THE CANADIAN CHAMBER OF COMMERCE
LA CHAMBRE DE COMMERCE DU CANADA

Submission to the Federal Maritime Commission on Containerized Cargo Flows

- Response to Notice of Inquiry

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Le porte-parole des entreprises canadiennes MD

Karen V. Gregory, Secretary
Federal Maritime Commission
800 North Capitol Street, NW.
Washington, DC 20573–0001

Dear Ms. Gregory:

Re: U.S. Containerized Cargo Flows – Response to Notice of Inquiry

The Canadian Chamber of Commerce welcomes the opportunity to participate in the Notice of Inquiry (NOI) issued by the Federal Maritime Commission on November 8, 2011. As Canada's largest business association, the Canadian Chamber of Commerce has an extensive network of over 420 chambers of commerce and boards of trade, representing approximately 192,000 businesses of all sizes.

In its call for submissions, the Federal Maritime Commission stated that there has been an increase in the amount of United States (U.S.)-destined cargo moving through certain Canadian and Mexican ports. The NOI also linked this alleged shift to investments in and promotion of Canadian ports and intermodal rail infrastructure.

The Canadian Chamber of Commerce is deeply concerned by the remarks made by Chairman Lidinsky on September 21, 2011 at the Canada Maritime Conference, prior to the Federal Maritime Commission's decision to initiate this inquiry. During that conference, the Chairman made direct references to cargo "diversion" and the need to "*level the playing field…so that the U.S. can continue to compete for cargo.*" These statements and others made by the Chairman raise serious doubts about whether the inquiry can be fair and objective.

The Canadian Chamber of Commerce asserts that cargo is not being "diverted" away from U.S. ports, any more than Canada-destined cargo shipped through U.S. ports is "diverted" from Canada. Shippers, like other businesses, make choices based on market conditions. They must manage risks and be able to choose the most efficient way to move their cargo. For example, large companies often use several ports to reduce risk and to protect themselves from disruptions caused by factors like congestion, labour disruptions, or inclement weather. The recent Occupy Movement's blockades of some west coast ports demonstrates the type of unpredictable disruptions to which shippers must respond.

Additionally, companies often look to international ports to ship goods where no domestic facilities are available. For example, because U.S. west coast ports lack major coal terminals, U.S. businesses in this sector rely on Canadian ports to help get their goods to Asian markets. Canadian shippers, in turn, rely on U.S. ports where comparable infrastructure is unavailable in Canada. It is a market-based decision that optimizes the use of port facilities in our two countries and reduces the costly construction and operation of redundant infrastructure.

The term "diversion," which suggests that it is improper for trade from one of our countries to use imfrastructure provided by the other, are against the very nature of our integrated economy and represents a repudiation of free market competition.

U.S. and Canadian shippers and their customers benefit from the deregulation and privatization of Canada's transportation network, which is based on the principle of market competition. Protectionist measures in either country would drive up costs for shippers and consumers, and would ultimately cost jobs in both of our countries by making our products more expensive relative to our offshore competition.

While the Canadian Chamber of Commerce is surprised that proponents of this investigation would build their case on a highly-politicized word like "diversion," which does not appear to be used to refer to Canadian cargo shipped through U.S. ports, we welcome the opportunity to demonstrate why Canadian ports and carriers offer advantages for North American shippers.

Introduction

The U.S. and Canada enjoy one of the most successful and prosperous relationships in the world. Our companies rely heavily on each other for the production, distribution and sale of our products, and efficiencies generated on either side of the border make the whole value chain more competitive. The result is more and better jobs, and lower prices for consumers in both countries. In turn, any measures that impede the efficiency of these value chains drive up consumer costs and threaten the competitiveness of our shared industrial base.

The strength of this partnership has allowed us to develop numerous cross-border arrangements that enhance the security and prosperity of both our countries, including the recently announced Perimeter Security and Economic Competiveness Action Plan. In fact, the Plan commits our governments to further strengthen cargo security by developing "a harmonized approach to screening inbound cargo arriving from offshore." This new strategy focuses on integration, cooperation and reducing redundancies where possible. These changes will not only strengthen security, but will also facilitate the movement of cargo across the U.S.-Canada border. It is also important to note that the majority of cargo moved into the U.S. from Canada today is subjected to double inspection - once at the port of entry and again at the border when it first enters the U.S.

