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**SUBMISSION TO THE  
RAIL FREIGHT SERVICE REVIEW PANEL**

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## Executive Summary

The Shipping Federation of Canada (the Federation), incorporated by an Act of Parliament in 1903, represents the owners, operators and agents that carry Canada's international trade to and from Canadian ports.

**The Rail Freight Services Review that is currently underway is of utmost importance to our members.** Our liner members view rail as an extension of the service they provide to their clients, as a result of which they have a compelling interest ensuring that the system as a whole functions as efficiently as possible. In addition to their own specific interest in that matter, Federation members also believe that the competitiveness of Canada's rail service is a critical element in the competitiveness of Canadian trade routes and the Canadian ports that serve as gateways to those routes. Their assessment is that rail can and should do better and that there is a need to define, measure and (when necessary) sanction service standards throughout the system.

**The problem from our perspective is that rail service in Canada systematically fails to meet needs of users** (even between the "crises" that occur on a regular basis). This impacts the whole supply chain and trade route and is serious enough to warrant government intervention.

**We have identified a number of best practices** (operational practices and approaches or values) **which should be used as building blocks** to bridge the gap between the needs of the shippers and the level of service provided.

**We recommend that the *Canada Transportation Act* be amended to provide the framework** (and necessary leverage) **for negotiated levels of service and performance standards, contract default provisions,** and monitoring by the federal government. Such amendments would include:

- Provisions for container port/terminal service agreements with the railway(s) that serve the port/terminal;
- A list of the key level of service elements that should be included in rail service contracts and negotiated on a commercial basis;
- A complaint mechanism with the Canadian Transportation Agency when contract default provisions are not sufficient to solve a given issue;
- An overall and ongoing (national) monitoring role for Transport Canada.

The rail system as a whole must become more reliable and accountable. What is at stake is not simply the contractual relationship between the shipper and the carrier, but the competitiveness of the Canadian trade route itself.

# I Introduction

## 1 – The Federation:

The Shipping Federation of Canada (the Federation), incorporated by an Act of Parliament in 1903, represents the owners, operators and agents that carry Canada's international trade to and from Canadian ports<sup>1</sup>.

The Federation's involvement in intermodal issues and the development of the Canadian trade route spans many years, from the review of the *Canada Transportation Act* that took place in 2000 to the various gateway and trade corridor initiatives that have been introduced in more recent years. The starting point for our participation in such initiatives has been our belief that although the fundamentals of Canadian gateways are excellent, Canada's freight transportation network is still far from reaching its full potential due to its continued adherence to a segmented (rather than more holistic, supply chain-oriented) approach.

## 2 – Federation members' interface with rail services:

Federation members interface with CN and/or CPR in the following ways:

- as clients (shippers) of CN and/or CP when the ocean carrier acts as a global logistics provider ("door-to-door" service), and/or
- as connecting carriers supplying one another with cargo and/or interfacing within the same terminal.

Even when Federation members are not "clients" of the railway company (i.e. when they are not linked by a contractual relationship), they are nevertheless stakeholders in the logistical chain. As such, they are positioned at either the beginning of the Canadian trade route (as receivers of foreign-bound cargo) or at the end of the Canadian trade route (as unloaders of foreign-sourced cargo), and have an interest in ensuring the smooth flow of cargo and avoiding port or terminal congestion.

However, the most important interface that our members have with rail is based on the fact that **rail carriage is an integral part of ocean carriage** as far as intermodal containers are concerned. The customers who are served by our members see ocean carriage and rail carriage as part of a single transportation

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<sup>1</sup> The list of Federation members can be accessed at:  
[http://www.shipfed.ca/new/eng/public/core\\_members.asp](http://www.shipfed.ca/new/eng/public/core_members.asp)

continuum which must improve. It stands to reason, therefore, that our industry has a compelling interest in ensuring that the system - in its entirety - functions as efficiently as possible.

