



July 10, 2008

The Secretary, Canadian Section
International Joint Commission

Ottawa, ON

Dear IJC Chairs,

IJC Proposed New Order of Approval and Regulation Plan for 2007

The Chamber of Marine Commerce ("CMC") is pleased to provide the following comments to the International Joint Commission ("IJC") regarding the proposed new Order of Approval and regulation plan.

The CMC is an Ottawa-based association that represents more than 180 marine industry stakeholders including major Canadian and American shippers, ports, terminals and marine service providers, as well as domestic and international shipping companies.

The CMC represents the interests of its members by addressing government issues affecting marine transportation. Advocacy extends to both the federal and provincial levels of government and, when appropriate, to U.S. federal and state governments and agencies.

A large number of CMC's members are important stakeholders within the Great Lakes–St. Lawrence Waterway region and, therefore, are justifiably concerned that the changes being proposed for the regulation of water levels and flows in the Lake Ontario–St. Lawrence River system would adversely impact their business operations.

Current Regulation Plan

The Boundary Waters Treaty of 1909 gives precedence to commercial navigation over all other needs and makes the use of boundary waters for navigation a high priority, second only to uses for domestic and sanitary purposes.

Regulation Plan 1958-D has been used to regulate water levels and flows in the Lake Ontario-St. Lawrence River system for the past 45 years and has served to ensure sufficient and safe water levels to provide maximum draft navigation for vessels trading through the St. Lawrence Seaway.

- ***The CMC believes that the current plan has adequately served the needs of commercial navigation and other stakeholders for the past 45 years.***

Proposed Revisions

The IJC has produced a study that evaluates various options for regulating levels and flows in the Lake Ontario-St. Lawrence River system. The five-year, US \$20 million study was released on May 31, 2006.

The goal of the study was to provide the IJC with the information it needs to evaluate criteria and options for regulating water levels and flows in order to benefit affected interests that rely on the resources of this waterway system in a manner that conforms to the requirements of the Boundary Waters Treaty.

On March 28, 2008, the IJC released a draft decision that proposes the implementation of Plan 2007 (also referred to as Plan D+ "Blended Benefits") and a revised Order of Approval for public comment.

In response to significant pressure from certain interests, the IJC has indicated that it is prepared to transition to Plan B+ ("Balance Environmental") in place of Plan 2007 once mitigation is in place. The IJC has not discussed mitigation for commercial navigation. Commercial navigation will suffer negative economic impacts without mitigation for the impacts of low and/or less consistent water levels.

- ***The CMC believes that the implementation of each of the proposed regulatory plans would have negative consequences on commercial navigation and would be in violation of the Boundary Waters Treaty of 1909 which requires that the water needs of commercial navigation takes precedence over all other interests except for domestic and sanitary uses.***

Deviations from Plan 1958-D are currently permitted that provide the minimum water levels required for commercial navigation. Deviations from any regulatory plan are crucial for commercial navigation as well as other interests.

- ***The CMC wishes to see a plan that maintains current navigability with a flexible and responsive mechanism to allow deviation as required by climatic conditions. Deviations must be addressed under any plan in a timely manner to protect commercial navigation in cases where a decrease in water levels could pose a risk to navigation. In this respect, neither Plan 2007 nor Plan B+ is better for commercial navigation than the current system.***

The current Order of Approval provides for minimum water levels on Lake Ontario and maximum outflows required for commercial navigation during the Seaway Navigation Season. The proposed new Order of Approval does not provide this assurance for commercial navigation.

- ***The CMC believes that an assurance to provide minimum water levels and flows that are safe and acceptable for commercial navigation needs on Lake Ontario for the Seaway Navigation Season must be maintained.***

Economic and Environmental Impacts

Commercial shipping interests have identified a number of flaws in the methodology used by the IJC to evaluate the economic impact associated with Plan 2007 and Plan B+. The analysis fails to consider the frequency and duration of low water levels and high water flows in the Seaway and the resulting loss of revenue to shipping companies as well as increased costs to cargo shippers. The analysis also fails to consider the potential for environmental impacts resulting from a modal shift as a result of long periods of low water levels.

Under both Plan 2007 and Plan B+, it is apparent that in dry years (as in 1964, for example), the productivity of shipping companies would fall by as much as 10% due to not being able to carry full cargo loads. This would have an immediate negative impact on the revenues of shipping companies and also cause cargo shippers to incur higher costs to move cargo via either rail or road.

A further consequence of such a situation is the resulting impact on the environment. One ship carries as much cargo as 1000 trucks. Marine emissions are, on average, 30% less than rail, and 8 times less than trucks. Causing cargo to shift from the waterways to surface modes of transport would be detrimental to the environment and significantly increase the risk of accidents & spills normally associated with other modes of transport.



The recently released *Great Lakes St. Lawrence Seaway Study* noted that this waterway system handles more than 260 million tonnes of cargo and contributes over \$6 billion to the economies of both Canada and the United States. A key finding in this report is that by moving cargo via the Great Lakes St. Lawrence System, shippers save \$2.7 billion per year in transportation and handling costs that they would otherwise have incurred had they used other modes of transportation.

The governments of Canada the U.S. continue to signal their support for the increased usage of our waterways as evidenced by the efforts being made to promote shortsea shipping. Government leaders have recognized that shortsea shipping services reduce congestion and environmental impact, and provide the opportunity to improve the reliability, capacity, efficiency, economic performance and environmental sustainability of the transportation systems in both Nations.

- ***The CMC believes that the proposed new Order of Approval and Regulation Plan for 2007 would be detrimental to the efforts being undertaken by the Canadian and U.S. governments, in conjunction with the commercial shipping industry, to promote shortsea shipping opportunities and thereby exploit the economic and environmental benefits of marine transportation.***

Recommendation

For the reasons outlined above, the CMC does not support the proposed new Order of Approval and the Regulation Plans being recommended by the International Joint Commission.

- ***The CMC urges the International Joint Commission to ensure that the requirement to address the waters needs of commercial navigation on a priority basis continues to be fully respected in accordance with the Boundary Waters Treaty of 1909.***
- ***The CMC recommends that the current plan for the regulation of water levels and flows in the Lake Ontario-St. Lawrence River system be maintained.***

On behalf of the members of the Chamber of Marine Commerce, we wish to thank you for this opportunity to provide comments on this matter and trust that the IJC will consider our views favourably.

Yours truly,



Ray Johnston
President

cc: CMC Board of Directors

