

PSAC

Submission to the Supply Chain Regulatory Review

Examination of federal regulations
and regulatory practices

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Public Service Alliance of Canada
Alliance de la Fonction publique du Canada

Introduction

The Public Service Alliance of Canada (PSAC) represents over 240,000 workers across Canada and is the largest bargaining agent in the federal public sector. Our members include thousands of workers in federal departments and agencies, including the Canada Border Services Agency and the Canadian Food Inspection Agency, and in the federally-regulated transportation sector at airports, port authorities, in pilotage authorities as well as at Marine Atlantic. We represent a variety of workers employed directly at Canada Post as well as its Purolator subsidiary. Lastly, we also represent workers at the Ekati diamond mine in the Northwest Territories.

Right to Strike

In recent labour disputes involving elements of Canada's supply chain, the Government of Canada has displayed a deeply troubling willingness to interfere with free and fair collective bargaining, either by imposing (as it did at the Port of Montreal) or threatening to impose (as it did at the Port of Vancouver) back-to-work legislation on unionized workers and their chosen bargaining agents.

Not only do such measures and the threat of such measures display to Canadians that the Government of Canada is readily willing to take the side of employers in labour disputes that are best resolved through free and fair collective bargaining processes, they also represent a gross infringement of the constitutional rights and freedoms of Canadian workers. This is indefensible and unacceptable.

In its landmark, 2015 decision in *Saskatchewan Federation of Labour* [2015] 1 SCR 245, the Supreme Court of Canada enshrined the constitutional right of Canadian workers to engage in strike action. As the court stated: "The right to strike is not merely derivative of collective bargaining, it is an indispensable component of that right." (at para. 3.)

PSAC appeared as an intervenor in that historic Supreme Court of Canada proceeding, and we now express our insistence that the recommendations and outcomes of the Supply Chain Regulatory Review must respect and comply with the Canadian *Charter of Rights and Freedoms* by not interfering with the right of working Canadians to engage in strike action as the ultimate means for resolution of their collective bargaining disputes.

Any outcomes that infringe upon the rights and freedoms of Canadian workers will be met with a forceful challenge. If the government will not uphold and protect sacrosanct constitutional rights and freedoms, PSAC and other unions will not hesitate to take action to protect these vital interests of Canadians.

Border Operations

Regulatory initiatives benefit from consultation with the union that represents frontline personnel. Whether part of the Targeted Regulatory Review of Border Operations or CBSA's Forward Regulatory Plan: 2023 to 2025, regulations proposed and made under the *Customs Act* or *Immigration and Refugee Protection Act* directly benefit from consultation with the union. For example, on Thursday October 20, 2022, the National President of the Customs and Immigration Union (CIU), Mark Weber, addressed the House of Commons [Standing Committee on Government Operations and Estimates](#) as part of the Committee's [study on the ArriveCAN application](#). Pointing to the lack of consultation with frontline officers, Mr. Weber explained that it “defied reason” to develop an application designed for the frontline without involving those who serve at the border. Had officers been involved via consultation with the CIU, they would have been able to flag potential issues — of which ArriveCAN had plenty — before they arose.

Any modernization of the regulatory frameworks with respect to the customs warehouse regime(s) and the secure movement and storage of goods that are entering Canada that contemplates improved capacity, support for supply chain fluidity, and Canada's economic competitiveness must first turn attention to the severe deficit in personnel afflicting border services throughout the country. The reality is bleak—the agency needs thousands more officers if it wishes to fulfil its mandate. For example, and speaking about Summer 2022, at some of its busiest land border crossings, the [CBSA often had to choose between properly staffing commercial operations or traveller operations](#).

