Interview Summary: Department of Finance Panel (Michael Sabia, Isabelle Jacques, Rhys Mendes)

This witness summary should be read in conjunction with the Department of Finance's institutional report.

The panel members were interviewed on August 31, 2022, by Shantona Chaudhury, Daniel Sheppard, and Dahlia Shuhaibar. Questions relating to this summary should be directed to Ms. Shuhaibar.

Text contained in [square brackets] are explanatory notes provided by Commission counsel to assist the reader. Certain documents are referred to in the footnotes to assist the reader, but in some cases they were not shown to or discussed with the panel at the interview.

Background

Michael Sabia is the Deputy Minister of Finance ("DM Sabia"). He is the most senior non-elected official in the Department of Finance ("Finance") and oversees the breadth of its activities, including developing economic policy and providing advice to elected officials (including Deputy Prime Minister and Minister of Finance Chrystia Freeland ("DPM Freeland"), the Prime Minister, and others).

Isabelle Jacques is Assistant Deputy Minister of the Financial Sector Policy Branch ("ADM Jacques"). In this role, she develops public policy for the financial sector, including banking, pensions, insurance, financial crime, and debt management.

Rhys Mendes is Assistant Deputy Minister of the Economic Policy Branch ("ADM Mendes"). He leads the economic policy group, which focuses on analysis of the state of the Canadian economy and economic outlook, as well as longer-term research on structural and policy issues.

Involvement in the events of January and February 2022

As Deputy Minister of Finance, DM Sabia oversaw the work being done by different divisions of Finance and was in regular communication with DPM Freeland. He also spoke to a range of business leaders, including chief executive officers of banks and insurance companies. Initially, these conversations focused on what financial institutions were seeing, but with time, they discussed potential measures that could be put in place and what the effects would be on their operations.

Within ADM Mendes' portfolio, the division that focuses on the current state of the economy and the economic outlook was most implicated. Within this division, the monitoring team was most closely involved. One of the monitoring team's responsibilities is to forecast GDP in the current quarter and next quarter—essentially, the next six months. It was therefore natural for the team to attempt to assess the impacts of the blockades on the Canadian economy.

ADM Jacques' team was tasked with finding tools that could respond to the situation. Her team looked at existing legislation administered by Finance to determine what the government could do with existing legal authorities, and what it could do if there were legislative or regulatory amendments. Her team also considered how well the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) was equipped to deal with cross-border financing. Once the *Emergencies Act* was being contemplated, her division considered what tools would be available under that legislation and was involved in developing and implementing the *Emergency Economic Measures Order* ("*EEMO*").

Context for Finance's involvement

DM Sabia noted that Finance, while aware of what was occurring throughout January and the first part of February 2022, became particularly involved in the government response once the border blockades began. He explained that Finance viewed these events from two main lenses: the effects of border blockades on Canada's trading relationship with the United States and other countries, and their impact on the Canadian economy, including on specific domestic industry operations.

DM Sabia stated that with respect to Canada's trading relationships, the broader context of the blockades was important: the Canadian economy was already under strain. It was emerging from the pandemic, which had caused significant supply chain issues, as did labour shortages in the trucking business. The border blockades caused further impact on supply and industry—particularly the automotive industry because of its reliance on "just-in-time" inventory management. [This model involves holding only a couple of days' worth of inventory at any given point in time.[1]] Finance was concerned about the lasting impacts of the blockades. DM Sabia also noted that auto companies were forced to cut back shifts at various plants or even temporarily shut them down. The blockades affected workers and their earnings. ADM Mendes added that because of the just-in-time model, auto manufacturers frequently move parts across the border, and disruptions are felt quickly. While the automotive industry was the most affected by the blockades, ADM Mendes explained that had the blockades stayed in place longer, other sectors would also have been disrupted.

