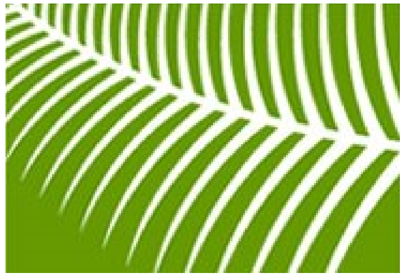

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WHAT DO SHIPPERS REALLY WANT?

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INTRODUCTION

The development of transportation policy in Canada is, in many ways, a Canadian ritual. Since World War II, hardly a decade has gone by without a major Royal Commission or policy review which has attempted to come to grips with one or more important national transportation issues. The forums in which issues are resolved and transportation policy is developed have attracted carriers, shippers, groups of shippers, provincial and local governments. It is normal to expect that these various groups will have conflicting goals and it has been the role of the various commissions and inquiries to "narrow the differences" among the parties and to resolve the issues in the "public interest."

While many commissions and inquiries have begun with such idealistic goals, in practice the resolution of issues is often a difficult and hopeless task. Reflecting on the process involved in the Turgeon Royal Commission (1951), Commissioner H.F. Angus commented:

> Our own hearings were treated by the parties concerned more as a forum for advancing claims

> than as a round table for the development
> by consent of a mutually aceptable policy.[1]

Since we are now in the middle of a review of national transportation policy initiated by the Minister of Transport, it is an opportune time to review the process of transportation policy development. This paper focuses on the role of shippers in that process. First, a framework within which the role of shippers can be examined is presented. Then, with a look back at some earlier policy reviews, a shipper profile is developed. The discussion will then turn to the shipper of the 1980s and develop a somewhat different profile which is increasingly being brought to bear on current policy development processes.

SHIPPERS AS INTEREST GROUPS

The interest group theory of politics suggests that the federal government, in "chairing" the policy development process, acts as an "arbiter among competing economic claimants."[2] The federal government's "chairing" role can take many forms: from a process whereby a Cabinet Minister undertakes a policy review to a Royal Commission to a regulatory body acting in response to a Cabinet directive or on its own initiative. Within these various institutional arrangements, carriers, shippers, and governments argue on

two levels. The outward and visible level is couched in terms of a shift in policy or a change in regulation which would lead to greater efficiency, more competition, a higher level of exports, regional economic development, etc. The second level concerns transfers of wealth which each interest group perceives will be the result of a policy or regulatory change.

Proponents of the interest group theory suggest that an interest group will argue in favor of policy or regulatory changes on the first level (public interest factors) and argue against such changes on the second level because wealth will be transferred from them to another group or groups. The interest group theory goes on to suggest that interest groups which are narrowly focused tend to have more success than groups which are more broadly focused. For example, in the case of regulatory reform of the Canadian railway industry, a railway company obviously can focus clearly on whether it would lose or gain wealth under various policy and/or regulatory changes and develop arguments on both public interest and self-interest levels. A shipper, even a shipper of a low-valued bulk commodity which has a high transport component in its delivered price, has a variety of public policy issues to face and transportation policy is only one of them.

The following section explores the role of shippers

from the perspective of interest group theory in relation to various transportation policy developments.

SHIPPERS AS SHEEP

Over the past 20 years in Canada there have been three major transportation policy developments: the MacPherson Royal Commission and the National Transportation Act (1967); the Western Economic Opportunities Conference (1973); and proposed amendments to the NTA and the Railway Act (1977-78). While shippers have had varying degrees of input to these initiatives, it is evident on reflection, that shippers have had little impact in shaping the respective policy shifts which have emanated from them.

The interest group interaction in connection with the MacPherson Commission and the NTA was very similar to the various freight rate cases which were conducted before the Board of Transport Commissioners (and its predecessors) over the previous 60 years. The railways argued convincingly that the world had changed, that intermodal competition was pervasive and that existing regulation constrained them from acting in an efficient manner. There was substantial concern expressed by shippers that "in the absence of intermodal competition the railways would engage in pricing prejudicial to particular shippers and regions."[3] This concern of

shippers was not addressed. Rather, the government's view was that the combination of minimum rate control, maximum rate control and the NTA provision for appealing rates prejudicial to the public interest would provide sufficient protection for shippers against any monopolistic pricing action on the part of shippers.

It is clear now, almost 20 years after the NTA, that the three major pieces of rail rate regulation have been ineffective not only in their failure to provide a forum in which shippers could debate rate issues but in their inability to effect a satisfactory resolution to many shipper problems. The single exception is that Section 23 of the NTA has been, in some limited situations, an effective forum but that, at the present, in the case of transborder rate issues, its ability to effect a solution is virtually non-existent.

