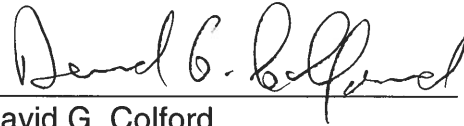


**SPECIAL COMMITTEE REPORT
ON
PROPOSED RESPONSES TO
CMI QUESTIONNAIRE ON VESSEL NOMENCLATURE**

Attached are Responses developed over the course of the last two years to answer a Questionnaire submitted by the CMI Working Group on Vessel Nomenclature.

The Chair would like to thank Matt Williams, Chris Giaschi, Will Moreira, Nils Goeteyn, Jordi Montblanch, Ian Brenerman, and Vanessa Rochester for their contributions, comments and suggestions.

Montreal, this 6th day of April 2018

A handwritten signature in black ink, appearing to read "David G. Colford", written over a horizontal line.

David G. Colford
Chair.

CMI International Working Group on Vessel Nomenclature

Questionnaire

ASSUMPTIONS

General definition to be found in Article 11b of the International Convention on Salvage 1989:

“Vessel means any ship or craft or any structure capable of navigation.”

Common understanding of “ship” is reflected in the International Convention for the Prevention of Pollution from Ships, 1973/1978:

Art.2/4: Ship means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.”

1. Is there a Statutory, regulatory or other definition in your legal system which conveys a meaning similar to the above definition of either “vessel” or “ship”? If so, which is (are) the terms and their corresponding definitions?

Please provide details of all qualifiers to such definitions, such as minimum length, tonnage, registry, design, intended trade or usage, etc.

Yes, definitions of “ship” or “vessel” meet the basic criteria that it is a tangible moveable capable of moving over water from one place to another.

There is no one definition of “Ship” or “Vessel” under Canadian legislation, although there are many similarities: *Canada Shipping Act 2001*, SC 2001 c. 26; *Federal Courts Act*, RSC 1985, c. F-7; *Marine Liability Act*, SC 2001 c. 6 which serve different purposes. Definitions appear to be designed to meet the purpose of the particular statute and the subject matter that the statute is addressing.

Canada Shipping Act, 2001 (S.C. 2001, c. 26) – defines “vessel”

2. “vessel means a boat, ship or craft designed, used or capable of being used solely or partly for navigation in, on, through or immediately above water, without regard to method or lack of propulsion, and includes such a vessel that is under construction. It does not include a floating object of a prescribed class. (bâtiment)”

This is a general definition which is referred to by a number of other laws and regulations, including:

- *Coasting Trade Act* (S.C. 1992, c. 31)

“2. Ship has the same meaning as vessel in section 2 of the *Canada Shipping Act, 2001*; (navire)”

- *Transportation of Dangerous Goods Act, 1992* (S.C. 1992, c. 34)
“vessel has the same meaning as in section 2 of the Canada Shipping Act, 2001. (bâtiment)”
“ship [Repealed, 2009, c. 9, s. 1]”
- *Income Tax Act* (R.S.C., 1985, c. 1 (5th Supp.))
13(21) “vessel means a vessel as defined in the Canada Shipping Act. (navire)”

Federal Court Act (R.S.C., 1985, c. F-7) - defines “ship”

“2 ... “ship” means any vessel or craft designed, used or capable of being used solely or partly for navigation, without regard to method or lack of propulsion, and includes (a) a ship in the process of construction from the time that it is capable of floating, and (b) a ship that has been stranded, wrecked or sunk and any part of a ship that has broken up.”

This definition is used primarily to define and circumscribe the jurisdiction of the Federal Court of Canada and, incidentally, the application of Canadian Maritime Law.

Canada Marine Act (S.C. 1998, c. 10) – defines “ship”

“2 ... “ship” means every description of vessel, boat or craft designed, used or capable of being used solely or partly for marine navigation, whether self-propelled or not and without regard to the method of propulsion, and includes a sea-plane and a raft or boom of logs or lumber. (navire)”

This definition is used in the context of legislation governing public port authorities and the St. Lawrence Seaway and the use of public facilities.

Marine Insurance Act. S.C.1993, c.22, as amended – defines “ship”

2(1) ... ship includes the hull, machinery, materials and outfit and the stores and provisions for the officers and crew and also includes fuel, oils and engine stores, if they are owned by the insured, and, in the case of a ship engaged in a special trade, the ordinary fittings required for the trade.

This definition is used in the context of legislation governing marine insurance on whatever be considered a “ship” or a venture involving the use of a “ship”.

Pilotage Act (R.S.C., 1985, c. P-14) – defines “ship”

“ship includes any description of vessel or boat used or designed for use in navigation, without regard to method or lack of propulsion. (navire)”

This statute creates a system of compulsory pilotage in various areas in Canada and the definition's purpose is to circumscribe the navigational objects that are subject to compulsory pilotage.

Oceans Act (S.C. 1996, c. 31) – defines “ship” and “marine installation”

2. “ship includes any description of vessel, boat or craft designed, used or capable of being used solely or partly for marine navigation without regard to method or lack of propulsion. (*navire*)”

“marine installation or structure includes (a) any ship and any anchor, anchor cable or rig pad used in connection therewith, [...]”

The purpose of this statute is to extend the application of federal law to territory beyond the coastal regions of Canada and ships and other marine installations (which may not be “ships” found therein).

Marine Liability Act, S.C.2001, c.6

75 “ship” means any vessel or craft designed, used or capable of being used solely or partly for navigation, without regard to its method of propulsion or lack of propulsion, and includes

- **(a)** a ship in the process of construction from the time that it is capable of floating; and
- **(b)** a ship that has been stranded, wrecked or sunk and any part of a ship that has broken up. (*navire*)

This definition is found in a section governing other liabilities arising outside of the international convention regime for oil pollution and circumscribing what object may be exposed to liability for oil pollution.

91 “ship” means any vessel or craft designed, used or capable of being used solely or partly for navigation, without regard to its method of propulsion or lack of propulsion, and includes

- **(a)** a ship in the process of construction from the time that it is capable of floating; and
- **(b)** a ship that has been stranded, wrecked or sunk and any part of a ship that has broken up. (*navire*)

This definition is found in a section governing the Ship-Source Oil Pollution Fund and circumscribes from which oil pollution may occur and which can be the subject of a claim against or by the Ship-Source Oil Pollution Fund.

Under the Act, certain international conventions have the force of law and contain their own definitions of “ship” or “vessel”.

Schedule 2 – *The Athens Convention relating to the Carriage of Passengers*

3 ship means only a seagoing vessel, excluding an air-cushion vehicle;

Schedule 3 – the *Hague-Visby Rules*

(d) ship means any vessel used for the carriage of goods by water;

Schedule 5 – *International Convention on Civil Liability for Oil Pollution Damage*

Ship means any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk as cargo, provided that a ship capable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it has no residues of such carriage of oil in bulk aboard.

Schedule 8 – *International Convention on Civil Liability for Bunker Oil Pollution Damage*

Ship means any seagoing vessel and seaborne craft, of any type whatsoever.

