Comments of Federal Maritime Commissioner Rebecca F. Dye at the Canadian American Business Council

The Dragon in the Room: China's Impact on Canada/U.S. Issues

June 7, 2012

- **Thank you for inviting me to participate in your panel on Ports and Global Supply Chains.**

- **My remarks reflect my own individual views and are not offered as the official position of the Federal Maritime Commission.**

Transpacific Supply Chain

Federal Maritime Commission

- **The Federal Maritime Commission is an independent regulatory agency responsible for enforcement of U.S. law related to ocean transportation in the foreign commerce of the United States.**

- **Under U.S. law, containerized vessel operators, ports and port terminal operators may invoke limited antitrust immunity for certain activities by filing their agreements with the Commission.**

- **The Commission reviews and monitors these agreements to determine if an agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost.**

- **The agreement monitored by the Commission in the eastbound U.S. transpacific trade is the Transpacific Stabilization Agreement, comprised of 15 ocean carriers.**

Current Conditions

- **Imports from China for the first quarter of 2012 increased almost 3 ½ percent over the first quarter of 2011. U.S. exports increased by more than 17 percent.**

- **Vessel operators in the transpacific trade report that recent vessel capacity utilization levels have been about 95 percent, and available vessel space is generally sufficient to cover current demand.**

- **How the vessel capacity supply will interact with import and export demand this year is uncertain.**

- **A slowdown in Chinese manufacturing, the disappointing U.S. economic reports, and continuing uncertainty about Europe's fiscal situation contribute to continued macroeconomic uncertainty.**

2010 Supply Chain Disruption

- **In October of 2008, demand for vessel space in the U.S. trades plunged dramatically. Vessels that had been sailing 95 percent full from Asia to the U.S. were soon sailing 75 percent full.**

- **During fiscal year 2009, U.S. imports fell by 16 percent and exports by 14 percent. Freight rates dropped precipitously and ocean carriers laid up over 575 vessels worldwide.**

- **However, in the fourth quarter of 2009 and continuing into 2010, cargo volumes shipped to the United States from Asia began to recover and demand for exports surged.**

- **By early 2010, increases in import volumes collided with the previous vessel capacity reductions.**

- **The resulting supply and demand mismatch caused serious supply chain disruptions for American importers and exporters.**

- **Cargo bookings were denied, abruptly cancelled, or rolled to a later voyage.**

- **A rapid series of incremental price increases were imposed by carriers, and exporters experienced severe problems with the availability of shipping containers for their goods.**

- **Due to our concerns about the causes of these vessel capacity and equipment constraints, as well as concerns about whether those constraints could hinder the U.S. economic recovery, the Commission conducted an investigation into the capacity and inland container shortages for exporters.**

- **I led that investigation, which concluded that the most effective long-term solution to the commercial problems experienced by U.S. exporters and importers would be developed, not by the government, but by ocean carriers working closely with their customers to clarify their commercial relationships.**

- **During the investigation, I focused on the need to increase overall reliability of the U.S. international supply chain for U.S. importers and exporters.**

Cargo Diversion Notice of Inquiry

- **As many of you are aware, last year the Commission received a request from Senator Murray, Senator Cantwell, seven Members of the House of Representatives from the Washington State delegation and one Member from California to analyze the impact of the Harbor Maintenance Tax on the movements of U.S. cargo through Canadian and Mexican ports.**

- **On November 3rd last year, the Commission voted to issue a notice of inquiry to solicit the public's views and other information concerning factors that may contribute to a shift of containerized cargo from U.S. ports to Canadian or Mexican seaports.**

- **Although the Commission does not have expertise in tax or trade policy, I voted for the notice of inquiry because the Commission is obligated to respond to the letter submitted to us by the Members of Congress.**

- **We should produce a thorough, transparent, and credible evaluation of relevant information available to us on this topic.**

- **The Commission has received over 80 comments in response to our inquiry, including the comments from your organization.**

- **I have urged our staff to consider the many reasons, in addition to tax policy, that may motivate a shipper or ocean carrier to use a particular North American port.**

- **Specifically, I asked the staff to consult with the many other U.S. agencies with authority over national fees and duties, national dredging policy, port security, and trade policy, including the North American Free Trade Agreement.**

- **I believe that the Commission must also analyze the effect of any state, local, and port policies and fees that may affect the choice of port of entry into the United States.**

- **In addition, I have urged the staff to keep in mind the progress the United States and Canada have made to implement the Beyond the Border and Regulatory Cooperation Council initiatives.**

- **Of course, even if one accepts the concept of cargo diversion, it is most important for us to indentify a potential problem before we attempt to develop possible solutions.**

- **Specifically, we must quantify the amount of U.S. containerized cargo imports via Canadian ports as a share of total cargo destined for the U.S., to determine the extent that any cargo was actually diverted.**

- **I note that several of the comments submitted in response to our notice of inquiry, including those from the Government of Canada, estimated that U.S. containerized cargo imported via Canadian ports as a share of total U.S. port traffic averages less than 2.5 percent per year over the past decade.**

- **Our staff is currently reviewing the comments received in our notice of inquiry and other available information to develop a response to the Members of Congress on this matter.**

Conclusion

- **The savings and efficiency enhancements from eliminating unnecessary regulatory requirements would make our international supply chain more flexible and reliable.**

- **Especially under today's economic conditions, we should reduce regulatory burdens to simplify business processes, put cash back into businesses, and generate additional jobs.**

- **In this regard, we should harmonize the U.S. ocean transportation regulatory system with the Canadian system, to the extent practicable.**

- **Thank you again for the opportunity to appear here today.**