DM Sabia stated that the blockades were raising issues in terms of whether Canada was seen as a reliable place for trade and business by its international partners. This was not just a speculative concern. He heard from US officials and business stakeholders who were questioning whether Canada was a reliable trading partner, as

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[1] SSM.CAN.00000177_REL.0001, p. 3.

well as concerns from Canadian stakeholders about the negative impact on their reputation. Another contextual factor is that Canada was in discussions with the US government about measures in its proposed "Build Back Better" legislation that were meant to encourage auto manufacturers to locate their production in the US, which would have been devastating to the Canadian automotive industry. DM Sabia noted that the Freedom Convoy and border blockades attracted international attention, which in turn raised questions about how Canada was perceived as a trading partner.

DM Sabia explained that the second lens through which Finance viewed the border blockades was the impact on specific industry operations in Canada. Finance attempted to assess whether the disruption would be short lived or longer term. He noted that given the pre-existing supply chain issues, the ability of the economy to react was more stressed than usual.

DM Sabia highlighted that at the same time as the events were playing out, Finance was also occupied with preparing the budget. This is significant given that budgets are based on economic and fiscal outlooks, and those outlooks were being affected by the blockades. ADM Mendes noted that the same division that is responsible for short-term economic analysis for the budget was also looking at the impact of the blockades and attempting to assess what they meant for economic activity at that moment and in the future.

Economic impacts of the blockades

ADM Mendes stated that his team initially monitored the economic impact of the blockades through media reporting. However, once the Ambassador Bridge had been closed for a couple of days, Finance attempted to measure the impact more directly through data available to it.

Transport Canada conducted an analysis to estimate likely economic impacts using an input/output model. While Finance also uses input/output models in its own modeling, ADM Mendes explained that Transport Canada's model is more granular with respect to transportation matters. As such, ADM Mendes explained that Finance took the analysis done by Transport Canada as a starting point. [A February 11 backgrounder produced by Transport Canada on the impact of a road blockade at the Ambassador Bridge estimated that the cost to the Canadian economy of a full shutdown of the bridge would be around $45 million per day but could reach $86 million to $161 million per day in the event that other crossings became obstructed and the blockades continued.[2]] While the Transport Canada analysis was a good starting point, Finance needed to go further in its analysis. For one thing, the Transport Canada analysis focused on the Ambassador Bridge, whereas Finance sought to account for the Coutts and Emerson blockades as well. The Transport Canada analysis was also static in the sense that it was looking at

[2] PB.CAN.00000840_REL.0001.

the disruption at a point in time, whereas Finance was also considering the impact over time, including whether losses could be recouped at a later date.

With those considerations in mind, Finance took three approaches to quantifying the economic impact of the blockades: one main approach and two simple robustness checks. The main approach took Transport Canada's scenario of $45 million per day in losses and added assumptions based on the Emerson and Coutts blockades. It arrived at a daily trade loss of around $56 million per day.[3] After factoring in assumptions about the ability of producers to recoup lost production, Finance arrived at an estimated impact of about 0.1 to 0.2 percentage points off annualized real GDP growth in the first quarter of 2022.

As a robustness check on these numbers, Finance also used two alternative approaches.

The second approach considered Transport Canada's assessment that the Ambassador Bridge blockade had caused a 7% net disruption to the trade that normally flowed across the Ambassador Bridge. [The Transport Canada analysis noted that the blockade at the Ambassador Bridge had diverted traffic to nearby crossings, principally Sarnia (which saw a 100% increase in traffic) but also Fort Erie and Queenston (which saw a 30% increase), with the net cumulative weekly effect being a 7% disruption.[4]] Finance then attempted to assess how a 7% net disruption of trade across the Ambassador Bridge would propagate through the Canadian economy. The loss of trade goods was an economic impact in and of itself, but it could also cause further economic consequences, for example, by impacting the operation of businesses that relied on the trade goods in question.

In order to model how the 7% net disruption would propagate through the economy, Finance relied on a rule of thumb based on an input/output model that attempts to capture linkages between different industries. Based on this approach, Finance assumed that a multiplier of 2x would represent the broader impacts of the blockade on the Canadian economy. This analysis produced an estimate of the potential loss for the Ambassador Bridge blockade of 7% of $390 million (in daily trade volume) x 2, or about $55 million per day.

