DEVELOPMENT OF A LONG-TERM TRANSPORATION AGENDA FOR CANADA

Perspective of the International Shipping Industry

SEPTEMBER 16, 2016

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1. EXECUTIVE SUMMARY AND RECOMMENDATIONS

International shipping plays an essential role in the Canadian economy by enabling Canadian companies to access world markets at competitive prices and by providing Canadian consumers with access to a wide range of competitively priced goods. International shipping is also inherently multimodal in nature, as everything that is carried by ship requires a suitable land-based infrastructure and connecting mode. It is therefore important that the policy framework governing transportation in Canada reflects the high degree of interdependence among the system's various parts, and provides avenues and mechanisms for achieving the highest degree of transportation efficiency at the lowest practicable costs.

From an ocean carrier's perspective, this means that the government's effort to develop a long-term transportation agenda for Canada must focus on a number of targeted issues. These include mitigating the impacts of marine user fees, increasing the efficiency and fluidity of our trade routes, and ensuring an appropriate level of investment in essential marine infrastructure. Of particular importance for shipowners and operators is the need to address longstanding cost and service issues related to the pilotage regime, and to assess the system's future ability to provide service in a cost-effective and efficient manner.

Towards that end, the Shipping Federation of Canada offers the following recommendations, which are aimed not only at improving the competitiveness of the marine transportation system, but at contributing to the efficiency of the various elements of the supply chain and the Canadian economy that they serve:

RECOMMENDATIONS

Mitigating the Impact of Marine User Fees:

1. Strengthen the mechanism for reviewing the user fees established by Canada Port Authorities under the *Canada Marine Act* by establishing new grounds for appealing such fees.

2. Apply the principles contained in the *User Fee Act* (under which a fee must be assessed against the party which gains a direct benefit or advantage from that fee) to port fees established under the *Canada Marine Act.*

Introducing Measured Changes to the Coasting Trade Regime:

3. Assess the capacity of the current coasting trade regime to meet the evolving needs and realities of the Canadian economy, with a view to introducing some much-needed flexibility into the *Coasting Trade Act* and its related processes.

4. Liberalize the regime prohibiting ocean carriers from repositioning their empty containers between Canadian ports on board their own vessels (by continuing to work towards implementing the empty container repositioning provisions of the Canada-European Union trade agreement, and by considering a broader amendment to the *Coasting Trade Act* that would enable all ocean carriers to reposition their empties, regardless of their flag).

Investing in Essential Marine Infrastructure:

5. Adopt a concrete plan for renewing the Coast Guard's fleet of medium and heavy icebreakers by securing the necessary funding and establishing realistic timelines for the delivery of new units in the medium term.

6. Allocate funds for the maintenance and renewal of infrastructure in the St Lawrence Seaway (through the current multi-year asset renewal plan).

Addressing the Need for Change in the Pilotage Regime:

7. Undertake a comprehensive and strategic review of Canada's pilotage system in order to assess its ability to provide a cost-effective and efficient service going forward. Such a review should benchmark pilot salaries, workloads and working conditions against those of individuals working in comparable professions, with a view to determining the impact of the pilots' monopoly status on the gaps and discrepancies that are identified.

8. Improve the final offer selection (FOS) process provided under the *Pilotage Act* by including guidelines as to which aspects of a set of final offers an arbitrator should consider when selecting between an offer from a pilot corporation and an offer from a pilotage authority (e.g. the authority's mandate and financial situation, the needs of its clientele, current government policy, the regulatory framework, etc.).

9. Amend the *Pilotage Act* to ensure that the regulator (i.e. the pilotage authority) is the party which decides whether a change to the regulatory regime meets the objective of a safe and efficient pilotage service in accordance with its mandate under the *Pilotage Act.*

10. Increase transparency and accountability by ensuring that service contracts between the pilot corporations and the pilotage authorities are made public.

