise, should the vessel sink and need to be floated. It becomes more expensive.

Ms. Ellen Burack: I don't know if you can speak to an individual pleasure craft with a \$3-million price tag—

Mr. Sean Fraser: No. We're getting into a different scope.

Ms. Ellen Burack: It's more likely to be a corporation, which has

• (1700)

Mr. Sean Fraser: I think I'm out of time as well.

Ms. Ellen Burack: —a \$250,000 limit.

Mr. Sean Fraser: Okay. Thank you.

The Chair: Thank you very much.

We will move on to Ms. Block.

Mrs. Kelly Block: Thank you very much, Madam Chair.

I'm going to return to the question I asked in my first round.

One of the goals in any of the measures that we've undertaken in our policy platform, certainly, and in our policy declaration statement, or even in that of my former colleague, is to ensure that no undue onus is put on the taxpayer to remedy abandoned vessels. I was asking if there was anything contemplated in the bill besides an insurance requirement to mitigate against a vessel becoming wrecked, abandoned, or made hazardous.

I recognize that this whole bill is to be preventative in many ways against that happening, but I guess I'm speaking more specifically to the strategy in the annex that we have in front of us. It's the "Federal Strategy on Abandoned and Wrecked Vessels". When I was able to speak to the minister prior to this time with you, he indicated that part of the planned strategy is a "national inventory of problem vessels, prioritized by risk", but there's also another planned measure here, which is "vessel owner-financed funds to pay for future vessel removals".

I'm wondering if you could speak to that, because that to me seems like another measure, similar to insurance, that would keep the burden from falling onto the taxpayer. Perhaps you could speak to that. It says it's "planned". It might be nice to know what the plan is and the timelines on it, but also, what are you envisioning?

Ms. Ellen Burack: Thank you for the question.

I think it's fair to say that we're early on in the plans with respect to that. There are a number of issues that we're trying to work through.

When it comes to pleasure craft, for example, we have been looking at the model of Washington State. For 15 years or so now, they have been collecting a surcharge on top of licensing in order to build up a fund that they use for these vessels that inevitably fall through the cracks, because no matter how robust a system you have, there will be vessels that fall through the cracks. That's one model or one approach. Through that program, as they have a buildup of resources in it, they also periodically offer a limited turn-in situation.

All of these are things that are being looked at. We're talking to the provinces and territories about how that works. Requirements are slightly different across the country. Whereas in B.C. most abandoned vessels are in the water, in Ontario most are on the land. The challenges across the country are a little different, so we're trying to manage that as well in such a large country.

We are in very early days in starting to think through what approach one might take to commercial vessels, larger vessels. I can't really say too much, not because I don't want to but because it's early days in thinking through those strategies. We really are looking at models that are out there.

Mrs. Kelly Block: Thank you.

The Chair: Mr. Badawey is next.

Mr. Vance Badawey: Thank you, Madam Chair.

I do once again want to dig a bit deeper into the process, and I think I'll refer to Mr. Wootton again with respect to some of the comments he made earlier about the protocols that are embarked on by the federal government.

Essentially what I'm hearing is that the federal government does take on ultimate responsibility, and with that, it is made the go-to body to initiate the protocols that are established through this legislation and to establish a strategy. Attached to that strategy are numerous objectives, and then attached to those objectives are numerous plans of action. With that goes taking a lead role to delegate to other partners, such as the provinces, territories, communities, municipalities, and others that may be either directly or indirectly involved in a situation.

In terms of safety concerns, I know in our area, the Great Lakes, a lot of times derelict vessels may be at a dock that might be close to power lines and things of that nature, and therefore pose a safety situation or risk. Finally, there is a role to actively monitor a situation as it relates to challenges with respect to the environment.

I guess it's a twofold question. One, am I correct in assuming that protocol? Two, can you walk me through anything I may have missed?

• (1705)

Mr. Brian Wootton: Thank you for the question.

I think you've summed it up very well. Right now this one-stop-shop portal for the Canadian Coast Guard, as we've heard, is in its infancy. However, I expect this to look like Canada's three Canadian Coast Guard regional operations centres, which are already 24-7 portals for the public to call. Pollution response is a great example. These watch-keepers will also be the conduit for calls about vessels of concern and complaints from the public, and it will be the job of the Coast Guard's new vessels of concern program branch to take that information and add to the inventory.

The hazard analysis piece about how we will quantify the hundreds of vessels that are going to end up on this inventory is still being worked up with our partners, the provinces and indigenous communities. Right now what will be new for the Coast Guard is that we take immediate action when the environment is at risk, so if there's an active spill, we take the action I described earlier and then source the owner.

Now we're going to be talking about economic and social impacts and what that looks like in the hazard matrix. With a list of hundreds of vessels, I don't expect the Coast Guard will be launching on day one with 1,000 vessels and going into removal action mode with local communities, but these officers will go out, and after they've prioritized or triaged Canada's inventory, I expect then to have a

discussion on technical assessments, particularly for large assets such as the *Viki Lyne II* and the larger 300-tonne class of vessels. Then we'll look for solutions on the funding side to take care of those.

If there's an active environmental impact, I expect the Canadian Coast Guard to continue to use its existing authorities to remediate and potentially remove some of those high on the list as triage priorities.

Mr. Vance Badawey: I'd like to ask one more question, if I have time.

The Chair: You have two minutes.

Mr. Vance Badawey: Thank you, Madam Chair.

My question goes back to a question that Mr. Fraser had with respect to the financing and who would be responsible for paying.