In terms of our industry's specific requirements from the railways, this translates into the need for:

- sufficient capacity (across the various types of cars)
- crews and power
- train frequency and direct trains
- accountability on performance & transparency
- sufficient terminal capacity
- contingency planning (including recovery plans)

### **3 – Specificity of ocean carriers vis-à-vis other shippers**

Some 95 percent of Canada's overseas imports and exports are carried by ocean carriers through Canadian ports. In addition, many of the containers handled in Canadian ports either originate in or will end up at U.S. destinations by means of rail. This intermodal cargo, which is shared by ocean carriers and rail carriers along the supply chain, represents the railways' largest and fastest growing business line<sup>2</sup>.

Ocean carriers are similar to other shippers in that they are particularly sensitive to monopolistic rail situations, such as those that exist in Halifax and Prince Rupert. The main difference between ocean carriers and other shippers is that ocean carriers are global logistics providers who can choose the route (and country) that best meets their needs. In other words, they have the ultimate (albeit sometimes costly and limited) option of switching their ports of call in order to obtain better rail service elsewhere to reach their end market.

The competitiveness of rail services in Canada is therefore critical to the competitiveness of the Canadian trade route and of the Canadian ports that are the gateways to those routes. And, rail competition is a key element in the decision to choose one particular port of call over another.

### **4- What is at stake for our industry:**

The fact that the level of rail service in Canada falls short of what it should be not only undermines the efficiency of the supply chain as a whole, but also undermines efforts to grow and develop Canadian trade routes. It is essential that the current gap between the reasonable expectations of shippers and actual levels of service be bridged, so that Canada can improve its rating/perception as

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<sup>2</sup> QGI Consulting, *Description of Canada's Rail Based Freight Logistics Systems*, pp. 41 and 412 (Figures 19 and 20) and page 50.

a trade route and profit from the benefits (including new business opportunities) that this would bring.

Towards that end, our industry needs to define, measure and when necessary, sanction, service standards throughout the system.

## II Identification of Problems and Issues with Railways

Given that the consultant reports arising from phase 1 of the review process extensively document problems and issues with the railways (as mandated by the review's terms of reference), we do not intend to reiterate those points in this submission. We would instead refer the Panel to the consultant report entitled [Survey of other stakeholders – Terminal operators, ports and shipping lines](#), which presents a fair assessment of the current situation as far as shipping lines are concerned.

Similarly, we do not intend to use this submission as a forum for relaying the litany of railway grievances expressed by our members. Suffice it to say that our industry has experienced a dozen serious crises due to rail services<sup>3</sup> over the past decade, and that rail service in the intervening periods between such crises can be best described as “**death by a thousand cuts**”. In other words, the level of service provided by the railways has failed to meet shippers' needs on a systematic basis. Indeed, the problems that our members have experienced on a daily basis all too clearly illustrate the gap between the industry's needs with respect to rail services (expressed above) and the services they actually obtain.

The crux of the matter is that Canadian railways have a monopoly (or a duopoly in certain best case scenarios) that is strategically positioned in the middle of the supply chain, with the management of this asset having a domino effect on the capacity and efficiency of the entire supply chain, as well as on the efficiency and profitability of other stakeholders (such as Federation members). All carriers, including Federation members, want to maximize the use of their assets, but only rail carriers insist on adhering to a “balanced trade” business model. Although “balanced trade” almost never exists in real life, the railways use this model as a rationale for not providing the service that is needed in various segments of the trade or the railway network (in which case it leads to regional discrimination). Under this business model, the needs of Canada's trade are sacrificed to the need to ensure that the service provided on the main leg match the volume and type of cars required for the backhaul. The problems arising from such business model include financial losses, higher costs, administrative costs, and missed opportunities for ocean carriers, whose own performance as door-to-door carriers depends on the level of service provided by Canadian railways. This is on the top of the fact that the cost of Canadian rail is already higher than cost of US rail.

What is important for our industry at this point is to state loudly and clearly that the problems and issues are serious enough to warrant action from the government in order to rebalance the bargaining forces at stake, so that the

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<sup>3</sup> See Appendix A for the compilation of these crises.