11. Formalize the process for selecting the members of pilotage authority boards and ensure that a "knowledge and experience" clause is applied to that process.

12. Consider alternatives to the governance arrangements under which pilotage authorities currently operate.

Modernizing the Framework Provided by the Canada Transportation Act:

13. Update the national transportation policy articulated in section 5 of the *Canada Transportation Act* to more fully reflect current realities (i.e. by explicitly linking trade and transportation, positioning transportation within a larger supply chain context, and underlining the need for agility and responsiveness in the system).

14. Incorporate a new section on gateways and trade corridors in the *Canada Transportation Act* , in order to provide a statutory framework to address key issues such as costs, infrastructure, governance, capacity and efficiency; and establish a process for collaboration among the various government departments and agencies involved in delivering services or managing activities in a given gateway / corridor.

2. INTRODUCTION

The Shipping Federation of Canada was incorporated by an Act of Parliament in 1903 to represent international shipping in Canada. Our members are the owners, operators and agents of ocean ships that carry Canada's imports and exports to and from overseas ports. These ships play a key role in the Canadian economy by allowing Canadian companies to penetrate global markets at competitive prices and providing Canadian consumers with access to a wide range of competitively priced goods. Indeed, without ships, Canada's ability to engage in international trade would come to a virtual standstill, and the country's prosperity and economic sustainability would be severely compromised.

This being said, it is also important to note that the ocean shipping industry is inherently multimodal in nature, as anything that is carried by ship must be transported on land at both the front end (before loading) and back end (after unloading) of its journey, and therefore requires a suitable land-based interface and connecting mode. Indeed, a ship trading between Canadian ports and ports overseas will be impacted by a number of interrelated components along the logistics chain, including those related to the marine leg of the ship's voyage (water, port, terminal processes), the intermodal component (rail and highway processes, transfers, storage), and the associated border processes (customs and other requirements).

We welcome this opportunity to contribute to the development of a long-term transportation agenda for Canada. Although our comments reflect an ocean carrier's perspective, we very firmly believe that the policy framework governing transportation in Canada must consider how the multimodal system as a whole operates to move freight in an efficient and cost-effective manner. In order to be truly effective, such a framework must make an explicit linkage between transportation and trade, and provide avenues and mechanisms for achieving the highest degree of transportation efficiency at the lowest practicable cost.

Towards that end, we offer the following recommendations for improving the cost-effectiveness and efficiency of Canada's marine-based freight transportation system, and for modernizing the statutory framework governing that system overall. Although our comments do not touch on issues related to safety and the environment (which are being addressed through a separate but parallel consultation process that is still underway), we are aware that these two sets of issues are closely linked and highly interdependent, and will have to be more fully integrated into the transportation agenda and policy work that results from the current consultations.

3. MARINE USER FEES: THE NEED FOR A MORE DISCIPLINED APPROACH

We all know that Canada's economy relies heavily on the import and export of natural resources and commodities. Such cargoes are generally interchangeable regardless of their country of origin, which means that potential buyers often view transportation costs as key factors influencing their purchasing decisions. Given that Canada is not a low cost producer of either raw commodities or industrial/consumer goods, transportation costs play a particularly critical role in the ability of Canadian exporters to be competitive in the world market. Cost is also a key consideration for the container trade, as one of the factors impacting the attractiveness of Canadian ports as gateways for container traffic is their ability to provide access to U.S. markets by delivering cargo to its end destination in the shortest possible timeframe at the lowest possible cost.