Canadian Transportation Accident Investigation and Safety Board Act, S.C. 1989, c. 3

ship includes

- (a) every description of vessel, boat or craft designed, used or capable of being used solely or partly for marine navigation without regard to method or lack of propulsion, and
- (b) a dynamically supported craft; (*navire*)

Tankers and Cargo Vessels Remission Order, 2010, SOR/2010-202 (under the Customs Tariff, (S.C. 1997, c. 36)) – defines “cargo vessel”

“cargo vessel means a freighter, container vessel, self-unloader, car carrier or bulk carrier classified under tariff item No. 8901.90.91 or 8901.90.99 in the List of Tariff Provisions set out in the schedule to the Customs Tariff, but does not include a barge or its pusher vessel. (navire de charge)”

Ship Construction Subsidy Regulations (C.R.C., c. 347) (under the Appropriation Act No3, 1970) – defines “fishing vessel” and “vessel”

“fishing vessel means a ship equipped for and to be used in the catching or trapping of fish for sale; (bateau de pêche)” [...]

“vessel means

(a) a vessel that is

- (i) customarily engaged in the transportation of goods or passengers,*
- (ii) used in the construction, servicing or maintenance of other vessels or marine works, or*
- (iii) used in the exploration or exploitation of offshore mineral resources,*

and that is at least of

- (iv) 100 tons gross tonnage if self-propelled,*
- (v) 200 tons gross tonnage if not self-propelled,*
- (vi) 50 tons gross tonnage if a tug, or*
- (vii) two tons gross tonnage if a submersible capable of operating at depths of at least 1,000 feet, or*

(b) a fishing vessel over 75 feet in overall length in respect of which a certificate of preliminary eligibility has been obtained from the Minister of Fisheries and Oceans. (navire)”

Canadian Environmental Protection Act, 1999 - S.C. 1999, c. 33

122(1) The definitions in this subsection apply in this Division and in Part 10.

ship includes a vessel, boat or craft designed, used or capable of being used solely or partly for marine navigation, without regard to its method or lack of propulsion, and includes an air cushion vehicle.

149 The definitions in this section apply in this Division and in Part 10 as it relates to the enforcement of this Division.

engine means any prescribed internal combustion engine, but does not include

- [...]
- **(c)** a marine compression-ignition engine that is rated at 37 kW or more and is designed to propel a vessel. (*moteur* ;)

vehicle means any prescribed self-propelled vehicle, but does not include

- [...]
- **(c)** a vessel that is fitted, for the purpose of propulsion, with a marine compression-ignition engine that is rated at 37 kW or more. (*véhicule* ;)

vessel means a boat, ship or craft designed, used or capable of being used solely or partly for navigation in, on, through or immediately above water.

These definitions are found under divisions proscribing certain activities related to disposal at sea and to enforcement.

Antarctic Environmental Protection Act, SC 2003, c 20

vessel means a boat, ship or craft designed, used or capable of being used solely or partly for navigation in, on, through or immediately above water, without regard to the method or lack of propulsion, but does not include a fixed platform. (*bâtiment*)

Criminal Code - R.S.C., 1985, c. C-46

Seizing control of ship or fixed platform / endangering safety of ship or fixed platform / false communication / threats causing death or injury / definitions/ “fixed platform” / “ship”

S 78.1(1) Every one who seizes or exercises control over a ship or fixed platform by force or threat of force or by any other form of intimidation is guilty of an indictable offence and liable to imprisonment for life.

(2) Every one who

(a) commits an act of violence against a person on board a ship or fixed platform,

(b) destroys or causes damage to a ship or its cargo or to a fixed platform,

(d) places or causes to be placed on board a ship or fixed platform anything that is likely to cause damage to the ship or its cargo or to the fixed platform,

where that act is likely to endanger the safe navigation of a ship or the safety of a fixed platform, is guilty of an indictable offence and liable to imprisonment for life.

False communication

(3) Every one who communicates information that endangers the safe navigation of a ship, knowing the information to be false, is guilty of an indictable offence and liable to imprisonment for life.

Threats causing death or injury

(4) Every one who threatens to commit an offence under paragraph (2)(a), (b) or (c) in order to compel a person to do or refrain from doing any act, where the threat is likely to endanger the safe navigation of a ship or the safety of a fixed platform, is guilty of an indictable offence and liable to imprisonment for life.

(5) In this section,

Fixed platform means an artificial island or a marine installation or structure that is permanently attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes:

ship means every description of vessel not permanently attached to the seabed, other than a warship, a ship being used as a naval auxiliary or for customs or police purposes or a ship that has been withdrawn from navigation or is laid up.

Part VIII – Offences against the Person and Property

214 In this Part,

operate

- [...]
- **(c)** includes, in respect of a vessel or an aircraft, to navigate the vessel or aircraft; (*conduire* ;)

vessel includes a machine designed to derive support in the atmosphere primarily from reactions against the earth's surface of air expelled from the machine.

Examples:

Dangerous operation of motor vehicles, vessels and aircraft

249 (1) Every one commits an offence who operates

(b) a vessel or any water skis, surf-board, water sled or other towed object on or over any of the internal waters of Canada or the territorial sea of Canada, in a manner that is dangerous to the public, having regard to all the circumstances, including the nature and condition of those waters or sea and the use that at the time is or might reasonably be expected to be made of those waters or sea;

Unseaworthy vessel and unsafe aircraft

251 (1) Every one who knowingly

(a) sends or being the master takes a vessel that is registered or licensed, or for which an identification number has been issued, pursuant to any Act of Parliament and that is unseaworthy

- (i) on a voyage from a place in Canada to any other place in or out of Canada, or
- (ii) on a voyage from a place on the inland waters of the United States to a place in Canada,

and thereby endangers the life of any person, is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

Part XIV – Jurisdiction

Special Jurisdictions [where an offence is committed]

Definition of ship

477 (1) In sections 477.1 to 477.4, **ship** includes any description of vessel, boat or craft designed, used or capable of being used solely or partly for marine navigation, without regard to method or lack of propulsion.

Offences outside of Canada

477.1 Every person who commits an act or omission that, if it occurred in Canada, would be an offence under a federal law, within the meaning of section 2 of the *Oceans Act*, is deemed to have committed that act or omission in Canada if it is an act or omission

- (c) that is committed outside Canada on board or by means of a ship registered or licensed, or for which an identification number has been issued, pursuant to any Act of Parliament;

Provincial Statutes

Attached to this Questionnaire is a survey of the statutes of each of Canada's ten provinces for reference.

- 2. In your system, does the definition of “vessel” (or equivalent term) vary depending on the subject of a particular law? For example, does the definition differ for purpose of documentation, registry, flagging and mortgaging or when applied to seagoer labour, environmental, casualty, insurance or taxation law?**

As appears in the answer to question 1, the answer is “yes”.

Shipping and navigation in Canada is a subject matter which is within the exclusive power of the Federal Parliament, and regulated by Federal Laws, but there are activities involving ships upon which the various provincial legislatures can regulate.. As such, the definition of ship or vessel remains fairly consistent throughout the federal and provincial regimes, but are designed to meet a specific purpose of the subject matter of any particular statute.

