PUBLIC ORDER EMERGENCY COMMISSION INSTITUTIONAL REPORT – TRANSPORT CANADA

1.0 DEPARTMENT OVERVIEW¹

A. Organization and Reporting Structure

- 1. The Minister of Transport is the Honourable Omar Alghabra. Under the principles of accountable government, all activities carried out in the department, including the actions of all officials under the Minister's management and direction, are done pursuant to the Minister's authority.
- 2. The institution head is the Deputy Minister, Michael Keenan. The Deputy Minister is supported by a number of senior executives, both within the National Capital Region and across Canada in the six national regions.²
- 3. The Transport Canada (TC) portfolio includes over 41 shared governance organizations, eight crown corporations and four administrative agencies and tribunals.³

B. Responsibilities

- 4. TC is responsible for developing and overseeing the Government of Canada's transportation policies and programs. The Minister has responsibilities under 74 Acts and more than 400 related Regulations.
- 5. The objectives of TC are to ensure Canadians have access to a transportation system that is safe and secure; green and innovative; and efficient.
- 6. TC accomplishes its objectives by proposing, developing and updating policies, laws, regulations and standards; conducting inspections, oversight and enforcement activities of the transportation industry's equipment, operations and facilities to enforce regulations and standards; and providing funding to organizations for projects that strengthen the transportation network, including safety improvement projects, technological innovations and green transportation initiatives.

¹ Transport Canada, *Welcome Aboard*, online: https://tc.canada.ca/en/corporate-services/transparency/briefing-documents-transport-canada/2021/welcome-aboard, [Welcome Aboard! (canada.ca)]

² Transport Canada, *Organization*, online: [Organization (canada.ca)].

³ Transport Canada, *The Transport Canada Portfolio*, online: https://tc.canada.ca/en/corporate-services/transport-canada-portfolio [The Transport Canada Portfolio]

C. Crisis Response

- 7. Under the Federal Emergency Response Plan (FERP), TC is the primary department responsible for Emergency Support Function (ESF) #1 Transportation. The scope of the ESF includes, among other things:
 - relying on existing authorities and instruments to either restrict or facilitate the movement of regulated transportation conveyances, goods and people or seek voluntary compliance;
 - providing technical emergency response and regulatory advice for transportation of dangerous goods;
 - providing transportation sector knowledge in Government of Canada decisions;
 - information sharing with partners and industry; and
 - making recommendations regarding the usage/availability of civil transportation and/or TC assets.
- 8. A number of groups within TC support the Government of Canada in responding to a crisis.
 - **Policy Group** [Assistant Deputy Minister Serge Bijimine]

The Policy Group leads and coordinates research, analysis and advice to support TC policy frameworks, funding programs, and regulatory regimes, as well as to advance and facilitate the Government of Canada's key priorities and commitments related to Canada's transportation system. In particular, the Transportation Economic Analysis Division has expertise in economic modeling on Canada's transportation system, yielding analysis and assessing the impacts of disruptions to the transportation system. It also provides advice and analysis on federal-provincial-territorial relations, including supporting the federal co-chair of the Council of Ministers Responsible for Transportation and Highway Safety. This is the primary transportation forum for aligning federal, provincial and territorial efforts to support better outcomes on transportation topics such as safety, trade, and competitiveness.

• Safety and Security Group [Assistant Deputy Minister Kevin Brosseau and Associate Assistant Deputy Minister, Aaron McCrorie]

The Safety & Security Group is responsible for enhancing the safety and security of the aviation, marine, rail, and road modes of transport, as well as the transportation of dangerous goods in Canada. The group aligns international best practices. It develops proposed legislation, regulations, policies and national standards for each mode of transportation and implements monitoring, testing, inspections and enforcement programs. For example, in the area of Motor Vehicle Safety, the team is responsible for helping to ensure the safety and security of road users through effective

⁴ For additional information on the Policy Group, please visit the Transport Canada website, online: *Policy Group*, https://tc.canada.ca/en/corporate-services/transparency/briefing-documents-transport-canada/2021/corporate-structure/tc-groups/policy-group, [Policy Group (canada.ca)].

regulation of new and imported motor vehicles and equipment (e.g. car seats and tires). The group also plays a convening role with stakeholders in the transportation system.⁵

• Transport Canada Regional Offices

There are five (5) TC regions: Pacific Region; Prairie and Northern Region; Ontario Region; Quebec Region; and Atlantic Region.

TC regional offices support and implement national policy in the regions by promoting, overseeing and enforcing safety and security in the aviation, marine, and rail sectors, and in the transportation of dangerous goods. They also manage TC owned assets; engage and collaborate with key stakeholders including government partners, Indigenous communities, and private industry; and provide strategic policy advice on regional transportation issues.