An ocean vessel trading between Canadian ports and ports overseas can expect to encounter an extensive package of fees for services, most of which are at the high end of the cost spectrum relative to other countries. This includes a significant number of fees that are mandated by government authorities (e.g. pilotage fees, harbour dues and port fees, icebreaking and marine navigation service fees, dredging costs, Seaway tolls). According to the *Canada Transportation Act* (CTA) review panel, user fees amounted to $857 million in 2013-2014 (with port, pilotage and Seaway fees accounting for more than 90 percent of this total), and have increased by an average of more than five percent per year over the past 15 years. The panel also makes the observation that the U.S. does not impose fees for vital services such as icebreaking or dredging, and that Canadian user fees are considered high by comparison, despite the fact that they only recover part of the cost.[1]

Given that a significant proportion of the above services are provided to ship-owners under either private or legislated monopolies, and given the cumulative impact that user fees have on the competitiveness of the transportation system overall, we support the CTA review panel's call for a more disciplined and systemic approach to the way in which user fees are established and implemented.

As a preliminary step in that direction, we believe that the mechanism for reviewing the user fees established by Canada Port Authorities (CPAs) under the *Canada Marine Act* must be strengthened. CPAs essentially operate as monopolies within their geographic areas, and therefore have the market power to establish fees at whatever level they desire. Although the *Canada Marine Act* requires that port authorities fix fees at a level that enables them to operate at a self-sustaining financial basis and that such fees be fair and reasonable (section 49(3)), the grounds under which a user can appeal to have these fees reviewed are very narrow. Indeed, under section 52 of the Act, the Canadian Transportation Agency is limited to assessing whether such user fees constitute unjust discrimination or provide an undue or unreasonable preference or disadvantage to other users.[2]

This means that users have virtually no avenues for ensuring that the level of fees a given CPA charges has any link with the efficiency of the service it provides[3]. This is a concern not only for port users (who basically have a very narrow recourse against potential rate abuse), but also for the competitiveness of the transportation system as a whole, and for the Canadian importers and exporters who rely on that system. The policy objective of having CPAs operate as autonomous commercial entities should not trump the need to ensure a strong linkage between the fees they impose and the efficiency of the services they provide, especially given the monopolistic context in which they operate.

In order to address this situation, we recommend that consideration be given to establishing new grounds for appealing CPA fees which are the same as those provided under section 34(2) of the *Pilotage Act* with respect to pilotage fees:

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[1] It is important to note the above charges must be added to a list of additional fees that are not mandated by the government but are nevertheless negotiable in theory only, given the size of the Canadian market and the limited number of service options that are available. This includes costs for towing, labour, terminal storage and moves, and intermodal movements by truck and / or rail.

[2] Canadian Transportation Agency, Decision No. 437-W-2003 - Harlequin Cruises Inc., Nautical Adventures Ltd., Pioneer Cruises and the Great Lakes Schooner Company against the Toronto Port Authority.

[3] In its Decision No 293-W-2010 (Irving Oil Limited against the Saint John Port Authority), the Canadian Transportation Agency stated that its mandate under section 52 of the *Canada Marine Act* does not extend to assessing whether user fees set by a port authority are "fair and reasonable" or derived from an "economic and efficient service".

> *(2) Any interested person who has reason to believe that any charge in a proposed tariff of pilotage charges is prejudicial to the public interest, including, without limiting the generality thereof, the public interest that is consistent with the national transportation policy set out in section 5 of the Canada Transportation Act, may file a notice of objection setting out the grounds therefor with the Canadian Transportation Agency within thirty days after publication of the proposed tariff in the Canada Gazette.*

This would provide port users with a much-needed avenue for ensuring that the fees established by CPAs are consistent with the national transportation policy set out under Section 5 of the *Canada Transportation Act*, and its emphasis on competition, market-forces, users needs, and lowest possible costs.

