



Importing Vessels into Canada's Coasting Trade

Information for Contractors and Vessel Operators



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1.0 Considerations for Vessel Importers

The following information is intended to give companies an overview of the regulatory and legislative environment, as well as an indication of the regulations and processes you may anticipate as you plan to import vessels into Canada's coasting trade.

Prior to reviewing specific regulations, it may be helpful to briefly review the Government of Canada's position with regard to offshore petroleum exploration on the Continental Shelf.

In June 1983, the Canadian government declared that the Continental Shelf Zone or 200 nautical miles off Canada's shores (whichever area is the greater) were to fall under the purview of the Customs and Excise Offshore Application Act. This legislation effectively ensured that offshore petroleum exploration and development would fall under the provisions of the Customs Act.

As a result, drilling rigs and support vessels are treated exactly as though they operate inside Canada's internal waters, and are subject to Customs duty and tax. However, due to the terminology in the legislation, these duty and tax provisions do not apply to seismic vessels operating on the Continental Shelf.

This initial legislation spawned a series of additional legislation from other government departments and agencies to further regulate the offshore petroleum industry. Legislative changes, in addition to the Customs Act, include:

- The Coasting Trade Act
- The Atlantic Accord
- The Immigration and Refugee Protection Act, and
- The Excise Tax Act.

Each of these legislative areas addresses operations and commodity tax considerations for vessels. Because additional legislative changes were also affected in areas relative to taxation, it is recommended that you contact your financial advisor to receive expert advice in this area.

Following is a brief overview of the regulations that govern the permanent or temporary importation of vessels:

2.0 The Coasting Trade Act

The Coasting Trade Act (CTA), introduced in 1992, regulates the operation of vessels in Canada's coasting trade. The CTA governs the operation of vessels in Canadian waters, including Canada's Continental Shelf Zone, or 200 mile limit, whichever is greater.

The CTA limits vessel operations within these waters to Canadian-registered vessels that have been Canadian-built or duty-paid. Provisions of the Act provide for the

temporary entry of vessels, provided that no Canadian registered vessel is available or capable to perform the required tasks. The CTA prioritizes the first right of refusal to any work in Canada to:

- Canadian-flagged, duty-paid or Canadian-built vessels
- Canadian-flagged, non-duty paid vessels
- Foreign vessels

It is interesting to note that no preference is given to duty-paid or Canadian-built vessels unless registered in Canada.

Section 4(1)(c) of the Coasting Trade Act requires that vessels entering Canada for temporary periods must pay applicable duty and tax under provisions of the Customs Tariff and Excise Tax Act.

3.0 The Applications Process

The Carrier Control Section of Canada Customs and the Canadian Transportation Agency administer the Coasting Trade Act. When a foreign or non-registered duty paid vessel wishes to work in Canada, an application must be submitted to this authority. If there are no objections received from Canadian vessel operators, the application is approved.

Where objections from Canadian vessel owners are received, there is a review process whereby the applicant and objector file their positions with the Canadian Transportation Agency. This agency will then make determination as to whether the Canadian vessel is capable and/or available to perform the requested scope of work. Where the decision favors the Canadian vessel owner, the applicant has no recourse but to register the vessel in Canada and pay applicable duty, if required.

4.0 Customs and Excise Offshore Application Act

As mentioned above, with the introduction of the Customs and Excise Offshore Application Act, Canada Customs jurisdiction was extended to the Continental Shelf Zone. This extension included the requirement to pay any applicable duty on rigs and vessels used to support drilling operations.

Where a vessel operates in Canadian waters, the duty rate is 25% of the fair market value for any vessels from countries of origin with which Canada has no existing trade agreements. For NAFTA and other countries with whom Canada has trade agreements, vessel duty rates may be lower, or assessed at 0%, depending on the country of origin.

Customs regulations provide for the pro-rata payment of duty for each month the vessel is in Canada, provided temporary use authorization has been received under the above-referenced Coasting Trade Act. This pro-rata payment is more commonly referred to as 1/120th importation.