D. Legal and Operational Mandates in Areas of Shared Jurisdiction

i. Relevant Areas of Shared Jurisdiction

9. Jurisdiction over certain modes of transportation in Canada is shared between the provincial and federal governments. Where the federal government does not have exclusive jurisdiction, TC often plays a leadership role in encouraging consistency in regulatory approaches between provinces and territories. In addition, within the federal family, interprovincial and international transportation often intersects with public safety and border management issues and requires collaboration with other federal departments and agencies.

ii. Management of Road and Vehicle Safety

- 10. Motor vehicle safety in Canada is a shared responsibility between federal, provincial/territorial and municipal governments. Under the *Motor Vehicle Safety Act*, TC is responsible for establishing the *Canada Motor Vehicle Safety Standards*, which set out safety requirements for new and imported motor vehicles and equipment, including commercial trucks.
- 11. Pursuant to the *Motor Vehicle Transport Act*, TC also regulates certain operational matters related to interprovincial and international commercial trucking activity such as: hours of service related to commercial driver hours of work, driving and rest to mitigate the risk of fatigued-related collisions; safety ratings related to motor carrier safety performance as measured by collisions, convictions and results of driver and commercial vehicle inspections; and conditions of carriage, which pertain to conditions of carriage and limitations on liability for motor carriers. However, provinces and territories are responsible for intra-provincial trucking and for enforcing federal motor carrier operational regulations. They are also responsible for the general enforcement of safety on Canadian roads. Provincial and territorial governments' highway traffic acts and other legislative authorities regulate drivers and

⁵ For additional information on the Safety and Security Group, please visit the Transport Canada website, online: https://tc.canada.ca/en/corporate-services/transparency/briefing-documents-transport-canada/2021/corporate-structure/tc-groups/safety-security-group, [Safety and Security Group (canada.ca)]

- vehicle use, including driver training and licensing, insurance requirements, vehicle inspections, and speed limits. Provinces and territories are also responsible for road and roadside infrastructure, such as highways and rest stop facilities.
- 12. Through the Canadian Council of Motor Transport Administrators (CCMTA), TC works closely with provinces and territories to advance a consistent, national approach to road safety. This includes development of Canada's Road Safety Strategy as well as oversight and maintenance of the National Safety Code, which sets out various operational safety standards for commercial vehicles ranging from commercial driver license requirements to carrier facility audits.

iii. Ports of Entry

- 13. TC authority with respect to land border Ports of Entry is limited to oversight of the operations, maintenance, construction, safety and security of international bridges and tunnels pursuant to the regulatory framework set out in the International Bridges and Tunnels Act. The legislation provides for certain authorities for the Minister to make directions if of the opinion that there is an immediate threat to the security or safety of any international bridge or tunnel. The legislation does not provide authority to address safety or security threats on roads leading to international bridges and tunnels, or the obstruction of traffic on such roads.⁶
- 14. TC works closely with the CBSA to share information about operations at Ports of Entry that involves bridges and tunnels. This includes consultations with bridge owner/operators and planned construction or alteration of bridge or tunnel Ports of Entry infrastructure. TC responsibility with respect to oversight of international bridges and tunnels is set out in Annex I.

2.0 Vaccination Requirements - Federally Regulated Transportation Sector

- 15. Since the beginning of the pandemic, TC has worked closely with the Public Health Agency of Canada (PHAC), Health Canada, the CBSA and other government departments and agencies in support of the federal response to COVID-19.
- 16. Throughout the pandemic, TC, in line with public health advice, has implemented measures under its legislative authorities to ensure the safety and security of the transportation network, in air, rail and marine sectors of transportation, its employees, and users. For example, TC has worked closely with the transportation industry to establish guidance to help mitigate the spread of COVID-19 in the air, rail, marine and trucking sectors.
- 17. On August 13, 2021, the Government of Canada announced that a federal vaccination mandate would be implemented for the federal public service and for the federally regulated air, rail, and marine transportation sectors. It further announced that the vaccination requirement would extend to travellers, including all commercial air travellers, passengers

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⁶ *International Bridges and Tunnels Act*, SC 2007 c1, s 17. Note that federal jurisdiction under the *IBTA* is limited to the bridge itself or the bridge approach/customs facilities. Blockades on the highways leading to bridges would fall under municipal or provincial jurisdiction as the case may be.