ADM Mendes explained that the first two approaches involve translating trade disruptions into GDP impacts using assumptions and modelling choices.

The third approach focused directly on disruptions to production. Finance estimated that a disruption of around one week at affected auto plants would reduce auto output for

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[3] SSM.CAN.00007571_REL.0001, p. 5, table 2.

[4] PB.CAN.00000840_REL.0001, p. 1.

February by about 10%.[5] Using an input-output model to assess how a one-month 10% decline in auto production would propagate throughout the economy resulted in a loss of about 0.1 to 0.2 percentage points off annualized real GDP growth in the first quarter of 2022.[6] ADM Mendes pointed out that not all sectors and regions were affected in the same way: the most-affected sectors (particularly the automotive sector) experienced greater losses. Therefore, the impact of the blockades were felt more acutely in Ontario, especially in southern Ontario, because of the automotive industry's strong presence there. The 0.1 to 0.2 percentage points refer to the effects on GDP writ large (i.e., across sectors and regions).

ADM Mendes stated that using these three approaches gave Finance a degree of confidence about its conclusions as the three approaches arrived at similar numbers. However, the analyses did not specifically calculate the broader impacts that could accumulate over time. For example, if the Sarnia and Fort Erie border crossings closed, the disruption would become much greater than $50 million per day, as trade being diverted from Windsor would no longer be able to flow into or out of Canada. A specific analysis meant to quantify the potential economic impact of this scenario was not conducted by Finance. DM Sabia noted that this analysis was not done because it is inherently unknowable: Finance had no predictive capability to identify when a border blockade might occur. Its analysis was based on the existing situation.

ADM Mendes added that the analyses focused on the automotive sector because it would feel the effects first due to its just-in-time business model. As time went on (even for a week or so), other manufacturers would also start to lose inventory, and there would be knock-on effects as workers worked less and spent less, etc. While such effects are difficult to calculate, it was clear that the longer the border blockades went on, the more serious the consequences would be.

DM Sabia stated that that scenario—if the blockades continued—was a crucial consideration. The fact that consequences would only become more serious as time went on informed Finance's thinking. For example, tools that would require legislative amendment (which could take weeks or months to pass) would likely not be quick enough to address the economic impact of the blockades.

DM Sabia emphasized that the consequences of the blockades continuing were not just effects in the domestic context (which were certainly significant); there were also broader concerns about the impact this would have on Canada, its trading relationships, and its perception in global markets as a reliable supplier. Such concerns are basically impossible to quantify, but they are very important considerations that inform the

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[5] SSM.CAN.00007571_REL.0001, p 4.

[6] Ibid.

government's response. Canada's reputation as a reliable trading partner and supplier is one of its most precious assets, and it was being put at serious risk.

ADM Mendes stated that Finance has not done an after-the-fact economic impact analysis of the blockades, for a few reasons. For one thing, the department had to quickly shift towards the events in Ukraine. For another, the department generally does not do after-the-fact impact analyses for events such as railway disruptions, flooding, etc. because there are multiple things occurring at the same time and it is nearly impossible to isolate the impact of one event. For example, in January 2022, a wave of COVID-19 had caused a pullback of economic activity, and people were starting to go out again in February.

[The panel was asked about a statement made by Minister Freeland at the February 13th meeting of the Incident Response Group in which she "highlighted ongoing economic losses of 0.1 per cent to 0.2 per cent of GDP for every week the blockades continue."[7]] DM Sabia and ADM Mendes were not sure where Minister Freeland got that figure, but they believe it was from a Bloomberg analysis.[8] At the time, Minister Freeland had not received the analysis from Finance that referred to a reduction of 0.1 to 0.2 percentage points in real GDP growth in the first quarter of 2022.[9]

ADM Mendes noted that the Minister's reference to "every week" suggested that the longer the blockades went on, the same marginal impact would be added each week; however, Finance's sense was that the longer this went on, the greater the marginal impact each week would be, as more sectors began to be affected.

