



Comments on the Final Report of the National Supply Chain Task Force

Submitted 21 November 2022

We are writing on behalf of the Shipping Federation of Canada, which is the national voice of the owners, operators and agents of the ocean ships that carry Canada's international trade. These ships, which are all ocean-going and foreign-flagged, carry virtually all of Canada's international, seaborne trade and play an essential role in connecting Canada's importers and exporters to customers throughout the world.

You will find below our comments on the Final Report of the National Supply Chain Task Force, which we believe provides an ambitious yet concrete roadmap for addressing Canada's supply chain challenges in both the immediate and longer terms. Although the Task Force makes a wide range of recommendations, we have focused our comments on those elements of the report that we view as having the most direct relevance for the international ocean shipping sector, and the greatest potential for improving supply chain fluidity and / or reliability in both the long and shorter terms.

1. Creation of a Supply Chain Office to ensure greater federal oversight of the transportation supply chain

Given the supply chain's essential role in supporting Canada's trade objectives and its viability as a trading nation, we strongly support the Task Force's comments on the need for all stakeholders to view Canada's transportation supply chain through a "public good" or "national interest" lens, and for the federal government to therefore have a more robust role in overseeing and managing supply chain issues. Although we view the specific shape that such oversight would take as being secondary to the principle itself, we would support the creation of a Supply Chain Office (SCO) to fulfil this oversight role, and would propose that this office be led by either Transport Canada (as a first option) or by International Trade Canada (as a second option), as these are the two federal departments whose mandates intersect most extensively with Canada's trade policy. We would further suggest that Transport Canada may be better suited than International Trade to lead the SCO, due primarily to its transportation-related expertise across all modes, which represents a key dimension of the trade agenda overall.

We note that the Task Force envisions a fairly expansive role for the Supply Chain Office, which goes beyond oversight to also initiating, leading, or implementing a number of the Task Force's other key recommendations. Although this makes excellent sense from a governance perspective, we would caution that the establishment of an SCO, which is likely to be a complex undertaking with a number of regulatory implications, should not be viewed as a prerequisite or condition for moving ahead with the Task Force's recommendations in the immediate term. Indeed, we believe that the effort to create a Supply Chain Office and the effort to implement concrete and immediate actions to address supply chain challenges should occur on separate tracks, until such time as the SCO is up and running and ready to fully assume the roles it is ultimately assigned.

2. Ensuring accountability from federal entities whose activities intersect with supply chain operations

We fully concur with the Task Force's view that federal departments and agencies whose mandates intersect with supply chain operations must have an understanding and appreciation of the impact of their activities on the efficiency of Canada's transportation network, and be incentivized to adjust their operations and requirements in response to specific supply chain constraints and challenges. Although this applies to ALL the federal entities that interact with ocean ships, it is particularly critical with respect to the Canada Border Services Agency (CBSA), which imposes significant regulatory reporting requirements on the movement of goods to, from and within Canada, while operating with extremely limited operational flexibility and regulating primarily from a "security" as opposed to "trade facilitation" perspective.

An excellent example of this phenomenon and its consequences occurred this summer, when Transport Canada launched discussions with key stakeholders on how to decongest marine container terminals on the west coast of Canada. These discussions culminated in CN Rail's decision to open new container yards in Montreal and Toronto, with a view to enabling a greater number of containers to be loaded onto rail after being unloaded in Vancouver. Although the initiative met its original objective of decongesting Vancouver terminals, it also had the effect of creating new congestion challenges further inland (and in the Toronto area in particular). More specifically, containers that had been diverted to the new facilities could not be moved to and from the yards quickly enough, due in large part to delays and inefficiencies caused by CBSA's reporting requirements, which the Agency was unwilling to amend and / or simplify in order to facilitate the new process.

We believe that this particular problem could have been minimized, if not altogether avoided, had CBSA been at the table with Transport Canada and other industry stakeholders when the discussion on how best to decongest Vancouver terminals occurred. The fact that CBSA was not at the table provides a stark illustration of the "silo" mentality under which many federal departments and agencies operate, and of how this can constrain the efficient functioning of the transportation supply chain, particularly in cases where quick intervention and action are required. Given the foregoing, we believe that the development of mechanisms to more fully integrate federal entities such as CBSA into the supply chain discussion and decision-making process – whether through the creation of a Supply Chain Office or some other means – is absolutely essential to developing a more flexible, resilient and responsive system for the future.

3. Development of a long-term supply chain strategy that focuses on infrastructure planning and investment

We are strong supporters of the Task Force's recommendation on the creation of a long-term supply chain strategy, particularly as relates to the need for a coordinated, national plan to guide Canada's future decisions regarding investment in trade-enabling infrastructure. As noted in our submission to the Task Force, an essential element of such a plan is to ensure that decisions regarding infrastructure investment have a clear link to Canada's trade growth and export diversification agenda, and that key inputs for making such decisions include the development and location of new markets, projections regarding future import and export volumes, and the identification of new commodities / product types and their related transportation needs. Just as importantly, investment decisions must be under-pinned by an understanding of all available capacity in the transportation network (both actual and potential) and all chokepoints and vulnerabilities within the network's key trade corridors. We are pleased to note that many of the above elements are captured in the *Policy Statement on Port Investment* released by

Transport Canada on November 17th, and look forward to seeing these further fleshed out in upcoming stakeholder consultations.