- on interprovincial trains (specifically, VIA Rail and the Rocky Mountaineer), and passengers on larger marine vessels with overnight accommodations, such as cruise ships.
- 18. The requirements for travellers were phased-in beginning on October 30, 2021. Passengers departing from Canadian airports and travelers on VIA Rail, Rocky Mountaineer and Amtrak trains (when operating in Canada) were required to be vaccinated or provide proof of a negative COVID-19 molecular test. Vaccination requirements also applied to passengers on board cruise ships in Canada. Full implementation of the vaccination requirement, with few exceptions, took effect on November 30, 2021, at which time testing was no longer allowed as an alternative to vaccination.
- 19. In late November 2021, employers in the federally regulated air, rail and marine sectors were required to establish vaccination policies for employees in their organizations, or otherwise ensure vaccination of certain employees.
- 20. The instruments imposing full vaccination requirements on passengers and employees / crew in the federally-regulated air, rail and marine transportation sectors that were in effect as of November 30, 2021 included:
 - Under the *Aeronautics Act:* Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 47⁷;
 - Under the *Railway Safety Act*: (1) Order pursuant to Section 32.01 of the Railway Safety Act (MO 21-07) Vaccination Mandate for Employees⁸ and (2) Order pursuant to Section 32.01 of the Railway Safety Act (MO 21-09) Vaccination Mandate for Passengers Phase 2⁹; and
 - Under the *Canada Shipping Act, 2001*: Interim Order Respecting Vessel Restrictions and Vaccination Requirements Due to the Coronavirus Disease 2019 (COVID-19)¹⁰.

⁷ Repealed – Interim Order Respecting Certain Requirements for Civil Aviation due to COVID-19, No 47, online: https://tc.canada.ca/en/ministerial-orders-interim-orders-directives-directions-response-letters/repealed-interim-order-respecting-certain-requirements-civil-aviation-due-covid-19-no-47, [Repealed - Interim Order Respecting Certain Requirements for Civil Aviation Due to COVID-19, No. 47 (canada.ca)].

⁸ Order pursuant to Section 32.91 of the Railway Safety Act (MO 21-07) Vaccination Mandate for Employees, online: https://tc.canada.ca/en/rail-transportation/enforcement-action-measures-mitigate-threats-rail-safety/ministerial-orders-emergency-directives/order-pursuant-section-3201-railway-safety-act-mo-21-07-vaccination-mandate-employees, [Order pursuant to Section 32.01 of the Railway Safety Act (MO 21-07) Vaccination Mandate for Employees (canada.ca)].

⁹ Order pursuant to Section 32.01 of the Railway Safety Act (MO 21-09) Vaccination Mandate for Passengers, online: https://tc.canada.ca/en/rail-transportation/enforcement-action-measures-mitigate-threats-rail-safety/ministerial-orders-emergency-directives/order-pursuant-section-3201-railway-safety-act-mo-21-09-vaccination-mandate-passengers-phase-2, [Order pursuant to Section 32.01 of the Railway Safety Act (MO 21-09) Vaccination Mandate for Passengers – Phase 2 (canada.ca)].

¹⁰ Interim Order Respecting Vessel Restrictions and Vaccination Requirements Due to the Coronavirus Disease 2019, online: <a href="https://tc.canada.ca/en/ministerial-orders-interim-orders-directives-directions-directives-directions-directives-directions-directives-directions-directives-directions-directives-directions-directives-directions-directives-directions-directives-directions-directives-directions-directives-directions-directives-directions-directives-directions-directives-directions-directives-directi

- 21. Vaccination requirements have applied to passengers on board cruise ships in Canada since their resumption in April 2022.¹¹
- 22. No vaccination requirement was applied under TC authorities to Canadian operators of commercial motor vehicles (truckers), unless their work was otherwise captured by the rules applicable to individuals in the federally regulated air, rail or marine transportation sectors (for example trucks entering secure zones at airports).
- 23. On October 12, 2021, the United States Department of Homeland Security announced that, starting in January 2022, all foreign nationals entering the US by land and ferry, including truck drivers and other essential travelers, would be required to be fully vaccinated.¹²
- 24. On November 19, 2021, the Public Health Agency of Canada announced similar adjustments to Canada's border measures with an effective date of January 15, 2022. The Governor in Council on the advice of the Minister of Health and the Public Health Agency of Canada imposed additional requirements at the border, through an Order in Council coming into effect on January 15, 2022. These requirements applied to a majority of travelers, including truck drivers and other essential service providers, who had previously been exempt from most COVID-related entry requirements. These additional requirements, authorized under the *Quarantine Act*, meant that unvaccinated or partially vaccinated foreign national truck drivers seeking to enter Canada from the U.S. would be prohibited entry, and unvaccinated or partially vaccinated truck drivers with a right of entry to Canada would be subject to additional public health measures (e.g. testing and quarantine requirements).
- 25. As part of what gave effect to the measures above, on January 14, 2022, the Chief Public Health Officer of Canada issued an instrument imposing conditions on operators of commercial vehicles

response-letters/interim-order-respecting-vessel-restrictions-vaccination-requirements-due-coronavirus-disease-2019-covid-19>, [Interim Order Respecting Vessel Restrictions and Vaccination Requirements Due to the Coronavirus Disease 2019 (COVID-19) (canada.ca)].