As a final note, we would also recommend that the principles contained in the *User Fee Act,* under which a fee must be assessed against the appropriate party (i.e. it must result in a direct benefit or advantage to the person paying the fee), should also be applied to port fees established under the *Canada Marine Act.*

4. THE COASTING TRADE REGIME: TIME FOR A MEASURED APPROACH TO CHANGE

Canada's coasting trade regime has historically played an important role in preserving and supporting the growth of Canada's domestic marine industry, and it is not our intention to advocate for the abolition of that regime. This being said, we do believe that there exists a growing gap between the need for shipping services within the Canadian market, and the services that can actually be provided by either domestic ships or ships operating under coasting trade licenses. We therefore view this consultation as the ideal time to assess the capacity of the current coasting trade regime to meet the evolving needs and realities of the Canadian economy, with a view to introducing some much-needed flexibility into the *Coasting Trade Act* and its related processes.[4]

Of particular interest in this respect is the introduction of amendments to the *Coasting Trade Act* that would allow international marine carriers to reposition their empty containers between Canadian ports on board their own vessels. Currently, ocean ships have no choice but to either reposition their empties by truck or rail, or (more commonly) to export their own empty containers from one Canadian port and import empty containers to another Canadian port. Although this is clearly not the most efficient means for shipping lines to manage their transportation assets, the cost of moving empty containers via Canadian flag vessels is simply too prohibitive to be a viable option.

As an example of the above, we are aware of an international shipping line which applied for a waiver to move 400 empty containers from Montreal to Halifax. A domestic vessel operator opposed the waiver, saying the containers could be moved on their vessel at a cost of $2,000 per container (for a total of $800,000) – a figure which is over six times higher than cost of moving the containers on the shipping line's own vessel, which have amounted to $300 per container (for a total of $120,000). In other words, the cost of having to adhere to the provisions of the *Coasting Trade Act* for this particular shipment would have amounted to more than three quarters of a million

[4] The coasting trade regime encompasses a number of statutes (including the *Immigration Act* and Regulations, *the Customs Act*, the *Customs Tariff* and the *Canada Shipping Act 2001)*, which are triggered when a ship has to operate under a coasting trade licence, and which are often sufficient to render a given project unviable.

dollars. Moreover, the Canadian exporter's costs would have increased by $1,700 per container, which would almost certainly have been a "deal killer" in terms of the exporter's sale to his overseas buyer.

Although the *Comprehensive Economic and Trade Agreement* (CETA) between Canada and the European Union provides some liberalization of empty container repositioning, its framework is restricted to ships operated by EU enterprises. Not only does this limit the number of carriers who could potentially benefit from such a change, it also raises questions about how empty container repositioning would work in consortium arrangements (which are used by virtually all container shipping lines), in which some of the consortium partners are EU enterprises and some are not. Indeed, we are concerned that this and similar complexities may ultimately render the theoretical ability to reposition one's empty containers extremely difficult to implement and manage in the real world.

Given the above, we encourage to government to also consider the repositioning issue in a broader context; i.e. through the introduction of an amendment to the *Coasting Trade Act* that would allow all international marine carriers – regardless of their flag - to reposition their empty containers between Canadian ports on their own (or a consortium partner's) vessels, on a non-revenue basis. This could be achieved through the introduction of a provision that clearly excludes empty container repositioning from the Act's definition of "coasting trade." The Federation has been advocating for such an amendment since 2011, and has, in the past, received the support of domestic shipowners in this respect.

The ability of international marine carriers to reposition their empty containers between Canadian ports on their own vessels would render Canadian trade routes more "logistics friendly" and competitive, while also providing Canadian importers and exporters with additional opportunities by lowering the costs of using the trade route, and offering additional export capacity at the Canadian ports where empty containers are being repositioned at a lower cost than under the current regime. As far as Canadian exporters are concerned, the benefits of such a change would be felt primarily in Atlantic Canada, where exporters would have access to empty containers at a lower price than is currently the case and be able to stuff them for export. This would translate into freight savings, that would render exporters in Atlantic Canada more competitive in the global market. It would also allow exporters to find the level of comfort they need to access new markets (given that such markets would not be profitable if transportation costs were higher).