**Canadian transportation system** and stakeholders **as a whole functions better** for the shared benefit of Canadian trade and all its stakeholders.



## III Identification of Best Practices

As per the terms of reference associated with this review, Federation members have identified the following current best practices:

- 1 – Coproduction agreements:** Federation members are very supportive of such agreements, which make a significant difference in the level of service provided by the relevant rail segments. However, these agreements can still be improved from an operational perspective.
- 2 - Reservation systems:** Federation members view the reservation system with terminals itself as a valuable initiative<sup>4</sup>, which has forced clients to be more responsible. ... However, the way the program works is not sufficiently transparent. Moreover, members do not support CN's IMX program, which they view as the reason for insufficient capacity on the export side<sup>5</sup> (because the non-dominant leg of the trade suffers under this program).
- 3 – Visibility of rail supply in the port:** The ports of both Vancouver and Montreal publicize updated information on rail supply.
- 4 – Given that the U.S. railway system is often assessed as being more efficient than the Canadian system,** we recommend that Canadian railways benchmark themselves against the level of service provided in competing ports/routes south of the border (such benchmarking would necessarily take into account the cost of the service, which is one component in assessing the overall efficiency of the service provided).
- 5 – Inland terminals:** de-clogged ocean terminals

Although these best practices alone will not be sufficient on their own to bridge the gap between the needs of shippers and the level of services provided, they are an important part of the solution to our current railway challenges and help to illustrate what a better system should provide:

- a supply-chain system approach;
- accountability of each segment of the chain;
- transparency across the chain;
- benchmarking;
- better use of capacity;
- continuous improvement.

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<sup>4</sup> With the caveat that the systems seems to grant a preferential treatment to CN trucks vis-à-vis other users.

<sup>5</sup> Federation members say that they have to hold ships because they don't get the cargo.

## IV Recommendations

The Federation has read with interest the various consultants' reports arising from this review. Although our members do not have any concrete problems with the recommendations contained in these reports, we would note that it is sometimes difficult to discern their relevance in terms of solving the problems and issues that our industry faces with respect to service levels. From a shipping industry perspective, the only way to resolve these issues and move forward is to **establish, measure and sanction level of service and performance standards throughout the system**. And, as we have highlighted throughout this submission, we believe that the current situation is serious enough to warrant government intervention in this respect.

This being said, Federation members do not believe that Canada's railway industry has to be re-regulated or that new operating standards have to be imposed by the government. Indeed, we believe that level of service/performance standards can be negotiated commercially on a trade route basis, provided that:

- the framework (and necessary leverage) for doing so are provided in the statutory regime, and
- the federal government assumes a monitoring role with a view to ensuring that the transportation network is functioning in a manner that adequately meets the needs of Canada's trade (i.e. trade that originates from or is destined to Canada, as well as international trade that transits Canada).

To achieve the foregoing, we recommend that the *Canada Transportation Act* be amended to provide that:

- **Each container port/terminal should develop a service agreement with the railway(s) that serve the port/terminal**. Such agreements should be developed through a three-way forum involving the railway(s), the relevant ocean carrier(s) and the port/terminal in question. Key elements of these agreements should include defined performance indicators (e.g. the percentage of cargo moved within a specific timeframe) which are developed by benchmarking with competing ports south of the border and reviewed regularly; default mechanisms and accountability provisions ("what if..."); and forecasting processes (with built-in flexibility). It is recommended that what works well be made a standard.
- **Contracts for rail carriage** should include agreed service standards (with common definitions of key concepts such as transit time, peak periods, winter provisions, measures for performance of recovery in cases of disruption, communications/data exchange agreed standards, and default provisions or compensation measures to ensure and reinforce performance

standards<sup>6</sup>. In addition, ghost bookings should be penalized and shippers/receivers should endorse that they are part of a 24/7 network.

