



16 December 2022

Zia Proulx
Director General
Strategic Policy, Analysis and Workplace Information
Human Resources and Social Development Canada
165 de l'Hôtel-de-Ville Street
Gatineau, Quebec J8X 3X2

Dear Ms. Proulx,

We are writing on behalf of the Shipping Federation of Canada, which represents the owners, operators and agents of the ocean ships that carry Canada's imports and exports to and from world markets, to provide comments on the Minister of Labour's consultations on potential amendments to Part 1 of the *Canada Labour Code* to ban the use of replacement workers during work stoppages in federally regulated workplaces.

The ocean ships that our members represent are generally not subject to the requirements of the *Canada Labour Code*, as they are governed by the domestic legislation of their "flag states" (the country of the ship's registration), which is based on international maritime labour standards as set out in the *Maritime Labour Convention* and similar instruments. Nevertheless, we have a number of concerns regarding the potential impacts that the proposed ban on the use of replacement workers may have on the efficiency of Canada's transportation supply chain, and its ability to deliver Canadian imports and exports to and from world markets in an efficient and competitive manner.

An issue of particular concern is whether the proposed ban would extend to the ability of federally regulated workplaces to use management to carry out certain functions during work stoppage situations. From our experience, such ability has often served as an essential means of efficiently winding down operations at the outset of a work stoppage, and of maintaining a minimum level of service and supply chain fluidity throughout the period of labour withdrawal. Although some types of work are obviously too specialized to allow for management to be used in this way, the practice has been employed in some transportation sectors, including rail, to serve as a kind of bulwark against the full impact of a complete withdrawal of service.

We would suggest that Quebec's *Code du travail*, which bans the use of replacement workers but nevertheless provides that employers can use managers who work in the same location to perform the work of striking employees, may be an instructive model that the federal government may wish to explore further during this consultative process. The Quebec law also allows employers to use replacement workers during a strike or lockout if the purpose is to avoid the destruction or serious deterioration of the employer's property, which is another dimension that could be considered in an amended federal law.

SHIPPING FEDERATION OF CANADA

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Canada's transportation supply chain has been under significant stress over the last several years, which has been due not only to systemic challenges that have impeded the network's ability to operate at maximum efficiency, but also to a number of external shocks and disruptions, including the Covid pandemic, the rail blockades that took place in early 2020 and significant weather events in western Canada. The system has also experienced significant delays due to a series of labour disruptions, including at CP Rail in 2018 and 2022, at CN Rail in 2019 and at the Port of Montreal in 2020 and 2021 – all of which have impacted Canada's reputation as a reliable trading partner and a desirable place to do business.

With many transportation sector labour agreements up for renewal in 2022 and beyond, further disruptions to the transportation supply chain are not only possible but likely inevitable. Within such a context, the ability of employers to maintain some level of service when a work stoppage occurs, including through the use of management to maintain certain operations when safe and appropriate to do so, is an important means of limiting the economic and reputational impacts of future labour disruptions within an already challenged system.

Given the foregoing, we urge the government to give serious consideration to the impact that a ban on replacement workers may have on the efficiency and competitiveness of the transportation supply chain that serves Canada's importers and exporters, and should it ultimately decide to proceed with such a ban, to consider options for ensuring the law has sufficient flexibility to allow for the maintenance of a minimum level of safe and appropriate operations.

We would be happy to provide any additional input or information as required and look forward to further opportunities to engage with the department on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'CHH', is written over a light blue horizontal line.

Chris Hall
President and CEO
SHIPPING FEDERATION OF CANADA