It is arguable that in attempting to meet the dual goals of a viable (and subsidy-free) rail system on the one hand and equity for shippers on the other, the government in 1967 chose to ensure a viable rail system. The view certainly appears to have been that pervasive competition would ensure that most shippers would not suffer undue hardship. Within the framework of interest group theory, it appears that the NTA was a victory of a particularly focused interest group (the railways) over a more generally focused group (shippers).

Only six years after the NTA was enacted and amendments to the Railway Act provided increased pricing freedom for shippers, regional concern about the impact of the NTA became focused. The forum was the Western Economic Opportunities Conference in July 1973. At WEOC, the four western provinces argued that the present freight rate system discriminated against the economic development of Western Canada. Specific complaints concerned rate differentials on raw versus finished products and on long versus short haul rates, as well as the lower incidence of group rates in Western Canada. However, the essential problem was that most of the growth in rail traffic since 1967 was in bulk commodities, that these commodities originated in the western provinces, that they were effectively "captive" to rail transportation and that traditional value of service pricing had the effect of creating a rail monopoly with respect to the transportation of those commodities to market.

From the perspective of shippers, the most notable feature of the WEOC meetings and follow-up was their virtual absence. (This is true to an extent for the railways as well who became involved only on an <u>ex post facto</u> basis in defending and/or explaining their pricing practices.) It is worth speculating now that the involvement of shippers in the WEOC process might have

led to some different conclusions. The only visible conclusion was an amendment to the Railway Act which resulted in the provision of rail costing information to the provinces. The lesson which might be learned from this initiative is that major changes in transportation policy are not likely without the involvement of shippers and carriers.

Following WEOC and due to a number of factors exogenous to WEOC, the federal government undertook a transportation policy review. This resulted in a policy statement in 1975 and in two attempts to change transportation policy and regulation in 1977 and 1978 (Bills C-33 and C-20). The main message from these legislative proposals was that the federal government had examined the balance between competition and regulation with respect to rail freight rates and had come down in favour of more regulation.

The increase in regulation focused on the maximum rate provision in the Railway Act. By removing the restriction that only "captive" shippers could invoke the provision, and by allowing Governor in Council to specify the costing parameters as well as the mark-up over variable cost, the proposals sought to lower railway mark-ups over variable cost in those cases where railways were exercising monopoly control.

Generally, railways and shippers were opposed to the

proposals because they would lead to a dramatic increase in regulation. This was the public interest argument that increased regulation would not serve a useful purpose. However, each group had more specific reasons--the railways because they saw reduced revenues and profits and shippers because they felt that the proposals did not go far enough. The failure of these legislative proposals to become law can be traced to the fact that they had the support of no major interest group.

In summary, in the case of the three initiatives discussed above, shippers played a fairly low key opposing role. This passive stance was no doubt influenced by the history of the development of transportation (largely rail) policy in Canada which had been the exclusive preserve of the railways and the government of the day. Shippers appeared to have been content to allow the policy environment to be created and then to have specialists (legal, economic and tariff) to cope with it.

The lack of shipper influence can also be interpreted in two other ways. First, shippers often bring (and are asked to bring) specific rate concerns to public discussions. While on the one hand specific rate issues provide a real-life element to sometimes esoteric policy discussions, such actions are also often viewed as an extension of the rate negotiation process. Thus persons

developing public policy often shy away from addressing shipper representations because they do not want to become part of commercial negotiations. The resolution of this catch-22 situation has led to the second way in which shipper influence is diluted. Policy makers simply assume that shippers' views are homogeneously aligned with the provinces or regions in which they exist. While this interpretation may well be accurate, the consequences are that shippers' views are often assumed to divide along regional lines and to be subsumed in the views of provincial governments.

SHIPPERS AWAKE

Shippers in the 1980s have taken a keen interest in transportation policy development. Evidence of this can be seen in the Canadian Transport Commission Hearings on the Impact of U.S. Rail Deregulation (which will be discussed below), the Spring 1985 CTC Hearings on Domestic Deregulation and the transportation policy review now being conducted by the federal government. Not only are shippers participating more actively but their views are now having a clear impact on the kind of policy shifts now underway.

Three factors can be identified which have contributed to the shipper profile of the 1980s. First, economic conditions such as stagflation during the 1970s

forced us to rediscover the economics of scarcity. It is no accident that the current impetus for regulatory reform began with the First Ministers' Conference in 1978 which focused on the need for new economic strategy. Since then, shippers, carriers and governments have been seriously examining the kind of economic institutions which can best serve the transport sector and the economy as a whole.

