

Arctic infrastructure: it's time to act, not to study

BY K. JOSEPH SPEARS

Canada's Arctic waters are an integral component of the Arctic Ocean Basin which is part of the world's global oceans covering 80 per cent of the surface of the planet. The Arctic Ocean, a semi-enclosed sea, connects the Atlantic to the Pacific. The notion of a Northwest Passage is a magical one that has held the imagination of explorers and mariners for centuries. As a result of climate change, there has been a change in sea-ice distribution and thickness that now makes this long held dream a commercial possibility. The bulk carrier *M/V Nordic Orion* made a Northwest Passage voyage in the fall of 2013 from Vancouver to Finland saving both fuel and time and allowing the vessel to carry a full load of metallurgical coal. It made commercial sense to undertake this voyage which was a true international voyage having no connection to Canada (other than cargo loading) and the deliberations of Canada's policymakers and regulators.

A changing Arctic Ocean does not mean there is no ice: there are still ice hazards and other risks, but shipping routes can now be commercially viable. We have seen a great deal of interest in Asian nations considering the Arctic as a global shipping route. Whether it is the Northern Sea Route across the top of Russia, the Transpolar route across the North Pole or Canada's Northwest Passage, these Arctic routes are navigational trade routes which are part of a larger global shipping system. All of these Arctic shipping routes are technologically possible with existing ship design and construction, potentially saving time as well as fuel costs, and avoiding the potential piracy threats around the Arabian Gulf.

Lisa Raitt, Minister of Transport, recently indicated at a Canadian American Business Council luncheon in Washington that commercial shipping would not be taking place any time soon in the Canadian Arctic. She stated: "I don't see it happening right now." "I'm passionate about it. But I don't think it's a panacea, and I don't think the Panama Canal or the Suez Canal ... have any worries of competition from the Northwest Passage right now."

Is that really so? We should consider the words of another Cape Breton resident, renowned author the late Farley Mowat, who said "we should never let the facts get in the way of a good story." Canada has no control over the commercial interests that operate globally in international shipping to make such a definitive statement without solid research to back this Ministerial statement.

The development of Arctic international shipping is a global story with very little connection to Canada. Canada is not a ship-owning nation. We have approximately 238 deep-sea vessels operating out of a global fleet of over 50,000 commercial vessels. Most Canadian flagged vessels are involved in destination trade within Canada. For Arctic voyages, Canada requires 98 hours of advance notice under the Canadian *Marine Transportation Security Regulations*. There is no legal or legislative requirement for international shipping firms to provide Canada with advanced information or notification as to sailings details, or advise of their intentions (Most, however, do).

The International Chamber of Shipping (ICS) has called on the Arctic coastal nations to develop the necessary shipping infrastructure in addition to developing the Polar Code. What Minister Raitt seems to say is because there is little commercial shipping in the Arctic, Canada doesn't have to take any steps to develop Arctic shipping infrastructure. Nothing could be further from the truth.

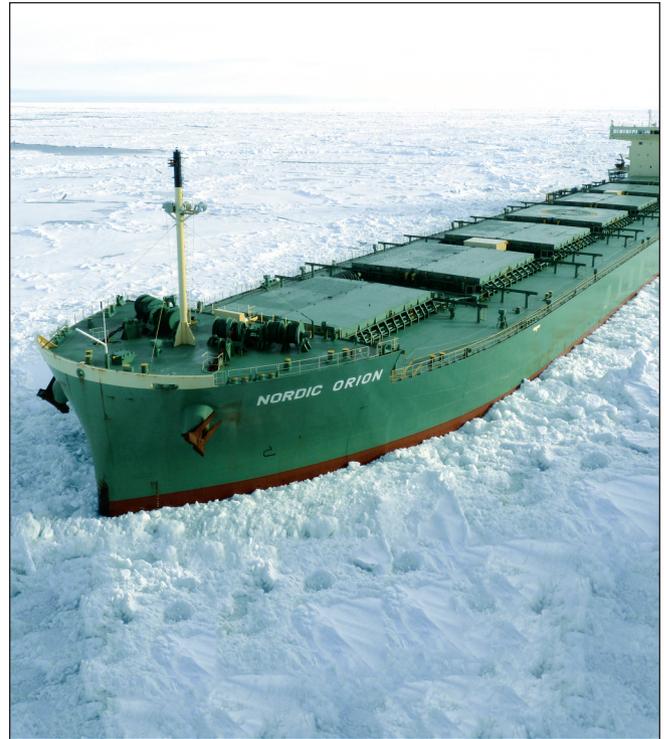


Photo: Nordic Bulk Carrier

Canada must move forward and develop the necessary shipping and/or sovereignty infrastructure before traffic volumes increase. This is especially so because of the lead time required to develop the various pieces of shipping infrastructure. The present government has placed a great deal of emphasis on developing the Arctic, and Canada is chairing the Arctic Council for a two-year term. The Minister responsible for the Arctic Council, the Honourable Leona Aqlukukkaq, has stated Canada is pushing for responsible Arctic resource development and safe Arctic shipping, while committing to "sustainable circumpolar communities." Safe Arctic shipping includes having the necessary infrastructure to marine capability including accurate hydrographic charts. As the Lt. Gov. of Alaska, Mead Treadwell, said with respect to the "New Ocean", Arctic nations need to "develop a strategic plan to realize the economic benefits of Arctic shipping". Where does this leave Canada?

