



THE CANADIAN
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March 30, 2015

Via email: Naim.Nazha@tc.gc.ca

Mr. Naim Nazha
Executive Director, Navigation Safety and Environmental Programs
Transport Canada
330 Sparks Street
Ottawa, ON K1A 0N5

Dear Mr. Nazha:

Re: Canadian Register of Vessels

We are writing on behalf of the Canadian Bar Association's Maritime Law Section (CBA Section) to express support for recent initiatives by the Government of Canada to streamline the services of the Canadian Register of Vessels. We have, however, a few issues with the current registry system, notably turnaround time and the effective date of registration among others, as part of the ongoing review of this process.

The CBA is a national association of 36,000 lawyers, Québec notaries, students and law teachers, with a mandate to promote improvements in the law and the administration of justice. The CBA Section contains members with expertise in provincial, national and international issues in all aspects of maritime law, including shipping, registration, navigation and maritime related transactions.

Turnaround Time

The time to complete registrations is too long in both the Canadian Register of Vessels and the Small Vessel Register (Commercial). The Canadian Register of Vessels confirms title and is the basis on which vessels are transferred between owners and lenders providing financing for vessels. The buyers and sellers of vessels, as well as those who finance the shipping business (including the fisheries industry), must confirm transfer of title or the registration of mortgages before releasing funds or transferring possession of the vessel. Delays in the registration process can impair the commercial success of these transactions, which are vital to the Canadian economy.

While there has been noticeable improvement in the processing time in the Canadian Register of Vessels, particularly when it involves a mortgage, the timing of registrations continues to be uncertain in the Small Vessel Register (Commercial) where processing documents can still take a number of weeks. In some cases our members have experienced delays of three to ten weeks.

Processing documents in this time frame is not tenable for those in the shipping industry. The delay in registration means transactions are effectively left in escrow pending confirmation that the registration has been completed.

We recommend a turnaround time of one to four business days for all registrations be the minimum level of service.

Effective Date of Registration

We are also concerned with the date on which registrations take effect. While documents may indicate when they are received by the Vessel Registration Office, the date of processing may be much later. This may cause uncertainty leading to legal disputes about when title to the vessel has passed and when security was placed. Those involved in a ship registration, including owners, lenders and insurers, require certainty as to when the transaction is effective to calculate costs and effectively manage risk. If the turnaround time was reduced, the problem would likely resolve itself. In the interim, we recommend that documents be stamped and dated on the date they are “accepted for registration” and that this date remain the registration date so long as the documents were properly completed and satisfy the registry requirements.

Appointments with the Vessel Registration Office

We recommend that there be a formal procedure to request an in-person or phone appointment with a registry officer. The ability to make an appointment and reserve a specific time and date to close a transaction is important, particularly for major, international or otherwise complex transactions. For time sensitive or other registrations that may require the assistance of registry officers, which cannot currently be obtained, it would be helpful to be able to attend in-person at the Ottawa Vessel Registration Office or have the appointment conducted by phone.

Documentary Requirements

The CBA Section applauds Transport Canada’s decision to eliminate the need for company seals on ship registry documents. However, we do not support proposals to eliminate the requirement for witnesses for ship registry documents. These documents should still require a witness, identified by name, occupation and address. The continued involvement of an identifiable witness is an important safeguard to avoid the possibility of fraud or erroneous registration.

We hope these comments are helpful as Transport Canada continues its review of the Canadian Register of Vessels. We would be pleased to continue this dialogue and provide you with ongoing input to continue to develop a system that is cost efficient, practical and workable from the perspective of all parties involved in these commercial transactions.

Yours truly,

(original letter signed by Noah Arshinoff for Marc D. Isaacs)

Marc D. Isaacs
Chair, CBA Maritime Law Section