Clause 91 provides that if there are reasonable grounds to believe that a person has committed a violation, the minister of transport or the minister of fisheries and oceans may either enter into a compliance agreement or issue a notice of violation. Can you go a bit deeper into that in terms of what it actually means? Does that mean there's an out for individuals who may in fact have committed a violation with respect to this legislation?

Ms. Ellen Burack: I can take that question, if you like.

Compliance agreements are a mechanism that exists in other Canadian legislation. They offer the possibility of someone who's violated the requirements of the legislation to acknowledge that there has been a violation and commit to addressing the matter, and also acknowledge that if they now don't comply, they will face twice the penalty that they would have faced before.

It's a faster and more efficient mechanism for getting the action addressed properly when you're dealing with certain kinds of violators. One wouldn't do it with foreign owners or those you couldn't be quite certain that you would be able to get, should they not comply with the compliance agreement. It's an innovative tool that has been used in other legislation, and we think it will be very valuable in this context as well.

• (1710)

Mr. Vance Badawey: Thank you.

Thank you, Madam Chair.

The Chair: Go ahead, Ms. Malcolmson.

Ms. Sheila Malcolmson: Thank you, Chair.

I can't overstate how high the expectation is from the local government side in British Columbia in particular. They've been waiting a really long time to have federal leadership on this matter. When the first funding round was announced, \$300,000 this year and \$260,000 a year for the small craft harbour segment out of the oceans protection plan, there was quite a bit of disappointment, because many of these communities have been waiting a long time and they don't have the authority, let alone the budget, to deal with it, so now we're starting to get feedback. The District of Oak Bay, the District of Sechelt, and the District of Lunenburg all decided not to proceed with applying for the program, even though they had such a backlog. They were concerned about their own budgets, about liability and legal concerns, and about how they couldn't put the money up front.

When I talked to Bill Veenhof, who is the chair of the Regional District of Nanaimo where I am elected, he said it was just too costly, although the abandoned vessels in his area threaten aquaculture jobs and are really a huge concern.

I just heard from John Roe from the Veins of Life Watershed Society, also known as the Dead Boat Society. They've been doing hands-on removals through all these communities. He said they would have had to fill out 140 pages of application forms to deal with the 20 abandoned vessels they had identified, and he said it was going to cost half a million dollars. He can't afford to pay the 25%.

Given the numbers you have given us today, the take-up has been really tiny. We've had numbers as high as thousands of abandoned vessels across the country, but there were applications for only three removals and four assessments from this very high-profile offer, so can you tell me what you've done to evaluate the barriers to participation and what you can do to make it easier for coastal communities to work with the feds to get these dangerous boats gone?

Ms. Ellen Burack: I can say that in consultations over the course of 2016, we did speak to communities across the country about what was needed, and a lot of the feedback from that was used to build the abandoned boats program and the small craft harbours program.

We acknowledge that the first call had a very short time for application. The time was shorter because of the small amount of time left in the fiscal year to get out some of those grants and contributions. There was also a feeling that in the first instance perhaps a lot of the requests would be for assessments, because an assessment is required before one moves to removal under the abandoned boats program, so that explains some of the size and number limitations.

Ms. Sheila Malcolmson: But there were only four assessment applications for the whole country.

Ms. Ellen Burack: As the minister acknowledged, there was surprise over that. I believe our programs people are looking at how to facilitate and how to market and how to get the word out in terms of access to these programs going forward.

Ms. Sheila Malcolmson: Is your sense that it's a marketing problem, or are you exploring whether the terms and the percentage

that local governments are now being asked to put up front, let alone the application process, are too onerous?

Ms. Ellen Burack: I would have to check with colleagues. I'm not managing those programs.

Ms. Sheila Malcolmson: Is it possible for the committee to hear back on that? We do need to get this right, especially for this next round of funding through the oceans protection plan. Is it April 1 that the next intake happens?

Ms. Ellen Burack: There's a call open now, I believe. It closes in the middle of March.

Ms. Sheila Malcolmson: We have a new round coming up in the spring in any case, so it would be good for us to hear back.

I've also heard that in some cases the seller of a boat thinks they have done an ownership transfer, but in fact the buyer of the boat has failed to file the ownership transfer as a way to avoid paying sales tax. Is that something on your radar? How are you remedying that?

• (1715)

Ms. Ellen Burack: It is something we've been talking to provinces about. It's certainly of concern to them when sales tax is avoided as well. We're looking at that in the context of the licensing system and the improvements that need to be made.

The Chair: Are there any further questions?

Go ahead, Ms. Jordan.

Mrs. Bernadette Jordan: I have one short one, Chair, if you don't mind.

My question is with regard to the abandoned boats program. There seems to be a belief within a few of my municipal units that if they apply for funding for the assessment, they then are committed to going forward with the project, even if they don't know how much it's going to cost. As a result, they're hesitant to apply, because they feel that if they accept the \$5,000 to do the assessment, they are then responsible for going ahead whether they can afford the rest of it or not.

Can you comment on whether that's actually the case?

Ms. Ellen Burack: I will confirm with the committee if my understanding is not correct, but I do not believe there's a requirement to proceed once the assessment is done. However, as I say, if that is incorrect, I'll get back to the committee.

The Chair: We've covered off a lot questions today.

Thank you very much to our departmental staff for answering the questions so clearly on something that's very important to all the members here. We thank you very much.

I'm going to suspend momentarily for our guests to leave, and then we'll go in camera for a few minutes to do a bit of committee business.

Thank you.

[*Proceedings continue in camera*]

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