There is some variation when it comes to the applicability to Provincial law in the area of Maritime worker safety legislation, particularly as it pertains to the fishing industry. While Federal jurisdiction over Maritime torts still holds, Provincial occupational health and safety regimes have been found valid by Canadian Courts.

- 3. Does your legal system provide for a unique process of seizure, foreclosure, forced sale or ranking and priority of claims against vessels that is different from such processes for other types of property? If so, please explain.**

While Canada has not adopted any of the Arrest Conventions, arrest of a vessel, or its property, is available as an Action “*in Rem*” for a variety of claims set out under the *Federal Courts Act*, s. 22(2), which sets out examples over which jurisdiction is exercised in the context of the application of Canadian Maritime Law:

Maritime jurisdiction

(2) Without limiting the generality of subsection (1), for greater certainty, the Federal Court has jurisdiction with respect to all of the following:

- (a)** any claim with respect to title, possession or ownership of a ship or any part interest therein or with respect to the proceeds of sale of a ship or any part interest therein;
- (b)** any question arising between co-owners of a ship with respect to possession, employment or earnings of a ship;
- (c)** any claim in respect of a mortgage or hypothecation of, or charge on, a ship or any part interest therein or any charge in the nature of bottomry or respondentia for which a ship or part interest therein or cargo was made security;
- (d)** any claim for damage or for loss of life or personal injury caused by a ship either in collision or otherwise;

- (e)** any claim for damage sustained by, or for loss of, a ship including, without restricting the generality of the foregoing, damage to or loss of the cargo or equipment of, or any property in or on or being loaded on or off, a ship;
- (f)** any claim arising out of an agreement relating to the carriage of goods on a ship under a through bill of lading, or in respect of which a through bill of lading is intended to be issued, for loss or damage to goods occurring at any time or place during transit;
- (g)** any claim for loss of life or personal injury occurring in connection with the operation of a ship including, without restricting the generality of the foregoing, any claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or of the wrongful act, neglect or default of the owners, charterers or persons in possession or control of a ship or of the master or crew thereof or of any other person for whose wrongful acts, neglects or defaults the owners, charterers or persons in possession or control of the ship are responsible, being an act, neglect or default in the management of the ship, in the loading, carriage or discharge of goods on, in or from the ship or in the embarkation, carriage or disembarkation of persons on, in or from the ship;
- (h)** any claim for loss of or damage to goods carried in or on a ship including, without restricting the generality of the foregoing, loss of or damage to passengers' baggage or personal effects;
- (i)** any claim arising out of any agreement relating to the carriage of goods in or on a ship or to the use or hire of a ship whether by charter party or otherwise;
- (j)** any claim for salvage including, without restricting the generality of the foregoing, claims for salvage of life, cargo, equipment or other property of, from or by an aircraft to the same extent and in the same manner as if the aircraft were a ship;
- (k)** any claim for towage in respect of a ship or of an aircraft while the aircraft is water-borne;
- (l)** any claim for pilotage in respect of a ship or of an aircraft while the aircraft is water-borne;
- (m)** any claim in respect of goods, materials or services wherever supplied to a ship for the operation or maintenance of the ship, including, without restricting the generality of the foregoing, claims in respect of stevedoring and lighterage;
- (n)** any claim arising out of a contract relating to the construction, repair or equipping of a ship;
- (o)** any claim by a master, officer or member of the crew of a ship for wages, money, property or other remuneration or benefits arising out of his or her employment;

(p) any claim by a master, charterer or agent of a ship or shipowner in respect of disbursements, or by a shipper in respect of advances, made on account of a ship;

(q) any claim in respect of general average contribution;

(r) any claim arising out of or in connection with a contract of marine insurance; and

(s) any claim for dock charges, harbour dues or canal tolls including, without restricting the generality of the foregoing, charges for the use of facilities supplied in connection therewith.

In the event of a successful judgment following trial, or in default of payment where a case is not defended, an order for appraisalment and sale of the defendant's property may issue.

Rule 490 of our *Federal Courts Rules of Practice* governs the sale of ships, and the distribution of sale proceeds is subject to a ranking, or prioritization, of various claims against the sale proceeds and reads as follows:

Disposition of arrested property

490 (1) On motion, the Court may order, in respect of property under arrest, that

(a) the property be appraised and sold, or sold without appraisal, by public auction or private contract;

(b) the property be advertised for sale in accordance with such directions as may be set out in the order, which may include a direction that

- **(i)** offers to purchase be under seal and addressed to the sheriff,
- **(ii)** offers to purchase all be opened at the same time in open court, that the parties be notified of that time and that the sale be made pursuant to an order of the Court made at that time or after the parties have had an opportunity to be heard,
- **(iii)** the sale not necessarily be to the highest or any other bidder, or
- **(iv)** after the opening of the offers and after hearing from the parties, if it is doubtful that a fair price has been offered, the amount of the highest offer be communicated to the other persons who made offers or to some other class of persons or that other steps be taken to obtain a higher offer;

(c) the property be sold without advertisement;

- (d) an agent be employed to sell the property, subject to such conditions as are stipulated in the order or subject to subsequent approval by the Court, on such terms as to compensation of the agent as may be stipulated in the order;
- (e) any steps be taken for the safety and preservation of the property;
- (f) where the property is deteriorating in value, it be sold forthwith;
- (g) where the property is on board a ship, it be removed or discharged;
- (h) where the property is perishable, it be disposed of on such terms as the Court may order; or
- (i) the property be inspected in accordance with rule 249.

While there is no statutory order to distribution, priorities have developed through UK and later Canadian jurisprudence roughly as follows:

- Marshall's expenses of arrest;
- Costs of the sale, including Sheriff's disbursements, advertising, appraisal, etc;
- Crew wages and repatriation costs;
- Special statutory liens;
- Possessory liens attaching prior to maritime liens, including maintenance of the vessel while under arrest;
- Traditional maritime liens;
- Possessory liens arising subsequent to maritime liens;
- Mortgages; and
- Statutory "right in rem" creditors and
- Other unsecured creditors.

4. *Has the 1993 Convention on Maritime Liens and Mortgages ("MLM-93") been adopted or followed in your jurisdiction?*

Canada is not a party to any of the international conventions on maritime liens and mortgages, Its law on these subjects is found in the Federal Courts Act, and other statutes such as the Canada Shipping Act, the Canada Marine Act, the Pilotage Act as well as the general body of law referred to as "Canadian Maritime Law", all of which have been referred to herein.

5. *In your jurisdiction is the acceptance by a registrar or other governmental body of property as a "ship" or "vessel" or equivalent term dispositive of its status under your law?*

Yes, however any rejection by a registrar or other governmental body may be challenged by an application to the court to review the decision and determine its legality, even on the issue whether the particular moveable is a "ship" or a "vessel".