Good question. Canada appears to have no strategic plan with respect to international Arctic shipping, and has done little to expand Arctic shipping infrastructure. Prime Minister Harper said that he doesn't know whether the Northwest Passage should become an international shipping route. (President Putin sure does.) Canada has taken the lead on developing a variety of agreements in the Arctic Council on operational shipping matters, including international search and rescue, and pollution preparedness and response. However, this requires Canada to take positive steps with respect to its international obligations, and put in place the hard assets to support Arctic operations. Canada is committed to building an Arctic offshore patrol vessel (AOPS), but it remains to be seen what its true function will be, given that the Arctic Ocean Basin is relatively stable from a Security and Defense standpoint.

ARCTIC shipping

While Canada has pushed hard to move Arctic issues to the top of its political agenda, there has been little action and follow through since 2006. Canada is pushing forward with an initiative known as the Arctic Marine corridor approach to Arctic navigation but there is presently little tangible result from this process. The Canadian Coast Guard has concluded three studies on communications, surveillance and navigational needs and solutions which have not been made public. The Deputy Commissioner of the Canadian Coast Guard, Jody Thomas, has been quoted as saying the Coast Guard will spend hundreds of millions if not billions of dollars on developing Arctic shipping infrastructure. While we make claims to the North Pole as part of our claim to the continental shelf, we don't have the oceanographic and geological data to support that claim.

Canada's fleet of icebreakers is well past its prime. As we have seen this past winter, on the St. Lawrence River and Gulf of St. Lawrence, these vessels are worked very hard to keep southern shipping operating during the winter months, and operating in the Arctic is a secondary role during the summer months. Construction of the one proposed polar icebreaker, the *CCG John D Diefenbaker*, has been pushed back to at least 2022 because the yard that has been designated to build that vessel, Seaspan Shipyards of North Vancouver, is presently building other ships for the Royal Canadian Navy. There is no capacity in the present Seaspan shipyard to build both classes of vessels at the same time. Canada's oldest and largest icebreaker, the *CCG St Louis Laurent*, is nearing the end of its lifecycle, but will be refitted to serve another ten years. It is presently undergoing a \$6.5-million refit before it commences Arctic summer operations.

The Russian government has expended a great deal of resources to develop the necessary infrastructure to make its Northern Sea Route a viable international shipping route, with funding provided through shipping tolls not unlike Panama canal fees. In contrast to Canada, Russia has a clear plan with respect to Arctic shipping. Canadian politicians have talked about these issues, but done little to create any tangible support domestically or internationally. In the Canadian Arctic, shipping activities could change rapidly if international shipping firms decided not to enter Russian waters either

because of their own choice or because of restrictions placed on them by their flag state. In the last year data was available, 240 vessels operated in Russian waters as part of the Northern Sea Route.

The recent words of the Minister of Transport in Washington suggest that we have the benefit of time, and can choose to do nothing while we continue to study the situation. That time has long passed. Is that really the message we want to convey as an Arctic nation and Chair of the Arctic Council? Given the changing geopolitical circumstances that will no doubt impact the Arctic, Canada as an Arctic Nation needs to move forward to develop the necessary sovereignty shipping infrastructure in the North. We do not have the benefit of time – this requires immediate action as recent incidents have shown. Canada has both national and international obligations to ensure that we acquire and maintain a serious and real capability in the Arctic in support of international shipping. As a minimum, we need updated hydrographic charting, which will require the development of a strategic plan in cooperation with other Arctic nations, and the spending of real dollars. Canada needs to look at this as an opportunity rather than expenditure. We need to explore partnering with the United States on providing this shipping infrastructure on a cost-shared basis, rather than fighting a rearguard action concerning sovereignty over these waters. The NORAD model which works with respect to continental air defense or the St Lawrence Seaway may be prime examples of mutual cooperation on Arctic shipping infrastructure, allowing each country to maintain its national sovereignty. With the United States chairing the Arctic Council starting in 2015, we have a three-year window to get this right. Canadians expect Canada to lead on the subject of Arctic shipping. It is a time for action. The future is now for Arctic nations.

Joe Spears is a maritime lawyer at Straith Litigation Chambers and has been looking at Arctic shipping since the early 1980s. He examined marine insurance and Arctic shipping in the London Insurance market as part of a Transport Canada University research program in 1985-1986. He helped develop Canada's position for the Arctic Shipping Assessment submission to the Arctic Council. He can be reached at kjs@oceanlawcanada.com.



Photo: Kitty Terwolbeck