- **A complaints mechanism with the Canadian Transportation Agency** be available to sanction non-performance (when terminal/port service agreements or rail carriage contract default provisions are not sufficient to solve non-performance issues).
- **Transport Canada undertake an overall and ongoing (national) monitoring role** with respect to the performance of the railway system and the satisfaction of railway stakeholders.
- With respect to both service agreements with ports/terminals and rail carriage contracts, the more that can be automated through the system (electronic media) is the better (i.e. simplification).

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<sup>6</sup> Shippers do not currently have the leverage to include such clauses in the contracts they pass with railways.

## V Conclusion

The ocean shipping sector represented by the Shipping Federation of Canada believes there is a **pressing need for a greater reliability and better accountability within the Canadian rail freight system.**

However, the key message that our industry wishes to convey to the Panel is **that the Canadian rail system does not operate in a vacuum.** Rail freight service is not only an issue of bilateral contracts between shippers and rail carriers in Canada, but is part of the larger dynamics of global supply chain management and competing trade routes that serve the North American market. It is therefore essential that the Panel keeps in mind that:

- the impact of rail freight services goes far beyond the bilateral contractual relationship between the shipper and the rail carrier, and
- this issue must be viewed as a key element in the competitiveness of Canadian trade routes *vis-à-vis* those in the US.

The Federation and the members of its Intermodal Committee are available to discuss these points in more detail should the Panel so wish.

Respectfully submitted,

Michael H. Broad  
President  
Shipping Federation of Canada

## Appendix A: Rail Crises Since 2000

Year (rail company)	What happened	Issue
2000 Ontario (CN)	Un-forecasted increase in business in Halifax: →delays & inefficiencies → more rail cars + new terminal	Communications from shippers  Capacity (infrastructure + rolling stock)
2002 Ontario (CN)	Unexpected change in CN practices (some services discontinued + longer turn-around times - no prior notice): → increased waiting times & delays + increased costs → weekly CN-SFC calls until June 2003	Communications from rail  Forum for effective communication and consultation
2003 Halifax (CN)	Lack of railcars: → long waiting times (most of the year)	Rolling stock management
2003 Ontario (CN)	Ontario blackout: → low activity at intermodal terminal → congestion → frustrated truckers on strike → congestion spreads throughout the system all the way to ports → inbound containers not loaded → crisis lasted some 3 months	Capacity (no overflow capacity, i.e. operations + infrastructure)
2004 VAN (CN + CP) Toronto Halifax	Weather and rail congestion in Western Canada (February): →shortage of available rail cars →congestion spreads in Halifax (shortage of 10,000 ft of cars for grounded import boxes), Toronto and Vancouver (10,000 TEUs clog Vancouver docks, causing 7 to 21 day	Forecast  Management of surging traffic, capacity (rolling stock and infrastructure)

	delays to inland destinations - April) →service issues until year end in Halifax + increased CN surcharges	
2005 VAN (CN)	Insufficient number of railcars at Deltaport + new gate reservation system: → backlog of 116,000 (4,000 containers) → impact on ability to discharge cargo (force majeure notice issued by terminal)	Rolling stock (management and investment)
2005 Halifax (CN)	Shortage of available railcars continues: → backlog reaches 23,000 feet of railcar traffic in February → Situation continues till year end (12,000 foot shortage in December)	Rolling stock (management and investment)
2007 VAN	Discrepancy between number of railcars promised by railways and number actually delivered: → continuing backlog and congestion	Rolling stock (management and investment)
2008	Severe winter weather conditions impact railway and terminal operations at major ports, and 23 rail derailments up to March 31 →delays	Winter conditions + recovery
2008? Montreal (CN)	Rail-related construction on Tachereau blvd. No reservation system: problems with truckers.	Coordination with 3rd parties
2009 Halifax (CN)	CN requirements for asset maximization: → shunting, demurrage at inland terminals, extra charges for heavy containers →industry concerns over services provided	Asset maximization
2009? Montreal (CP)	Rail-related construction in Lachine. No reservation system: problems with truckers.	Coordination with 3rd parties
2009 Saskatoon	Derailments had a ripple effect on Ontario and Vancouver. Had to build	

	new rail	
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