The [March 2023 Report of the Standing Committee on International Trade](#), the CIU expressed its support for measures that would modernize Canada's border processes if the result is not a reduction in the number of Canada Border Services Agency officers at ports of entry.¹

Transportation

Broadly within this section, we respectfully wish to begin by conveying that we are very concerned. In our reading of the questions focused on the transportation sector, we are left with the impression that this review begins from the *prima facie* position that what caused supply chains to crack throughout the pandemic were regulations. We are especially concerned that the line of questioning put forward by TBS will direct some employers to provide narrow feedback critiquing legal and contractual requirements linked to health and safety as well as technological change. Of urgent concern is the 2022 National Supply Chain Taskforce's final report which recommended that the Minister of Labour work on a new labour relations paradigm², along with a recent submission by

¹ Honourable Judy A. Sgro, Chair. “The ARRIVECAN Digital Tool: Impacts on Certain Canadian Sectors.” Report of the Standing Committee on International Trade. March 2023. 44th Parliament, 1st Session. English: https://publications.gc.ca/collections/collection_2023/parl/x75-1/X75-1-1-441-6-eng.pdf French: https://publications.gc.ca/collections/collection_2023/parl/x75-1/X75-1-1-441-6-fra.pdf

² “Action. Collaboration. Transformation. Final Report of the National Supply Chain Task Force.” 2022. Government of Canada. p.32.

freight shipping companies to Parliament advocating that port workers be classified as essential under the *Canadian Labour Code*.³

In contrast to this *prima facie* starting position, PSAC asserts that robust and resilient supply chains result from a regulatory environment that supports good working conditions, rather than one that encourages a race to the bottom. What cracked during the pandemic were brittle global supply chains, built upon precarious transportation jobs both here and overseas. This was most clear as employers in lower-paid sectors (such as unionized grocers and non-unionized Amazon warehouses) were forced to offer “hero pay” premiums so workers continued to report to their shifts.⁴

PSAC asserts that if policymakers truly wish to strengthen supply chains, the best way to do so is through regulatory policy that encourages free collective bargaining – including rights to collective action. Such regulations would push back against a race to the bottom, as well as ensure long-term, stable employment that pays living wages and provides good benefits.

As to specific questions focusing on regulations in the transportation sector, PSAC wishes to intervene on questions 3 and 5 in this submission.

Regarding question 3, pertaining to environmentally friendly freight shipping options, PSAC has noted a history of government tying its own hands. In the case of support made available to transition to electric vehicles, programs should be made equally available to federal crown corporations. We have observed previously that Canada Post has faced barriers to accessing federal funding in support of the transition to EVs (for its own fleet) that its private-sector competitors have not.

We are especially concerned by question 5, both because of its inclination towards simplifying and streamlining regulations and processes “to reduce administrative burdens on operators/companies and because of its focus on “processes [that] are preventing the introduction of or use of innovative technologies or processes.” PSAC asserts that regulations in all modes of transportation, but especially as they relate to the transportation of dangerous goods, must be strengthened rather than watered down. The concerns of Transportation and Dangerous Goods inspectors, as well as other transportation workers, should be given significant weight in any contemplated revision. Regulatory changes must never come at the expense of safety to communities, the travelling public, or employees who work in the transportation industry. Moreover, PSAC observes that policymakers have become too enamored by abstract concepts of “innovation” and “disruption” at the expense of workers. In sectors of the transportation industry, such as the taxi industry, this fetishization has proven disastrous. We foresee that AI is likely to have a similar impact. To avoid further disaster, unions must be actively involved throughout the process of transitioning today’s workers into tomorrow’s jobs.

³ “Want Ports Declared Essential”. Blacklock’s Reporter. December 8th, 2023. url: <https://www.blacklocks.ca/want-ports-declared-essential/>.

⁴ “Amazon to end \$2 per hour pandemic pay raise, OT incentives for Canadian warehouse workers.” CBC. May 16th 2022. url: <https://www.cbc.ca/news/business/amazon-pandemic-pay-raise-end-canada-warehouse-workers-1.5573345>.

Working people will not accept a hands-off regulatory framework that minimizes them in favour of “innovation” and “disruption,” irrespective of the costs.

Supply chains and the transportation industry which underpin it are facing significant changes in the years ahead. It is essential that governments place workers and their rights to decent working conditions at the centre of any regulatory changes contemplated. These fundamental rights cannot and must not be sidelined because decades of a “race to the bottom” yielded their predictable results during the global pandemic.