6. ***If property is categorized as a “vessel” in another jurisdiction and is so registered and flagged, but would not be a vessel under the definition in your jurisdiction, would the courts or relevant authorities in your jurisdiction treat that property as a vessel for all purposes, including arrest and foreclosure? Or would the Courts in such a circumstance decline to enforce an asserted claim or mortgage if the subject is not a vessel under your jurisdiction?***

This issue has never been decided in the Canadian jurisdiction, principally because it is highly unlikely, given the broad definition of “ship” in the Federal Courts Act, which reads as follows:

“2(1) “ship” means every description of vessel, boat or craft designed, used or capable of being used solely or partly for marine navigation, whether self-propelled or not and without regard to the method of propulsion, and includes a sea-plane and a raft or boom of logs or lumber. (navire)”

The Court is granted jurisdiction over “all ships” under s.22(3) which reads:

Jurisdiction applicable

(3) For greater certainty, the jurisdiction conferred on the Federal Court by this section applies

- **(a)** in relation to all ships, whether Canadian or not and wherever the residence or domicile of the owners may be;
- **(d)** in relation to all mortgages or hypothecations of, or charges by way of security on, a ship, whether registered or not, or whether legal or equitable, and whether created under foreign law or not.

In theory, the Court’s jurisdiction is circumscribed by the definition of “ship” and if anything that is called a “ship” in a foreign jurisdiction is not a “ship” under the above definition, then the Court does not have jurisdiction and the thing and any securities attached thereto would be treated in accordance with conflict of law rules contained in the province in which the thing is located.

Arrest of foreign vessels in Canada is common, and not particularly onerous. As long as the claimant is able to provide the facts and supporting documentation to substantiate the claim, the amount owing, and that the object to be arrested is a “ship” under its nationality and is registered in a named port, then the Warrant of Arrest will issue.

Federal Courts Rules of Practice – Rule 481

Warrant for the arrest of property

481 (1) A designated officer may issue a warrant for the arrest of property in an action *in rem*, in Form 481, at any time after the filing of a statement of claim.

Marginal note: Affidavit

(2) A party seeking a warrant under subsection (1) shall file an affidavit, entitled "Affidavit to Lead Warrant", stating

- **(a)** the name, address and occupation of the party;
- **(b)** the nature of the claim and the basis for invoking the *in rem* jurisdiction of the Court;
- **(c)** that the claim has not been satisfied;
- **(d)** the nature of the property to be arrested and, where the property is a ship, the name and nationality of the ship and the port to which it belongs; and
- **(e)** where, pursuant to subsection 43(8) of the Act, the warrant is sought against a ship that is not the subject of the action, that the deponent has reasonable grounds to believe that the ship against which the warrant is sought is beneficially owned by the person who is the owner of the ship that is the subject of the action.

7. Are there any reported decisions in your jurisdiction which address the legal classification of any of the following property:

(a) non-self-propelled barges

City of Fort William v McNamara Construction Co. (1957) 10 D.L.R.(2nd)625 (Ont.High Ct.) – dredge incapable of independent navigation not a ship

R. v Star Luzon [1984] 1 W.W.R.527 (B.C.S.C.) – floating dry dock bolted to a pier not a ship

R v St John Shipbuilding & Dry Dock Co Ltd (1981), 126 DLR (3d) 353; 43 NR 15 (FCA) at para. 29 ("I am of the opinion that the "Glenbuckie" was a ship within the meaning of the definition of that word in the Federal Court Act [R.S.C. 1970, c. 10, s. 22]. She was a barge built for use on the water. She was capable of being moved from place to place and was so moved from time to time ... She was capable of carrying cargo ... of carrying people ... While it appears that she was not capable of navigation herself and was not self-propelled, these facts do not detract from the fact that she was built to do something on water, requiring movement from place to place.")

(b) self-propelled barges

Falconbridge Nickel Mines Ltd. v Chimo Shipping [1974] S.C.R.933

R. The Aladdin [1977] 2 W.W.R.677 (B.C.C.A.)

(c) accommodation barges

(d) Mobile Offshore Drilling Units

Seafarers' International Union of Canada v Crosbie Offshore Services Ltd. [1982]

2 FC 855 (FCA)

Bow Valley Huskey (Bermuda) Ltd. v Saint John Shipbuilding Ltd. (1995), 130 Nfld & PEI 92 (Nfld.SCTD) and at [1997] 3 SCR 1210

(e) wind turbine towers (floating or permanently fixed)

J.D. Irving, Limited v. Siemens Canada Limited, 2011 FC 791.

(f) jack up drill rigs

(g) construction barges

(h) submarines

Cyber Sea Technologies Inc. v Underwater Harvester Remotely Operated Vehicle 2002 FCT794 – submersible designed and used in logging in a flooded reservoir but was tethered to and manoeuvred from a barge or shore cabin by means of cables and a compressed air line held to be a “ship”
Seaplanes and amphibious vehicles

Ontario Central Airlines Ltd. v Gustafson (1957) 8 DLR (2d)584 (Ont.CA) a seaplane is not a ship, when on the water it is considered to be a power-driven vessel and the Collision Regulations apply

R v General Motors Canada (1984) 48 OR (2d)204 (HC) – where an amphibious vehicle sank with loss of life – held to be subject to Canada Shipping Act

(i) hydroplanes (air cushion)

Imperial Oil Ltd v “Expo Spirit” (The) (1986), 1986 CarswellNat 760, 6 FTR 156 (Fed TD) at para. 2 (“It is certainly not plain and obvious to me ... that a hovercraft is not a ship under the [*Federal Court Act*, R.S.C. 1970 (2nd Supp.), c. 10, s. 2]. To the contrary, as I read the definition above referred to under s. 2 of the *Federal Court Act*, a “ship” includes any description of vessel or board used in navigation. That wide description does, in my view, encompass a craft used in navigation, even if there is some airspace left between it and the water.”)

(j) vessels under construction

(k) unmanned vessels

(l) vessels devoted temporarily or permanently to storage of bulk commodities

(m) vessels in “cold layup”

(n) derelict vessels or “dead ships”

Hamilton Harbour Commissioners v AM German (The) [1973] 1254 – a

decommissioned ship awaiting dismantling is still a “ship”

(o) vessels under conversion or renovation

PG du Canada v Services d »Hôtellerie Maritimes [1968] CS 431 (Que.SC.)
vessel permanently moored and used as a hotel was not considered a “ship”

Salt Spring Island Local Trust Committee v B&G Ganges Marine Ltd. 2008 BCCA 544 – structure originally designed for navigation but has been put to another use for many years with no intention to resume navigation is not a “ship”.

Herbstreit v Ontario Regional Assessment Commissioner Region 15 (1982) 38 OR (2d) 642 (Co.Ct) – ship converted to use as a restaurant and secured to land is not a “ship”

*If there are any reported decisions on the foregoing, please attach copies. If there are numerous decisions, please attach the most recent or most indicative of your national court’s views.***[to be done after final approval of text]**

- 8. We attach a most excellent summary by Professor Bulent Sozer of Istanbul regarding the variations of definitions, usages and limitations on application of terms in many international conventions. Please identify any of the Convention usages and limitations which are at variance with equivalent terms in your national system and explain the variations.**

Canadian legislation is fairly consistent with definitions found in various international conventions, even those which Canada has not signed or ratified, but has adopted similar legislation, all with a view to being in harmony with those legal systems of its major trading partners.