Temporary entry- 1/120th

A vessel may be temporarily imported into Canada, with the owner paying a pro-rated portion of the total duty assessed, provided that authority is received under the Coasting Trade Act. Applicable duty will be based on the determined transaction value of the vessel, pro-rated for each month or portion of a month that the vessel continues to work in Canadian waters. The formula for temporary entry is as follows:

$$\text{duty cost per month} = \frac{\text{value for duty} \times 25\%}{120}$$

The duty paid on the 1/120th basis may be credited against the eventual full duty payment, provided there is authorization under the Coasting Trade Act and that the monthly duty payments are continuous. The 1/120th procedure is not intended as a deferral of duty payment. It is intended to allow for temporary entry or use only.

In addition to the duty cost for temporary importation, Goods and Services Tax (GST) is assessed on the monthly duty-paid value of the vessel (monthly value + monthly duty x GST). The GST is a business transfer tax, similar to the European VAT, and is fully refundable to companies registered in Canada under the GST program.

Please note that no bonded stores are permitted while vessels are in Canada under a 1/120th importation.

5.0 Canada Newfoundland/ Nova Scotia Offshore Petroleum Boards

The following information applies only to vessels imported for oil and gas related projects:

The Atlantic Accord is an agreement between the Federal Government of Canada and the Province of Newfoundland & Labrador detailing the joint management role for both parties in the jurisdiction of offshore resources. The Canada-Newfoundland & Labrador Offshore Petroleum Board (CNLOPB) was established to delineate the responsibilities of each level of government. Likewise, in Nova Scotia the CNSOPB performs the same function.

The CNLOPB/ CNSOPB are joint Canadian and provincial government agencies whose mandate is to oversee all aspects of petroleum exploration and production in the offshore areas in Atlantic Canada. These boards have established operational and safety requirements, benefits provisions and licensing procedures requiring compliance in all offshore activities. There are a series of applications to be completed in order to obtain operating permits.

The operator generally files these with the assistance of the contractor. The requirements for these applications are quite detailed and will require considerable work in preparation.

6.0 Transport Canada

Upon or prior to the arrival of the vessel(s) at its first port of call in Canadian waters, the vessel(s) will require inspection to comply with the requirements of the

Department of Transport, Ships Safety, Coast Guard and the CNLOPB/ CNSOPB. This inspection is a pre-requisite for the issuance of a Coasting Trade Survey Certificate (SI-10), which is required for any vessel seeking to obtain a Coasting Trade License. Fees for this inspection service vary according to vessel size (GRT).

7.0 Immigration Considerations

The Canadian Government has also extended the jurisdiction of the Immigration Act to cover the areas of the Continental Shelf. This extension requires that all personnel working in the area must obtain a work visa from Citizenship and Immigration Canada (CIC) prior to any employment. Where Canadians are available to perform the work, it is expected that they will have the first opportunities to fill the required positions.

The process of determining job placements for both Canadian and foreign personnel is negotiated with Citizenship and Immigration Canada (CIC), Service Canada and the CNLOPB / CNSOPB under their benefits provisions.

8.0 Fuel Taxes

Another important cost consideration for vessel operation is fuel purchases. In Canada, a Federal Excise Tax is imposed on marine diesel fuel, and further fees may be assessed at the provincial level, depending on the province of entry. These taxes are added to the normal domestic fuel price.

9.0 PF Collins can help

PF Collins has handled the majority of applications for vessel imports into Canada's east coast coasting trade for the past 10 years. Our expertise in this area is, quite simply, unparalleled. We would recommend that the foregoing information be followed up with one of our consultants, as we will be pleased to provide additional information or address any questions or concerns in further detail. In the interim, we hope this information will be helpful in providing an overview of the issues for the temporary importation of vessels intended to operate in the Canadian Coasting Trade. We look forward to putting our expertise to work for you.