5. MARINE INFRASTRUCTURE INVESTMENT: A TOOL FOR STRENGTHENING CANADIAN GATEWAYS AND TRADE CORRIDORS

Investment in critical infrastructure is an essential component of the competitiveness of Canada's marine-based transportation system, and we strongly believe that decisions related to infrastructure investment must be made from a gateway / trade corridor perspective if they are to be truly effective and represent the optimal use of available funds. A key priority for the Shipping Federation, and one which we have been requesting for close to a decade, is the increasingly urgent need to renew the Canadian Coast Guard's aging icebreaking fleet. That fleet plays a fundamental role in ensuring access to (and this maintaining trade through) a number of key Canadian trade corridors during Canada's long and challenging winters, including the Arctic, the northeast coast of Newfoundland, and the St. Lawrence and Great Lakes.

Despite its importance, the Coast Guard's icebreaking fleet is in a precarious state. The number of ice-capable vessels within the fleet has declined over the years and several of the remaining icebreakers have exceeded their operational life expectancy (with an average vessel age of thirty-two). Although the government has invested in vessel life extensions (VLE) for the fleet, these efforts do not generate additional icebreaking capacity (and, in fact, reduce the overall number of available units when vessels are tied up for VLE). These factors have left the fleet with very little ability to respond to conditions such as those experienced during the winter of 2013/2014, when vessels carrying just-in-time container goods and raw materials were delayed two, three and even five days due to cold weather and the lack of icebreaking assets on the St. Lawrence trade corridor.

Although the fleet has significant limitations in terms of both size and capacity, the demand for icebreaking services remains strong. This is due to expanding industrial activities along Canadian waterways, ever growing volumes of container traffic, increased ferry services in eastern Canada, and growing traffic in the Arctic, as well as the ongoing need for icebreakers to engage in flood control, search and rescue, and other governmental priorities in the North. Pressure on the fleet is expected to grow even further, as Canada continues to negotiate and implement new trade agreements, as commercial ventures such as year-round petroleum shuttle traffic between Montreal and Quebec come into effect, and as cruise ship traffic in the Arctic increases.

The Coast Guard's icebreaking fleet must have sufficient numbers and capability to meet the needs of marine transportation for the next several decades. Ultimately, the lack of icebreaking capability undermines Canada's ability to build, support and maintain a robust supply chain that contributes to the Canadian economy. In view of the foregoing, we very strongly urge the government to adopt a concrete plan for renewing the Coast Guard's fleet of medium and heavy icebreakers, which includes securing the necessary funding and establishing realistic and verifiable timelines for the delivery of these vessels in the medium term. We also urge the government to explore options for ensuring the availability of adequate icebreaking capacity in the shorter term, including the possibility of purchasing or chartering existing foreign icebreakers and / or building such vessels abroad.

Another investment priority from our perspective is the allocation of funds for the maintenance and renewal of infrastructure in the St Lawrence Seaway (through the current multi-year asset renewal plan), which is a fundamental component of the continued competitiveness of this key Canadian gateway.

6. PILOTAGE SERVICES: ADDRESSING THE NEED FOR CHANGE

Although the Federation recognises the essential role that pilotage plays in ensuring the safety of navigation in Canadian waters, we very strongly believe that there is an urgent and long overdue need to assess the current system's ability to provide service in a cost-effective and efficient manner. Indeed, there is a general consensus among shipowners and operators that Canada's pilotage system, which operates as a mandatory, government-imposed monopoly, is out of control in terms of its ability to reign in costs or ensure adequate service levels.