- 9. Are there any instances involving your jurisdiction in which inconsistent or conflicting definitions of “vessels”, “ships” or equivalent terms have impacted results in any legal proceeding of which you are aware? If so, please provide details.**

No

April 12, 2018

Survey of Provincial Statutes

ONTARIO STATUTES AND REGULATIONS

Fuel Tax Act, RSO 1990, c F.35

Definitions

1 (1) In this Act,

“vessel” means a ship, boat, barge or other watercraft that is designed to move in or through water, but does not include an aircraft capable of operating on water or a vehicle moving on ice; (“bâtiment”)

Products used as clear fuel

- (3) Every person is liable to pay to the Minister a tax at the rate imposed by this Act upon a purchaser of clear fuel in respect of,
- (b) fuel that is not clear fuel that the person places in a fuel tank of a motor vehicle or vessel if the motor vehicle or vessel is operated or intended to be operated principally for the pleasure or recreation of its owner or operator.

NOVA SCOTIA

Mill Lakes Watershed Protected Water Area Regulations, NS Reg 75A/2017

“vessel” means a means of conveyance used on water and includes any accessory to the vessel;

Prohibited and restricted activities

4 A person must not do any of the following things in the Protected Water Area:

- (g) wash a vehicle, vessel or mechanical equipment;
- (h) carry out maintenance, other than emergency repair, of a vehicle, vessel or machinery.

Exceptions for landowners

5 An owner of land in the Protected Water Area may do any of the following:

- (b) use any of the following on Mill Lakes:
 - (i) a rowboat, canoe, or other non-motorized vessel ,

- (ii) a vessel powered by an electric motor;

Beaches Act, RSNS 1989, c 32

Interpretation

3 In this Act,

(e) " vessel" means a means of conveyance of a kind used on water and includes an accessory to the vessel;

Powers of peace officer

7 (1) A peace officer may

(a) search without a warrant and seize a vehicle including an off-highway vehicle, vessel or other property where the peace officer has reasonable and probable grounds to believe that an offence has been committed pursuant to this Act or any other enactment, if the offence is committed on a beach, and may detain the same for a period not exceeding twenty-four hours where the peace officer has reasonable and probable grounds to believe the seizure and detention is necessary to prevent the continuation or repetition of the offence;

Davidson Lake Watershed Protected Water Area Regulations, NS Reg 74A/2017

"vessel" means a means of conveyance used on water and includes any accessory to the vessel;

Prohibited and restricted activities

4 A person must not do any of the following things in the Protected Water Area:

- (f) operate a vehicle or vessel on, through or over Davidson Lake or any other watercourse or wetland, except as authorized by the Water Works Operator for the purpose of protecting the Protected Water Area;
- (h) wash a vehicle, vessel or machinery in or within 60 m of a watercourse;
- (i) carry out maintenance, other than emergency repair, of a vehicle, vessel or machinery.

Pockwock Lake Watershed - Designation and Regulations, NS Reg 12/9

(1) " vessel " means a means of conveyance of a kind used on water and includes any accessory to the vessel;

Vehicle and vessel restrictions

- 5 (1)** No person shall wash a vehicle in any watercourse or within sixty (60) metres of the shoreline or bank of any watercourse located within the Protected Water Area.
- (2)** No person shall at any time operate a vessel of any kind on, through, or over Pockwock Lake, Lacey Mill Lake, Bottle Lake, Island Lake, or any watercourse in the Protected Water Area unless authorized by the Commission.

Fishing restrictions

- 7 (1)** No person shall fish at any time from a vessel on any lake or watercourse in the Protected Water Area.

Ozone Layer Protection Regulations, NS Reg 54/95

Fire protection equipment

- 6 (1)** Subject to subsection (2), no person shall import, manufacture, install, offer for sale, sell or buy new fire extinguishing equipment that contains or is intended to contain an ozone-depleting substance with an ozone-depletion potential greater than 0.05.
- (2)** Subsection (1) does not apply in the following circumstances:
- (a)** the use of fire extinguishing equipment for fire protection in an aircraft;
 - (b)** the use of fire extinguishing equipment for fire protection in a military tactical vehicle or vessel

Bennery Lake Watershed Protected Water Area Regulations, NS Reg 211/2003

“vessel” means a means of conveyance of a kind used on water and includes any accessory to the vessel;

Restricted activities

3

- (3)** No person is permitted to wash a vehicle or vessel in any watercourse or within 60 m of the shoreline or bank of any watercourse within the Protected Water Area.
- (4)** No person is permitted to, at any time, operate a vehicle or vessel of any kind, on, through or over Bennery Lake or any watercourse in the Protected Water Area, unless authorized by the Water Works Operator.

Trails Act, RSNS 1989, c 476

(k) "vessel " means a means of conveyance of a kind used on water and includes any accessory to the vessel

Search and seizure

20 (1) A peace officer may search without warrant a vehicle, vessel or other receptacle when the peace officer has reason to believe that it contains anything or is being used in connection with the commission of an offence pursuant to this Act or the regulations or any other enactment, if the offence is committed on a trail, and the peace officer may seize the vehicle, vessel or receptacle.

Boat Builder Trade Regulations, NS Reg 228/2013

"boat" means a recreational or small commercial vessel that is used solely or partly to navigate in, on, through or immediately above water using any method of propulsion, including wind or muscular power, and includes such a vessel that is under construction;

NEW BRUNSWICK

No definitions

NEWFOUNDLAND AND LABRADOR

Mineral Exploration Standards Regulations, NLR 39/07

(u) "Vessel" includes boat, speed boat, canoe, zodiac, longliner, and barge.

17.2 Vessel use

17.2.1 If a boat launch, dock, float or other type of mooring is proposed as part of the Exploration Program, the Applicant must specify the following in the Work Plan:

- Specific location of launch, dock, float or mooring
- Detailed design drawing of the structure in plan and profile view, including the anchoring system
- Extent of any shoreline alterations required
- Description of the construction materials to be used, and methods and timing of construction
- Number of boats to be moored and length of time to be used

- A description of the type of aquatic vegetation, shellfish, fish and mammals which may be affected by the structure.
- A general description of the substrate materials within the area of the proposed structure
- Detailed description of mitigation measures used to protect banks and fish habitat
- Colour photographs of the work site at low and high tide

17.2.2 If Vessel will be used to support the Exploration Program, the Environmental Protection Plan must describe:

- how the refueling of vessel and fuel transfers from and to vessel will occur so as to prevent leaks and spills,
- in detail the procedure for leak and spill response and clean-up
- how environmental impact and contamination of the body of water will be reduced in the case where vessel will be used but no boat launch, dock, float or mooring will be constructed.

17.2.3 Boat launches, docks, floats or other types of mooring must be located such that the least amount of impact will be caused to fish habitat. For example, in areas with hard surfaces (rocks and cobbles) as opposed to soft surfaces (mud) with aquatic vegetation.

17.2.4 Boat launches, docks, floats or other types of mooring must be located such that the least amount of impact will be caused to the shoreline and riparian zone.

17.2.5 The minimum clearance below a float at low tide must be 1.5m to avoid disturbance to the seabed caused by wash from propellers.

17.2.6 Treated wood must not be used in the construction of a launch, dock, float or any other type of mooring.

17.2.7 Subject to section 17.2.10, natural materials found at the Site may be used in the construction of crib work or a launch, dock, float or mooring.