We also believe it is imperative that the above-noted plan address the matter of timeliness in infrastructure investment, especially as relates to major projects with significant national benefits. An issue that is of particular concern in this respect is the disconnect that appears to exist between the timelines of the current environmental assessment process led by the Impact Assessment Agency of Canada (IAAC), and the timelines of the projects being assessed in terms of trade and transportation need and / or urgency. More specifically, it is our view that the current IAAC process lacks predictability, consistency and a clear pathway to completion, which can serve as an impediment to Canada's ability to meet its trade infrastructure needs in a timely and effective manner. This continues to be a priority matter from our perspective, and we urge Transport Canada to develop concrete tools for addressing the timeliness issue in its long-term infrastructure plan.

4. Implementation of a data and digitization plan to provide end-to-end visibility for all supply chain stakeholders

We fully support the Task Force's recommendation on the need for a national supply chain data and digitization strategy, as this is the best option for making the system more efficient and competitive in a context where our ability to build physical infrastructure is increasingly constrained by a variety of factors, including lack of space, community pushback and environmental concerns. In order to move this recommendation forward, it will be important to ensure that data-sharing commitments by stakeholders are based on incentives rather than penalties, that the strategy's primary focus is on connecting existing digital platforms rather than building new ones, and that Canada's major ports play a leadership role from both a regional and a national perspective. Government departments and agencies must also be prepared to join the digitization effort - ideally by migrating to a "single window" reporting model for collecting data from supply chain stakeholders.

With respect to the latter point, we were very pleased to note the Minister of Transport's announcement last month of the allocation of \$17 million in funding to streamline regulations and reduce bureaucracy across supply chains, including through the implementation of a "maritime single window" (MSW) model in Canada. Under such a model, all the information related to the arrival, departure and stay of international ships in Canadian waters would be submitted electronically through a single portal, thereby minimizing opportunities for redundancy, error and delay. Use of this model would not only significantly streamline this unnecessarily complex patchwork of reporting requirements that vessels entering Canada currently face, but also enable government departments and agencies that play a role in regulating shipping activity to harmonize and increase the interoperability of the data systems that each of them currently operates individually – for the benefit of the transportation supply chain overall.

The MSW concept is being aggressively pursued by the International Maritime Organization (IMO), which has mandated that all IMO member states (which includes Canada) must have implemented maritime single window functionality by January 1, 2024, as per the provisions of the *International Convention on the Facilitation of Maritime Traffic* (also known as the *FAL Convention*). As part of the above process, the IMO has developed a comprehensive suite of tools for member states to use when transitioning to an MSW model, including a "Compendium on Facilitation and Electronic Business," which is basically a reference manual that sets out the technical and operational standards that software developers can use when creating an electronic, single window reporting platform. The IMO is also facilitating discussions

with and among member states in order to support their transition to a single window environment by January 1, 2024, including through a multi-stakeholder symposium it will be hosting in early 2023.

Given the extent to which this international activity aligns with the work on supply chain digitization the Canadian government is currently embarking on, we are somewhat concerned over the lack of momentum that the MSW initiative appears to have generated at the federal level. More specifically, Transport Canada's senior bureaucracy does not appear to view the implementation of maritime single window as a priority, despite the IMO's January 1, 2024 deadline (and the years of preparatory discussion with member states that have preceded this date), and the very real efficiency gains that transitioning to an MSW environment would create for the management of Canada's marine border. In the absence of concrete leadership at the federal level, Canada runs the risk of squandering the significant work the IMO has already done to facilitate the transition to a maritime single window model by member countries – at a time when our government is actively seeking concrete solutions for addressing Canada's supply chain challenges, particularly in the electronic and digital realm.

In view of the above, we strongly urge the federal government to commit to taking the necessary steps to meet the IMO's January 1, 2024 implementation deadline for MSW, and to clearly designate Transport Canada as the lead department on this initiative. Indeed, it is our view that Transport Canada is the only federal department that is fully suited to lead Canada's charge on maritime single window, given its policy and operational expertise in the marine transportation sector, as well as its historical and ongoing role as Canada's representative at the IMO. Although some have suggested that CBSA should lead this initiative rather than Transport Canada, we could not disagree more strongly. Not only has CBSA's approach to the maritime sector long been characterized by a sense of institutional inertia and a lack of resources and expertise, but the agency has no direct or concrete relationship with the IMO, which will be a key factor in the successful implementation of the maritime single window model in Canada.

5. Implementation of a revised mandate for the Canadian Transportation Agency as relates to rail and ocean shipping operations.