Measures considered by Finance

ADM Jacques explained that Finance considered early on what tools it had to curtail the flow of funds towards the blockades. The goal was to dissuade people from being involved in the blockades, and it became clear that the groups were organized, well funded, and there to stay.

ADM Jacques stated that Finance began by considering what the federal *Bank Act* permitted in terms of freezing accounts. As there were no tools under that statute as it stood, Finance then considered options that would require legislative amendments. One option was to provide the Governor in Council with the authority to direct banks to freeze the accounts of individuals or entities known to be involved in the protest activity. A second option was to provide the Governor in Council with the authority to direct

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[7] SSM.CAN.00000095_REL.0001, p. 6.

[8] COM00000839.

[9] SSM.CAN.00007571, p. 4.

financial institutions to review their relationships with designated individuals on an ongoing basis to ensure that those relationships did not further illegal activities.[10]

ADM Jacques explained that a limitation with these options was that they would only apply to federally regulated financial institutions—not those that are provincially regulated. DM Sabia added that this was significant: it excluded a whole host of financial institutions, including the insurance industry. Further, as money is fungible and people can move it around easily, the fact that the federal government could not reach provincial institutions was a significant limitation.

Finance also looked to options under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* ("*PCMLTFA*"). [This statute is the enabling legislation for FINTRAC, which receives reports from a variety of "reporting entities" relating to transactions that may involve money laundering or terrorist financing and can disclose information to law enforcement when particular legal thresholds are met.] DM Sabia and ADM Jacques stated that it quickly became clear that there was a gap in the *PCMLTFA*: it did not apply to crowdfunding services and applied only to certain payment service providers. This was significant given that the media widely reported that the Convoy was being funded through crowdfunding and that much of the funding was coming from outside Canada.

DM Sabia noted that an overriding issue with the options considered by Finance was timing. Any legislative amendments would take a long time to pass, whereas action was needed quickly.

When asked what information Finance had about the funding of border blockade activity compared to funding of activity in Ottawa, ADM Jacques stated that such information would have been obtained by the RCMP and law enforcement, though it became clear that funds were being raised by crowdfunding. She stated that Finance did not have names of particular individuals or entities involved in the protest or blockade activity, but understood from media reports that major fundraisers on GoFundMe and GiveSendGo were supporting border blockades as well as the Ottawa protests. DM Sabia added that the Department did not have differentiated information about the money that was flowing to the protestors in Ottawa compared to those involved in the border blockades.

Involvement in developing and implementing the *EEMO*

When asked when Finance became aware of the possibility that the *Emergencies Act* would be invoked, DM Sabia stated that it is difficult to pinpoint a date. He believes it started being floated around the second week of February.

[10] These options are set out in a memo addressed to Minister Freeland and DM Sabia dated February 9, 2022: SSM.CAN.00003764_REL.0001, p. 3.

ADM Jacques stated that she was not involved in the decision making about whether or not to use the Act. When she learned that it was being considered, her team's focus shifted to what they could do if the Act were in place compared to what they could do in its absence. DM Sabia noted that this was a subtle distinction: Finance was not doing work to *recommend* the use of the Act; rather, it considered what tools might be available *if the Act were in place* and how effective the new tools would be compared to existing ones.

ADM Jacques explained that the *EEMO* addressed issues Finance had identified with existing tools. First, it allowed for bank accounts to be frozen without a court order. Second, it ensured that federal, provincial, and territorial governments could share information with financial institutions if they had information that was relevant to individuals or entities that were funding the protests or blockades. Third, that information could be shared by financial institutions with the RCMP or CSIS. Fourth, the order extended to both federally and provincially regulated financial institutions, which notably meant that insurance providers were captured. Fifth, the order required financial institutions to review their relationships with individuals or entities involved in the illegal activities on an ongoing basis and enabled them to quickly freeze or unfreeze accounts. Sixth, the order brought crowdfunding and payment service providers under the *PCMLTFA* (a change that was later made permanent through regulatory amendments that came into force in April 2022). Finally, the speed at which Finance could move was important—the order allowed for action to take place more quickly than by legislative amendment.