17.2.8 If cement or concrete will be used in the construction of a launch, float, dock or mooring, pre-cast structures must be used, and if cement is poured at the site, wet cement must be isolated from the surrounding water.

17.2.9 There must be no dredging, filling, blasting or use of heavy equipment below the high water mark.

17.2.10 Existing rocks and logs in the marine environment must not be used as building materials.

17.2.11 Docks and floats must be built so as to reduce the amount of shade created by these structures, through the use of the following practices, as applicable;

- building docks at least 2m above the high water mark. (This standard does not apply to floats.)
- keeping ramps and docks to a width of 1-1.5m
- using grates or space boards on ramps, floats and docks to let light reach plants and animals below
- where feasible, aligning ramps, floats and docks to lie north to south to allow better light penetration under the structure
- limiting floats to 3m in width and 8m in length

17.2.12 Boat launches must only be used during high tide. This standard does not apply to boat launching ramps that are designed for use by small craft such as canoes and zodiacs.

17.2.13 Floats, ramps and floating docks should be removed to above the high water mark during any closure in the winter.

Personal Property Security Regulations, NLR 103/99

(d) "boat" means a vessel that is designed for transporting persons or things on water and that is propelled primarily by any power other than muscle power;

PRINCE EDWARD ISLAND

Liquor Control Act, RSPEI 1988, c L-14

"boat" means any type of boat, vessel or other craft that is designed or used to travel on water;

21.1 Transportation of liquor on boat

(1) Any person lawfully in possession of liquor may, subject to subsection (2), transport it on a boat.

Idem

(2) Subject to subsection (3), where the excise stamp on the package containing liquor, or a seal used to close the package containing liquor, has been broken or removed, the package shall be transported in a locked

compartment in a part of the boat that is not readily accessible by the operator.

Exception

- (3) Subsection (2) does not apply
 - (a) where the package containing liquor is being transported on a boat that is a licensed premises; and
 - (b) while liquor is being lawfully served on the boat.

Personal Property Security Act Regulations, PEI Reg EC270/98

- (d) "boat" means a vessel that is designed for transporting persons or things on water and that is propelled by any power other than muscle power;

For the purposes of this section, the serial number for

- (a) a motor vehicle other than a combine or tractor is the vehicle identification number marked on, or attached to, the body frame by the manufacturer;
- (b) a combine, tractor, mobile home or trailer is the serial number marked on, or attached to, the chassis by the manufacturer;
- (c) a boat that can be registered, recorded or licensed under the Canada Shipping Act (Canada) is the registration, recording or license number assigned to the boat under that Act;
- (d) a boat not referred to in clause (c) is the serial number marked on, or attached to, the boat by the manufacturer;
- (e) an outboard motor for a boat is the serial number marked on, or attached to the outboard motor by the manufacturer;

BRITISH COLUMBIA

(i) **Ship**

Income Tax Act, RSBC 1996, c 215

126.2(1) In this section:

"ship" means a seagoing vessel propelled by engine, but does not include

- (a) a vessel ordinarily used for personal or recreational purposes, or
- (b) a prescribed vessel.

BC's Income Tax Act creates a tax credit for employers whose principal business is the construction, repair or conversion of ships.

Carbon Tax Act, SBC 2008, c 40

14(1) In this section, "non-commercial aircraft or ship" means an aircraft or ship used solely for personal use.

The act creates an exemption to BC's carbon tax for non-commercial ships.

(ii) Vessel

Liquor Control and Licensing Regulation, BC Reg 241/2016

"vessel" means a vessel as defined in the *Canada Shipping Act, 2001*;
These regulations set out in detail the circumstances in which a vessel will be considered a private place for the purposes of liquor laws, and the circumstances in which an establishment onboard a vessel will be granted a liquor license.

BC Parks Recreation User Fees Regulation, BC Reg 136/2009

1 "vessel" means a boat, canoe, kayak or other craft used, or capable of being used, for navigation on water;
This regulation sets fees for docking or mooring vessels in certain parks and recreates areas.

Park, Conservancy and Recreation Area Regulation, BC Reg 180/90

1 "vessel" means a boat, canoe, kayak or other craft used, or capable of being used, for navigation on water;
This regulation creates a maximum stay for a vessel in a recreation areas, and permits conservation officers to limit the number of vessels in a park or recreation area.

Insurance (Vehicle) Regulation, BC Reg 447/83

1(1) "vessel" means a ship, barge, boat or other description of vessel used or designed to be used in navigation but does not include a rowboat or a raft, logboom or other similar floating facility.
The regulations describe the circumstances in which the Insurance Corporation of British Columbia will (or will not) compensate an insured owner or operator of a vessel.

Motor Vehicle Act Regulations, BC Reg 26/58

24.01(1) "vessel" means a boat, canoe, kayak or other craft used, or capable of being used, for navigation on water;
This definition is used to exclude "boat haulers designed and used for the primary purpose of lifting or hoisting vessels" from the operation of the *Motor Vehicle Act*.

(iii) Boat

Provincial Sales Tax Act, SBC 2012

1 "boat" means a vessel or other craft that is designed for transporting or drawing on water persons or things, regardless of the method of propulsion or lack of method of propulsion;

This definition is used numerous times to govern the taxation of transactions involving boats.

Personal Property Security Regulation, BC Reg 227/2002

1(1) "boat" means a vessel that is designed for transporting persons or things on water and that is propelled primarily by any power other than muscle power;
The term is used to categorize boats as serial-numbered goods for the purposes of registering and enforcing security in a boat as collateral for another obligation.

Repairers Lien Act, RSBC 1996, c 404

1(1) "boat" includes an inboard motor and an outboard drive unit, a jet propulsion unit, or any equipment that is accessory to the motor for the purpose of propelling the boat;
This act provides a possessory lien to those whose business includes storing boats for unpaid storage fees, including how the lien is registered, prioritized, and enforced.

Controlled Alien Species Regulation, BC Reg 94/2009

9(1) "boat or water equipment" means any of the following items:

- (a) a boat, including personal watercraft;
- (b) a boat trailer;
- (c) any item used for fishing;
- (d) any item used for water-based recreational activities;
- (e) any equipment associated with, and any component of, a thing referred to in any of paragraphs (a) to (d);

This regulation permits an officer to issue a decontamination order if the boat is contaminated with certain species of mussels, or if there is reason to believe that the boat has navigated through waters contaminated with certain species of mussels.

ALBERTA

(i) Ship

No definitions.

(ii) Vessel

No relevant definitions (there are some legislative definitions of “vessel” in the sense of a piece of process equipment such as a boiler or pressure vessel).

(iii) Boat

Personal Property Security Regulation, Alta Reg 95/2001

1(1) In this Regulation,

- (e) “boat” means a vessel that is designed for transporting persons or things on water and that is propelled primarily by any power other than muscular power;

The term is used to categorize boats as serial-numbered goods for the purposes of registering and enforcing security in a boat as collateral for another obligation.

SASKATCHEWAN

(i) Ship

No definitions.

(ii) Vessel

No relevant definitions (there are some legislative definitions of “vessel” in the sense of a piece of process equipment such as a boiler or pressure vessel).