The pilotage fees that are charged to the industry have long been increasing at a rate that far exceeds inflation, and the pilots are remunerated at levels that far surpass average Canadian wages for similar work. Indeed, between 2002 and 2015, the pilotage rates charged by the four pilotage authorities increased by a combined 65.9 percent, while CPI increased by less than half that amount (29.2 percent) during the same period. Pilotage fees represent a major portion of a vessel's operating costs (for federally regulated services) while navigating in Canadian waters, with some

ships paying as much as $12,000 per day in pilotage fees alone. For a vessel making a return voyage through the Great Lakes[5], this translates into a total pilotage bill of $105,000 for a single voyage with a single pilot on board.[6]

In addition to their concerns over costs, users also have long-standing issues related to the level of service they receive (particularly in terms of pilot availability and delays), and have little confidence in the pilotage authorities' ability or willingness to address such issues in a substantive manner. Although these cost and service concerns are pervasive throughout the pilotage system as a whole, they are particularly actute in regions where the Authorities have contracted for the services of corporate pilots, as is the case in the Laurentian and Pacific pilotage authorities.

The main statutory instrument governing pilotage in Canadian waters is the *Pilotage Act*, which – with the exception of a few minor amendments – has undergone very little significant change since it came into effect in 1972. Given the concerns that users have about the way in which the pilotage system has evolved since then, we strongly believe that it is time to take a step back and review the functioning of the pilotage system overall, with a view to assessing its ability to provide a cost-effective and efficient service going forward. Such a review should, as a key objective, benchmark pilot salaries, workloads and working conditions against those of individuals working in comparable professions and environments, with a view to determining the impact of the pilots' monopoly status on the gaps and discrepancies that are identified.

As previously stated, there exists a widespread view among shipowners, operators and other stakeholders that the inability of Canada's pilotage system to control costs or drive efficiency is having a negative impact on the competitiveness of the transporation system overall. An important – and fundamental - step in addressing this situation (and identifying potential solutions) is to obtain a concrete and accurate portrait of the pilotage system as it exists today, which can be best achieved by undertaking a comprehensive and strategic review of the system as described above.

Amending the FOS Process to Address Cost Issues

Although we believe that a whole-scale review of the pilotage system must be identified as a priority action in the government's long term transportation agenda, this does not mean that action should not also be taken in the more immediate term to address specific concerns. For example, a key means by which the pilotage authorities could gain greater control of their expenses and levels of service in cases involving corporate pilots is by improving the final offer selection (FOS) process provided under section 15.2 of the *Pilotage Act.* More specifically, the Act should provide guidelines as to which aspects of a set of final offers an arbitrator should consider when selecting between an offer from a pilot corporation and an offer from a pilotage authority (e.g. the authority's mandate and financial situation, the needs of its clientele, existing government policy, the regulatory framework, etc.).

The lack of such guidelines has compelled the pilotage authorities to to to great lengths to avoid having to resort to the FOS process whenever possible. More specifically, they have granted

[5] The vessel used in this example is a 35,000 mt bulk carrier making a return voyage through the Great Lakes (i.e. discharging cargo in Windsor, proceeding to Thunder Bay to load grain, and then transiting to the last pilot station eastwards in Escoumins, for a total of 8.5 days of navigation).

[6] For some perspective on how disproportionate pilotage fees have become, one should note that the $12,000 in daily pilotage fees incurred by the vessel in our example is higher than that same vessel's daily fuel costs (which would vary between $5,400 and $10,400 depending on whether the vessel is at sea and burning intermediate fuel or in an Emission Control Area and burning low sulphur fuel), and is equal to or higher than the vessel's total daily operating costs (which would total between $10,500 and $12,000 per day in operation/maintenance and amortization/financing costs).

generous concessions to the pilot corporations in order to ensure that the latter do not push contract negotiations to a point where the FOS process is invoked. In cases where the FOS has been invoked, the authorities have faced arbitration awards that have required them to make payments to the pilot corporations that far exceed the "fair and reasonable" legislative threshold they are obliged to respect when establishing pilotage tariffs. As a consequence, the payments made to the pilot corporations and the tariffs charged to users have been rising well above CPI, under the false premise that they can easily be absorbed by carriers or passed on to shippers. This ignores the fact that freight rates in international shipping are based on a pure supply and demand market, and have remained depressed since the 2008 economic downturn, forcing carriers to aggressively control their costs and find efficiencies at all levels.