When asked why the *EEMO* took the approach of requiring financial institutions to monitor their relationships with clients on an ongoing basis rather than taking a "list-based approach" [which would involve law enforcement providing specific names of individuals and entities to financial institutions], DM Sabia explained that the *EEMO* was essentially a mix of the two approaches. Financial institutions were obligated to review and assess their relationships with clients on an ongoing basis, but the RCMP also provided names to financial institutions.

ADM Jacques stated that Finance tried to make the scope of the measures as narrow and focused as possible, understanding that they would have a significant impact on people. When asked if the *EEMO* could capture individuals who donated very small amounts to the cause, ADM Jacques agreed that it could but that in practice, the RCMP's focus was not on small donations and that they did not apply the order in that way. DM Sabia stated that in conversations with financial institutions, he understood that they were equally not focused on small donations; they understood the order to be focused on key players in the illegal activities. ADM Jacques added that the language of the order is narrow: it would not apply to everyone who donated to the cause, but rather people who were involved in the disruption. The purpose was to dissuade people from making donations at all. However, she agreed that donating to the cause could be considered supporting illegal activities and be captured by the order.

ADM Jacques stated that Finance never knew what information was shared with or by the RCMP. Although she is aware that information was shared, she does not know what exactly was shared, who was mentioned, or when the sharing took place. DM Sabia added that this was by design: it would be inappropriate for Finance to receive this information, as the department's role is to develop policy, not be involved in exchanges of information between law enforcement and financial institutions. However, Finance did receive *aggregated* information about the numbers of accounts that were frozen, which did not reveal any personal details.[11] This was important information for Finance to be able to assess whether the measures were working.

When asked why s. 5 of the *EEMO* required financial institutions to disclose information to the RCMP "*or"* CSIS, ADM Jacques stated that Finance did not initially know whether CSIS would be involved, nor did she know whether CSIS ever received information from financial institutions. The important point was ensuring that it was *possible* to share this information with CSIS.

DM Sabia and ADM Jacques were in contact with financial institutions once the order was in place. DM Sabia heard some concerns from financial institutions about the operation of the order. Some had concerns about the security of their front-line staff, who would be interacting with individuals whose accounts were frozen. Financial institutions also had concerns about the effect the *EEMO* would have on the relationships they have with their clients. DM Sabia did not understand the latter concern as implying that financial institutions would not carry out the order; rather, they wanted to ensure it was being applied consistently across institutions, as uneven application could have competitive impacts between banks.

ADM Jacques explained that the rationale for including crowdfunding services and payment service providers as reporting entities under the *PCMLTFA* was to add to the intelligence that FINTRAC received so that it could take action and share information with the RCMP. The broader the reporting obligation, the better FINTRAC's ability to share information. It was clear from media reporting that the protestors were using crowdfunding services and payment service providers to fund their activities, so it was important to include them in the *PCMLTFA* regime.

Unfreezing of accounts

ADM Jacques noted that although the *EEMO* did not include a formal process for unfreezing accounts, Finance discussed how this should occur with financial institutions. Finance initially expected that financial institutions would, on the basis of their ongoing monitoring of client relationships, unfreeze accounts once it became clear that the individual was no longer involved in the activities. However, security concerns began to

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[11] See, for example, SSM.CAN.00000028_REL.0001, SSM.CAN.00000034_REL.0001, and SSM.CAN.00000036_REL.0001.

arise for front-line workers at financial institutions if individuals came in demanding to have their accounts unfrozen. Finance began to work with the RCMP on a process by which it would advise financial institutions when individuals were no longer involved in the activities. In the end, events unfolded very quickly as law enforcement dismantled the protests, and financial institutions quickly unfroze accounts.