(iii) Boat

The Personal Property Security Regulations, RRS c P-6.2 Reg 1

2(1)(d) “boat” means a vessel designed for transporting persons or things on water and that is propelled primarily by any power other than muscle power;

The term is used to categorize boats as serial-numbered goods for the purposes of registering and enforcing security in a boat as collateral for another obligation.

The Wakamow Valley Authority Act, SS 1980-81, c W-1.1

2(e) “boat” includes any vessel used or designed to be used in navigation;

This regulation permits the Wakamow Valley Authority to pass bylaw permitting police or peace officers to remove any “boat” left in Wakamow Valley, which is a park in Moosejaw, Saskatchewan.

The same definition and context are used in the *Meewasin Valley Authority Act*, SS 1979, c M-11.1.

MANITOBA

(i) Ship

No definitions.

(ii) Vessel

The Highway Traffic Act, CCSM c H60

263.1(1) The following definitions apply in this section and section 263.2. "aircraft" and "vessel" have the same meaning as in section 214 of the Criminal Code.

264(1) In this section, "aircraft" and "vessel" have the same meaning as in section 214 of the Criminal Code;

265(1) The following definitions apply in this section. "aircraft" and "vessel" have the same meaning as in section 214 of the Criminal Code.

These definitions are used to permit police to automatically suspend a license when a Criminal Code offence is committed with respect of a vessel (such as operating a vessel while intoxicated).

(iii) Boat

The Liquor and Gaming Control Act, CCSM c L153

51 The following definitions apply in this Division.

"boat" means any type of craft or vessel that is designed or used to travel on water. The Act prohibits anyone from operating or having care and control of a boat while there is liquor in the boat.

Personal Property Registry Regulation, Man Reg 80/2000

1 "boat" means a vessel that is designed for transporting persons or things on water and that is propelled primarily by any power other than muscle power; The term is used to categorize boats as serial-numbered goods for the purposes of registering and enforcing security in a boat as collateral for another obligation.

QUEBEC

A. STATUTORY AND REGULATORY DEFINITIONS

Quebec legislation does not abound with definitions for the terms “vessel”, “ship”, “boat” and “craft” (in French: “vaisseau”, “navire”, “bâtiment”, “bateau”, “embarcation”). While certain provisions of the *Civil Code of Quebec* cover activities relating to shipping and navigation, the Code does not provide any definitions for these terms.

The few laws and regulations of Quebec that define these terms include the *Taxation Act* and related regulations, legislation relating to environmental regulation, and occupational safety legislation.

i. Tax legislation

The *Taxation Act* (CQLR c I-3) and related acts and regulations provide definitions for the term “vessel”. The Act applies to vessels as depreciable property, and certain vessels, such as fishing vessels, are also subject to tax exemptions. Further, certain shipbuilding activities can qualify for tax credits under the Act and its regulations.

The Act itself provides a summary definition of “vessel” as including a semi-submersible rig. The related *Act Respecting the Sectoral Parameters of Certain Fiscal Measures* extends that definition to floating processing plants, but excludes self-elevating platforms.

The regulations refer to federal legislation for their definitions. The *Regulation respecting the Taxation Act* refers the definition back to the *Canada Shipping Act 2001*. The *Decree respecting the commercial fisheries financing program* defines “boat” (“bateau”) simply as a boat registered pursuant to the *Canada Shipping Act 2001*. Finally, the *Regulation respecting Quebec sales tax* refers to the definition in the federal duties regulations.

<p><i>Loi sur les impôts</i>, RLRQ c I-3 1029.8.36.54. Dans la présente section, l'expression: [...] «navire» comprend une tour de forage semi-submersible stabilisée par pontons submersibles et par ancrage;</p>	<p><i>Taxation Act</i>, CQLR c I-3 1029.8.36.54. In this division, [...] “vessel” includes a semi-submergible rig stabilized by submerging pontoons and by anchoring.</p>
<p><i>Loi concernant les paramètres sectoriels de certaines mesures fiscales</i>, RLRQ c P-5.1 CHAPITRE IX PARAMÈTRES SECTORIELS DU CRÉDIT D'IMPÔT ET DU CONGÉ DE TAXE SUR LE CAPITAL POUR LA</p>	<p><i>An Act Respecting the Sectoral Parameters of Certain Fiscal Measures</i>, CQLR c P-5.1 CHAPTER IX SECTORAL PARAMETERS OF TAX CREDIT FOR CONSTRUCTION OR CONVERSION OF VESSELS AND TAX</p>

<p>CONSTRUCTION OU LA TRANSFORMATION DE NAVIRES SECTION I INTERPRÉTATION ET GÉNÉRALITÉS 9.1. Dans le présent chapitre, à moins que le contexte n'indique un sens différent, l'expression: [...] «navire» comprend une tour de forage semi-submersible stabilisée par pontons submersibles et par ancrage, ainsi qu'une usine flottante si elle est destinée à demeurer flottante et à être enregistrée à titre de navire, mais ne comprend pas une plate-forme autoélevatrice;</p>	<p>HOLIDAY ON CAPITAL IN RESPECT OF CONSTRUCTION OR CONVERSION OF VESSELS DIVISION I INTERPRETATION AND GENERAL 9.1. In this chapter, unless the context indicates otherwise, [...] “vessel” includes a semi-submersible rig stabilized by submerging pontoons and by anchoring, as well as a floating plant if it is intended to remain floating and be registered as a vessel, but does not include a self-elevating platform</p>
<p>Règlement sur les impôts, RLRQ c I-3, r 1 CHAPITRE VII ALIÉNATION DE NAVIRE c. II; D. 1981-80, titre IV, c. II; R.R.Q., 1981, c. I-3, r. 1, titre IV, c. II; D. 134-2009, a. 1. 104R1. Dans le présent chapitre, l'expression: [...] «navire» désigne un navire tel que défini dans la <i>Loi de 2001 sur la marine marchande du Canada</i> (L.C. 2001, c. 26).</p>	<p>Regulation respecting the Taxation Act, CQLR c I-3, r 1 CHAPTER VII DISPOSITION OF VESSELS c. II; O.C. 1981-80, title IV, c. II; R.R.Q., 1981, c. I-3, r. 1, title IV, c. II; O.C. 134-2009, s. 1. 104R1. In this chapter, [...] “vessel” means a vessel as defined in the <i>Canada Shipping Act</i> (S.C. 2001, c. 26).</p>
<p>Règlement sur la taxe de vente du Québec, RLRQ c T-0.1, r 2 VALEUR DES BIENS APPORTÉS AU QUÉBEC 17R1. Pour l'application des articles 17R3 à 17R14 l'expression: [...] «navire» a le sens que lui donne le Règlement sur la diminution ou la suppression des droits de douane sur les navires (DORS 90-304);</p>	<p>Regulation respecting the Québec sales tax, CQLR c T-0.1, r 2 VALUE OF PROPERTY BROUGHT INTO QUÉBEC 17R1. For the purposes of sections 17R3 to 17R14, the expression [...] “vessel” has the meaning assigned to it by the Vessel Duties Reduction or Removal Regulations (SOR/90-304). (navire)</p>
<p>Décret concernant le Programme de financement de la pêche commerciale, CQLR c F-1.3, r 1 SECTION II</p>	<p>[no English translation provided]</p>

DISPOSITIONS INTERPRÉTATIVES

2. Aux fins de l'application du présent programme, on entend par:

[...]