It is worth noting that need to introduce guidelines into the FOS process was raised in the recommendations arising from the 2002-2003 review of the *Canada Marine Act* (Recommendation 8.1 of the review panel's report), and in the discussion paper that Transport Canada circulated to stakeholders during the 2007 *Pilotage Act* review. Although this led to the inclusion of legislative amendments to the FOS process in Bill C-64 (*An Act to amend the Pilotage Act*, introduced in June 2007, and reintroduced as Bill C-4 in October 2007), the Bill died on the order paper soon after being tabled for first reading, and has not been reintroduced since.

Reestablishing the Primacy of the Pilotage Authorities to Regulate Safety

Another issue of significant concern is the fact that the FOS process provided under the *Pilotage Act* has resulted in FOS awards which establish new operational standards that contradict the existing regulatory framework. As an illustration of the above, a recent contractual negotiation between the Laurentian Pilotage Authority and the Mid St. Lawrence River Pilots resulted in the pilots' implementation of a change to the process for ordering pilots for daytime and nighttime navigation. This change, which subjected users to conditions that were more restrictive that those provided under the current regulations, occurred outside of the normal federal regulatory development process. As a result, users were deprived of the checks and balances that would have come into play had the change occurred through a regulatory amendment.

It is essential from our perspective that the contracting powers of pilot corporations are not construed as being limitless and that private service contracts do not circumvent the regulatory process, especially with respect to safety and the rights of users under the regulations. In view of foregoing, we strongly believe that the *Pilotage Act* must be amended to ensure that the regulator (in this case, the Laurentian Pilotage Authority, and ultimately Transport Canada and the government) is the party which decides whether a change to the regulatory regime meets the objective of a safe and efficient pilotage service in accordance with its mandate under the *Pilotage Act.* Towards that end, the FOS process should be amended to ensure that arbitration awards do not contradict the existing legislative and regulatory framework.

Moreover, the regulatory powers of the pilotage authorities under section 20 of the *Pilotage Act* should also be carefully reviewed and strengthened with the same objective in mind; i.e. ensuring that the pilotage authorities have the necessary powers at their disposal to regulate safety aspects of the pilotage service. In addition, existing pilot contracts should be reviewed and amended to ensure that any safety-related matter that falls under the scope of the pilotage authorities' power is withdrawn, and that any provisions requiring regulatory approval/amendment are not be included in future service contracts.

We have heard many statements to the effect that pilots are independent parties who only have safety in mind. In point of fact, however, pilot corporations and their members are also constrained

by other considerations, such as the need to generate income for their members, and can therefore be in a conflict of interest. It is therefore essential to re-establish the primacy of the pilotage authorities when it comes to managing and regulating a safe and efficient pilotage service.

Increasing Transparency and Accountability

In order to provide greater transparency and accountability in a context in which pilots have the right to organize as pilot corporations and are empowered to provide pilotage services under a legislative monopoly, we believe that the service contracts between the pilot corporations and the pilotage authorities should be made public. In this respect, we refer to statements made by the Canadian Transportation Agency as part of its tariff review process provided under the *Pilotage Act*:

> *The Agency's mandate to review tariffs proposed by pilotage authorities is a legislated review of a government-imposed service delivered under monopolistic conditions. It is in the public interest to ensure that the management of services delivered under these circumstances are open and accountable. Disclosure of this document is necessary to achieve these objectives and to enable the parties to participate fully in this proceeding before the Agency*[7]*.*

Amending the Current Governance Structure

Given the difficulties the pilotage authorities have faced in meeting user demands for efficient and cost-effective service, we believe it is time to explore alternatives to the governance arrangements under which the authorities operate. That being said, we have some concern with the CTA review panel's recommendation to integrate the four pilotage authorities into one national entity, as we believe that such a merger would result in a loss of local knowledge and cooperation that has developed through local relationships. We would, however, support a review of a possible merger between the Laurentian and Great Lakes pilotage authorities due to their geographical proximity and comparable customer base. We would also recommend further study into potentially merging the administrative tasks that are common across all the authorities (such as dispatch, invoicing, collections, accounts payable and human resources), which could result in greater efficiencies and cost savings.