Our trade relationship is equally as successful, Canada is the largest export market for 36 states and last year, we traded over $645 billion worth of goods and services. This equates to almost $1 million worth of trade crossing the shared U.S.-Canada border every minute. In terms of North American container port traffic about 2.5% of market share of U.S. bound containerized cargo passed through Canadian ports in 2010, while about 6.1% of market share of Canada bound containerized cargo passed through U.S. ports.

Over the past decade U.S. containerized imports passing through Canadian ports have averaged less than 2.5% of total market share and have decreased since 2000. Citizens in both the U.S. and Canada benefit from this connection; thousands of jobs in coastal states like California depend on the movement of cargo heading north to Canada. Across the U.S. over 8 million jobs rely on the overall trade relationship. Since NAFTA came into force, our two-way trade has more than doubled.

Canadian Operations

The NOI requested information on "*…factors [that might] incentivize container cargo to shift from U.S. West Coast ports to those located in Canada…*" The Canadian Chamber of Commerce believes that the competitiveness of Canadian ports is based on a balance of good policies and our reliance on market forces.

Alfred Kahn, a senior administration official under President Carter, is often considered the father of U.S. transportation deregulation.

In 2005 Mr. Kahn reported that since deregulation: "…c*onsumers have benefited to the effect of $20 billion a year…. where competition is feasible, the government should get … out of the way.*"

During the late 1980s and early 1990s Canada significantly reduced regulation and privatized much of the transportation sector. Since that time the productivity of Canada's transportation sector has grown by over thirty percent. The Canadian Chamber believes firmly that both the transportation sector as a whole and its customers have benefitted from the reliance of competitive free enterprise.

Several key points regarding Canada's management of container movement are relevant to the Commission's review. First, Canadian ports are managed by Canadian Port Authorities (CPAs). As autonomous bodies that are financially self-sufficient, CPAs do not receive subsidies. They are solely responsible for the maintenance and upkeep of ports, including dredging and must set their own fees under a "user pay-user say" model. Healthy competition among CPAs, other ports in North America and private operators ensures that Canadian ports are able to compete globally.

Second, some Canadian ports have geographical advantages like naturally deep water and proximity to growing markets that make them an attractive choice.

Third, like the U.S., the Government of Canada has undertaken integrated public infrastructure investments. For example, to address the challenges posed by growth in the Asia Pacific region the Canadian government launched its Asia-Pacific Gateway and Corridor Initiative.

The American government has undertaken similar investments, including the $787 American Recovery and Reinvestment Act (ARRA) and the Transportation Investment Generating Economic Recovery (TIGER) grant programs. In 2010, TIGER II funneled $600 million for transportation-related infrastructure and the recently announced TIGER III is expected to allocate an additional $511 million in 33 states.

Fourth, the Canadian Chamber of Commerce emphasises that all major Canadian freight railways are privately owned and operated. They are run like any other business, and are responsible for the efficiency of their operations and their own economic health. Rail rates are set by private freight rail companies in Canada, based on market forces. The current regulatory environment has allowed

Canadian railways to become major contributors to the health of the North American economy with operations in both Canada and the U.S. Canadian railways also work with their supply chain partners and have developed KPI for the whole chain to further enhance efficiency. U.S. investors are the largest single shareholders in both of Canada's major freight rail companies.

Conclusion

Canada and the U.S. have a long history of close cooperation on security and trade. Both governments have repeatedly recognized the need to strengthen the competitiveness of the North American market. Accusations concerning the "diversion" of cargo to other ports represent a thinly veiled attempt to benefit selected parties at the expense of North American consumers and businesses as a whole. Efforts to artificially "balance" trade flows by introducing restrictive measures would hinder our competitiveness and increase costs to North American businesses and consumers.

Canada recognizes the value of open and fair markets for moving cargo. We believe our practices can serve as a good model for other jurisdictions and are certainly prepared to compete on that basis. The Canadian Chamber of Commerce strongly urges the Federal Maritime Commission to reject protectionist measures in favour of the benefits of free and open trade.