Given our ocean carrier perspective, we are very interested in the Task Force's recommendations on a revised mandate for the Canadian Transportation Agency (CTA), particularly as relates to the provision of container shipping services at Canadian ports. We strongly support the recommendation that the CTA continue to approve cooperative working arrangements between competitors when they result in improved efficiency and productivity. Given that these arrangements ensure the container shipping industry's ability to provide regular and cost-effective service to a wide geographical range of ports, we would urge the government to go even one step further and amend the *Shipping Conferences Exemption Act* to explicitly recognize such arrangements in its provisions. This would be an important step in modernizing an Act that was last updated in 2001, and is based on a form of carrier cooperation - known as "shipping conferences" - that have largely disappeared over the last two decades.

Although we are also interested in the recommendation that the government determine whether the CTA or the Competition Bureau is best placed to address the consequences of reduced competition resulting from ocean shipping alliances, we have a number of concerns to raise in this respect. We strongly believe that oversight and regulation of the ocean transportation system must fall squarely under the purview of the Canadian Transportation Agency (and by extension the *Shipping Conferences Exemption Act* - or an upgraded version thereof), as the CTA has historical knowledge and acquired expertise regarding the shipping sector that would take years for the Competition Bureau to develop. Transitioning to a regime under which the Competition Bureau would investigate complaints regarding competitive issues in the ocean shipping sector would create an unprecedented, and potentially untenable, level of

legal uncertainty for shipping lines calling Canadian ports, who would find themselves potentially subject to investigation under the *Competition Act* at any time and with highly uncertain outcomes.

Indeed, although the *Competition Act* was amended in 2009 to remove the threat of criminal sanctions for legitimate collaborations such as joint ventures and strategic and collaborative alliance, such arrangements may nevertheless be subject to review in cases where they are seen to (or are likely to) prevent or lessen competition in a substantial way. Although we know that there is an extensive body of evidence which clearly demonstrates that cooperative working agreements among ocean carriers do NOT lessen competition, there exists very little jurisprudence on this matter from a *Competition Act* perspective, making it very difficult to predict how the Act's provisions related to permissible collaborations would be interpreted in practical terms, and as relates to shipping line agreements in particular.

We also have concerns regarding the second part of the above-noted recommendation, under which either the CTA or the Competition Bureau would be directed to promote the development of Canadian exports through a competitive and reliable ocean transportation supply chain. It is our experience that the transportation supply chain works best when it strives to meet the needs of ALL stakeholders, which includes importers as well as exporters. Consequently, it is our view that mandating a regulatory agency to focus on the promotion of one specific sector will not only distort the playing field for the other stakeholders involved, but will also act as an impediment to the full and efficient functioning of the system as a whole.

6. Development of risk mitigation strategies to protect Canada's corridors, border crossings and gateways from disruptions

Finally, we acknowledge the Task Force's recommendation on the need to protect our gateways and trade corridors from disruptions, whether these are due to climate-related natural disasters, human-caused mischief or labour-dispute delays. We view this as a priority action, not only because of the obvious impacts of such disruptions on supply chain operations, but also due to their impact on Canada's international reputation as a reliable trading partner, which has suffered a number of serious blows in recent years.

We support the Task Force's recommendations on the need for a more collaborative labour relations paradigm to better manage the risk of delays due to labour disputes, and would note two additional labour-related issues that should be addressed in Canada's supply chain strategy. The first is the longstanding disconnect that exists between labour agreements (especially in the terminal, rail, truck and pilotage sectors) and operational realities within the intersecting transportation modes, which serves as a significant impediment to injecting greater efficiency into the system overall. The second is the entrenched resistance to greater integration of technology into terminal operations that has long existed within the ranks of labour, which must be overcome in a way that reconciles legitimate concerns over long-term workforce viability with the gains that technological advancements have the potential to create. Although we appreciate these are highly sensitive subjects, they are nevertheless issues that will have to be addressed in a meaningful way if Canada is to find effective, long-term solutions to the supply chain challenges it faces.

Another important strategy for mitigating risks to Canada's trade corridors and gateways should focus on identifying ways of temporarily injecting more capacity into the transportation system in response to disruptions that do occur, regardless of their root cause. Examples of such actions could include making better use of under-utilized trade corridors, simplifying reporting requirements when ships need to

change their ports of call, or removing regulatory barriers that make it difficult to use all available assets in a given situation. It is worth noting that the implementation of many of these solutions would require involvement and sign-off from CBSA, again underscoring the role that this agency plays in Canada's supply chain operations, and the importance of ensuring that it is more fully integrated into Canada's supply chain discussion while also being held accountable for its performance in this respect.

Before concluding, we take this opportunity to congratulate the Task Force for having produced such a comprehensive, balanced and forward-looking report in a very short period of time. We also congratulate the Minister for the focus and energy he has brought to the supply chain discussion, and look forward to engaging further with the government on how best to build a transportation supply chain that will serve the interests of all Canadians in the future.

Sincerely,

A handwritten signature in black ink, appearing to read 'CH Hall', written in a cursive style.

Chris Hall
President & CEO
SHIPPING FEDERATION OF CANADA