With respect to the current composition of the boards of the pilotage authorities, we have concerns about the ability of the public interest representatives to make a meaningful contribution to the boards' deliberations when they have no relevant background or qualifications. In order to address this shortcoming, we recommend that the process for selecting authorities' board members be formalized, and that a "knowledge and experience" clause modeled on sections 15(1) and (2) of the *Canada Marine Act* be applied to that process.

We would also suggest that serious consideration be given to the board structure used by the St. Lawrence Seaway Management Corporation (SLSMC), which comprises representatives from the federal and provincial governments, carriers, shippers, and the public interest.[8] Clients of the Seaway have found this board to be responsive to their needs, transparent and accessible. Given its success, we believe that the SLSMC board may serve as an ideal model for restructuring the boards of the pilotage authorities and giving users a greater say in corporate management.

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[7] Canadian Transportation Agency, Decision No. LET-W-174-2001, April 2, 2001

[8] In comparison, the composition of pilotage authority boards (which is not prescribed by the *Pilotage Act)* consists of seven members, including one chair, two public interest representatives, two pilot representatives and two user representatives (one domestic and one international).

7. THE CANADA TRANSPORTATION ACT: MODERNIZING THE EXISTING FRAMEWORK

The *Canada Transportation Act* – and the Canadian transportation policy contained in section 5 of the Act in particular – are potentially powerful tools for aligning the current mosaic of statutes, regulations and practices that govern transportation in Canada with a general framework that helps connect the pieces together, thereby adding value to the system as a whole.

Although the transportation policy articulated in section 5 is still largely relevant and useful for the future (especially given the preeminent role it ascribes to competition and to the transportation system's fundamental goal of serving users), we believe that the policy could be updated to more fully reflect current realities. More specifically, an updated version of section 5 could:

- Make an explicit linkage between trade and transportation;
- Refer not only to transportation but also to logistics (which transcends modes and positions transportation within a larger supply chain context);
- Underline the need for agility and responsiveness within the system;
- Clarify that Canada national transportation policy is an "all of government" policy.

In addition, *the Canada Transportation Act* should incorporate a new section on gateways and trade corridors, in order to provide a statutory framework that addresses fundamental issues such as costs, infrastructure, governance, capacity and efficiency. Such a framework should also establish a process for collaboration among the various departments and agencies involved in delivering services or managing activity in a given gateway / corridor. The underlying objective would not be to create a new layer of bureaucracy, but to better coordinate and streamline the key entities whose operations or mandates have an impact on a gateway's competitiveness.

8. CONCLUSION

The Shipping Federation of Canada fully supports the government's effort to develop a long-term transportation agenda for Canada, and trusts that the observations and recommendations provided in this document are useful in framing Transport Canada's thinking on how marine transportation fits in that agenda, and how all of the modes must work together to move freight in the most efficient and cost effective manner possible.

We strongly believe that the highly interdependent factors of cost and efficiency play a key role in the ability of Canadian exporters and importers to be competitive in the global market. From an ocean carrier perspective, this means that particular attention must be paid to mitigating the impacts of marine user fees, increasing the efficiency of our trade routes through targeted amendments to key pieces of legislation, ensuring an appropriate level of investment in essential marine infrastructure, and addressing longstanding cost and service issues related to the pilotage regime. When viewed as a whole, these actions will not only improve the competitiveness of the marine transportation system, but also contribute to the efficiency of the various elements of the supply chain overall and the Canadian economy that they serve.

Respectfully submitted,

Michael H. Broad, President
SHIPPING FEDERATION OF CANADA