Bateau ou bateau de pêche: un bateau immatriculé conformément à la *Loi de 2001 sur la marine marchande du Canada* (L.C. 2001, c. 26);

ii. **Environmental regulations**

Several regulation enacted under the *Environment Quality Act* (CQLR c Q-2) have provisions relating to ships, vessels and other water craft. However, only one regulation provides a definition of a related term, namely the term "pleasure craft". The *Regulation respecting the protection of waters from pleasure craft discharges* defines a "pleasure craft" as boat or craft used primarily for sport or recreation and free of charge of fees.

Règlement sur la protection des eaux contre les rejets des embarcations de plaisance, RLRQ c Q-2, r 36

1. Le présent règlement s'applique aux propriétaires et aux occupants d'embarcations de plaisance qui circulent dans les lacs et les cours d'eau visés à chacune de ses annexes.

Pour l'application du présent règlement, on entend par «**embarcation de plaisance**» tout bateau ou engin utilisé principalement pour une navigation sportive ou récréative, qu'il soit affrété ou non, contre rémunération ou gratuitement. Sont assimilées aux embarcations de plaisance les embarcations et autres équipements flottants utilisés comme logement et qui ne sont pas raccordés à un système d'égout à terre.

Regulation respecting the protection of waters from pleasure craft discharges, CQLR c Q-2, r 36

1. This Regulation applies to the owners and occupants of pleasure craft on the lakes and watercourses described in each of the schedules.

For the purposes of this Regulation, "**pleasure craft**" means any boat or craft used primarily for sport or recreation, whether on charter or not, free of charge or for a fee. Craft and other floating equipment used for living purposes and that are not connected to a shore-based sewer system are considered to be pleasure craft.

iii. **Occupational safety regulations**

Several regulations enacted under the *Act respecting occupational health and safety* have provisions relating to ships, vessels and other craft, but none provide a definition of these terms. Interestingly, one regulation provides contrasting definitions of "boatbuilding" and "shipbuilding", the former applying to "boats" of less than 5 tons displacement, the latter applying to "ships" of more than 5 tons displacement.

<p>Règlement sur le programme de prévention, chapitre S-2.1, r. 10 <i>(Loi sur la santé et la sécurité du travail)</i> H) INDUSTRIES DU MATÉRIEL DE TRANSPORT [...] 9) Industrie de la construction et de la réparation de navires: Établissements dont l'activité principale est la fabrication et la réparation de tous genres de navires jaugeant plus de 5 tonnes. 10) Industrie de la construction et de la réparation d'embarcations: Établissements dont l'activité principale est la fabrication et la réparation d'embarcations de tous genres jaugeant moins de 5 tonnes.</p>	<p>Regulation respecting prevention programs, chapter S-2.1, r. 10 <i>(Act respecting occupational health and safety)</i> (H) TRANSPORTATION EQUIPMENT INDUSTRIES [...] (9) Shipbuilding and repair industry: Establishments primarily engaged in manufacturing and repairing all types of ships of more than 5 tons displacement. (10) Boatbuilding and repair industry: Establishments primarily engaged in manufacturing and repairing all types of boats of less than 5 tons displacement.</p>
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B. DICTIONARY DEFINITIONS

I searched the French and French-Canadian legal and lexicographic dictionaries available in our library for the following definitions: “bateau”, “bâtiment”, “chaland”, “embarcation” and “navire”, being the words most commonly found in the legislation (note that I did not search for terms such as “canot”, “voilier”, “chaloupe” or “yacht”).

- i. “Bateau”:
 - a. **Bateau** [*Dr. com.*] Bâtiment destiné à la navigation sur les fleuves et canaux. → *Navire*¹
 - b. **bateau** n.m. **1.** Nom générique des engins conçus pour naviguer. [...] **2.** MAR Embarcation de faible tonnage (par oppos. à *navire*). [...] ²
 - c. **BATEAU** n.m. (pl. *bateaux*) Bâtiment, grand ou petit, qui navigue sur la mer ou sur les rivières. → Le mot *bateau* est un générique qui désigne tout ce qui flotte et navigue. Par contre, le mot *navire* désigne des bâtiments de fort tonnage destinés au transport maritime (et non fluvial),

¹ Guillen, R. et Vincent, J., *Lexique des termes juridiques*, 12^e. éd. (Paris : Éditions Dalloz, 1999), page 64.

² *Dictionnaire du français Plus, à l'usage des francophones d'Amérique*, (Montréal : Centre éducatif et culturel inc., 1988), page 156.

tandis que le mot *embarcation* désigne de petits bateaux destinés principalement au tourisme, aux loisirs nautiques (canots, chaloupes, voiliers, etc).³

ii. "Bâtiment" :

- a. **BÂTIMENT** n.m. [...] **3.** Grand navire. Des bâtiments de mer, un bâtiment de guerre. SYN. vaisseau.⁴
- b. **Bâtiment**, n.m. [...] **3.** Bateau ou navire de dimensions assez importantes. *Bâtiment de ligne* : cuirassé ou croiseur de bataille.⁵

iii. "Chaland" :

- a. 1. **chaland** n.m. Bateau à fond plat qui sert à transporter les marchandises sur les fleuves et les canaux.⁶
- b. **CHALAND** n.m. Bateau à fond plat.⁷

iv. "Embarcation" :

- a. **embarcation** n.f. Petit bateau non ponté; tout petit bateau.⁸

v. "Navire" :

- a. **Navire**. [*Dr. mar.*] Bâtiment destiné à la navigation maritime. → *Bateau*.⁹
- b. **Navire** n.m. Construction flottante qui sert ou peut servir, exclusivement ou partiellement, à la navigation maritime, qu'elle soit pourvue ou non d'un moyen propre de propulsion.

³ De Villier, M.-E., *Multi dictionnaire de la langue française*, 4^e éd. (Montréal : Éditions Québec-Amérique Inc., 2003), page 170.

⁴ *Supra* note 3, page 171.

⁵ *Supra* note 2, page 157.

⁶ *Supra* note 2, page 274.

⁷ *Supra* note 3, page 258.

⁸ *Supra* note 2, page 570.

⁹ *Supra* note 1, page 354.

Rem. Cette définition, que donnent certaines lois fédérales, permet de couvrir notamment les habitations flottantes, les plateformes de forage et les hydravions. Angl. *ship, vessel*¹⁰

- c. **navire** n.m. Bâtiment ponté conçu pour la navigation en haute mer. (Moins cour. que *bateau*. Désigne surtout bâtiment de fort tonnage.) [...] ¹¹
- d. **NAVIRE** n.m. Bâtiment de fort tonnage destiné au transport maritime (et non fluvial).¹²

¹⁰ Reid, H., *Dictionnaire de droit québécois et canadien*, 4^e éd (Montréal : Wilson & Lafleur Ltée, 2010), page 413.

¹¹ *Supra* note 2, page 1100.

¹² *Supra* note 3, page 976.