The second factor has been the demonstration effect of U.S. deregulation -- certainly rail, motor-carrier and air deregulation, but also telecommunications. In the early days of U.S. rail deregulation, it was widely perceived in Canada that the railways would find ways to retain traditional practices within the new regime and that allowances and rebates would only be offered by smaller carriers who were on the road to bankruptcy anyway. Within Canada, it was widely perceived that the U.S. would make an exception to its deregulated environment for countries like Canada whose regulatory system did not quite fit that of the U.S.

Now, it is clear that U.S. railroads have buried their traditional practices and that virtually all railroads are providing rebates and allowances. To the benefit of both carriers and shippers, railway marketing departments are becoming more like the marketing departments of such companies as Proctor and Gamble.

Within Canada, it is clear that there are significant benefits from deregulation and that companies with both large and small markets in the U.S. are not going to obtain any dispensation because of conflicting economic institutions.

The final factor is that the public interest is dominated by strategies which increase Canadian exports and which contribute to Canada's ability to compete in international markets. Economic institutions including regulatory bodies which detract from these strategies are prime candidates for restructuring or removal. This sentiment together with the view that Canada's transportation system is sufficiently mature to compete without regulatory protection and in a new environment have combined to place the railway system and railway regulation near the top of a list for regulatory reform.

The CTC Hearings on the Impact of U.S Rail Deregulation provided a timely forum for shippers to express their views on the present state of rail regulation in Canada. The views of shippers and shippers associations are clearly spelled out in the CTC Report.[4] What is of interest in this discussion is that the general position in favor of confidential contracts, negotiated independently with no access among railways to each others' contracts was virtually unanimous and without qualification. The shippers'

position also called for a shift of the competition/ regulation balance in favor of competition.

It is also of interest to note that no shipper or shipper group (with the notable exception of the CanadianIndustrial Traffic League which has subsequently changed its position) supported the railways' proposal that the Canadian government intervene with U.S. authorities to seek an exemption from U.S. anti-trust laws for collective pricing on the part of Canadian railways on transborder rail traffic. The position of the railways and of shippers clearly diverged on this issue. On other issues, the railways' and shippers' views coincided (with the exception of the railways' ability to see each other's contracts) but the railways' position was defensive while the shippers' positions were more pro-active.

The Recommendations of the CTC Inquiry reflected the shippers' general stance of increased competition and rejected the railways proposals that they should be privy to each other's contracts and that the Canadian government should seek an exemption from the U.S. government for railway collective pricing on transborder traffic. The Recommendations also went somewhat beyond the terms of reference at the Inquiry, but at the same time reflected the views of some shippers who made submissions at the Hearings, in noting that a deregulated

transborder rail sector could create problems for rail traffic within Canada. The Inquiry recommended that a similar study be conducted of the merits of domestic rail deregulation.

In announcing the current review of transportation policy, the Honourable Don Mazankowski stated that he "was impressed by the CTC's report on the effects of the Staggers Act in Canada." He went on to quote the CTC Report's recommendation on domestic deregulation and noted that he agreed with the proposal and had asked the CTC to proceed with such an inquiry.[5]

For the shipper of the 1980s, these various inquiries have provided an occasion to demonstrate the importance of transportation in a restructuring national and world economy. Shippers and their associations who have rethought the role of transportation in a competitive environment have a unique opportunity to participate in public policy development. Certainly part of that uniqueness is that shippers are leading policy development rather than either following it or trying to understand it.

CONCLUSION

Economic events over the past few years have shifted the perspective of shippers. That shift is from a passive acceptance of transportation costs in a byzantine

private and public regulatory environment to an active awareness that transportation costs are no different than any other input cost. From that awareness has come the view that transportation services should be available in a competitive environment free of regulation and that public policy can and should move in that direction. What shippers really want is to be able to participate fully in a competitive environment and to be judged on their ability to compete effectively and not on their dexterity in wandering through a regulatory maze.

END NOTES

1. Report of the Royal Commission on Transportation 1951, King's Printer, Ottawa, Ontario, p. 285.

2. For a detailed review of the interest group theory as it relates to regulatory reform, see W.T. Stanbury and Fred Thompson, "The Prospects for Regulatory Reform in Canada: Political Models and the American Experience," Osgoode Hall Law Journal, Vol. 20, No.4, December 1982.

3. T.D. Heaver and J.C. Nelson, Railway Pricing Under Commercial Freedom: The Canadian Experience, Center for Transportation Studies, University of British Columbia, Vancouver, B.C., 1978, p. 79.

4. Railway Transport Committee, Canadian Transport Commission, Inquiry Into Effects in Canada of U.S. Rail Deregulation, Minister of Supply and Services Canada, December 1984.

5. Notes for an Address by The Hon. Don Mazankowski, P.C., M.P., to the Canadian Industrial Traffic League, Westin Hotel, Ottawa, Ontario, February 21, 1985, pp. 10-11.