¹¹ Interim Order No 3 Respecting Vessel Restrictions and Vaccination Requirements Due to the Cornovirus Disease 2019, , [Interim Order No. 3 Respecting Vessel Restrictions and Vaccination Requirements Due to the Coronavirus Disease 2019 (COVID-19) (canada.ca)].

¹² Press Release dated October 12, 2021, online: < https://www.dhs.gov/news/2021/10/12/secretary-mayorkas-allow-fully-vaccinated-travelers-canada-and-mexico-enter-us-land>, [Secretary Mayorkas to Allow Fully Vaccinated Travelers from Canada and Mexico to Enter U.S. at Land Borders and Ferry Crossings | Homeland Security].

News Release dated November 19, 2021, online: < https://www.canada.ca/en/public-health/news/2021/11/government-of-canada-announces-adjustments-to-canadas-border-measures.html>, [Government of Canada announces adjustments to Canada's border measures].

¹⁴ PC 2021-0961, Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States), online: < https://orders-in-council.canada.ca/attachment.php?attach=41322&lang=en, [Orders In Council - Search (canada.ca)].

¹⁵ Statement dated January 13, 2022, online: < https://www.canada.ca/en/public-health/news/2022/01/requirements-for-truckers-entering-canada-in-effect-as-of-january-15-2022.html>, [Requirements for truckers entering Canada in effect as of January 15, 2022].

pursuant to an authority under the Minimizing the Risk of Exposure to COVID-19 in Canada Order (Quarantine, Isolation, and Other Obligations) (instrument entitled "Immediate Requirement for Non-Fully Vaccinated Operators of Commercial Vehicles Transporting Goods by Land to be Subject to Pre-Arrival Testing, Testing in Canada and Quarantine" 16). The instrument came into force on January 15, 2022. These conditions had the effect of requiring that unvaccinated truckers with right of entry be subject to pre-arrival testing, on arrival testing, and quarantine when returning to Canada from the United States. Prior to this date, unvaccinated truckers were exempt from these requirements under the Order.

- 26. On January 22, 2022, the US Department of Homeland Security implemented a requirement that non-U.S. individuals seeking to enter the United States via land (and ferry) ports of entry be fully vaccinated for COVID-19 and provide related proof of vaccination. Unlike previous vaccination requirements, these new restrictions applied to those travelling for both essential and non-essential reasons. This included operators of commercial vehicles (truckers).¹⁷
- 27. On December 7, 2021, the Minister of Labour announced that the Government of Canada would propose regulations under Part II of the Canada Labour Code to make vaccination mandatory in federally regulated workplaces, which would apply to the road transportation sector. These regulations were never put in place.

3.0 RESPONSE TO THE CONVOY AND BLOCKADES

- 28. TC first became aware of the Freedom Convoy protest on January 19, 2022. 18 Open media sources were the primary sources of information used to monitor the Convoy and associated developments. They were supplemented by reporting from Governmental partners and across jurisdictions in line with their mandates and authorities.
- 29. Information was also provided to TC through reports from federally regulated entities to the TC Situation Centre (SITCEN). Under the Emergency Management Branch Directorate, the SITCEN allows TC to support a constant state of readiness. The SITCEN is TC's focal point for information reporting and dissemination related to transportation incidents operating on a 24/7 basis all year. TC officials monitored the Freedom Convoy developments and its impacts on the

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¹⁶ Immediate Requirement for Non-Fully Vaccinated Operators of Commercial Vehicles Transporting Goods by Land to be Subject to Pre-Arrival Testing, Testing in Canada and Quarantine, dated January 14, 2022.

¹⁷ Press Release, US Department of Homeland Security dated January 20, 2022, online: <DHS to Require Non-U.S. Individual Travelers Entering the United States at Land Ports of Entry and Ferry Terminals to be Fully Vaccinated Against COVID-19 | Homeland Security>, [DHS to Require Non-U.S. Individual Travelers Entering the United States at Land Ports of Entry and Ferry Terminals to be Fully Vaccinated Against COVID-19 | Homeland Security].

¹⁸ PB.CAN.00000788, E-mail exchanges dated January 19, 2022.

- national transportation system, and consulted stakeholders. ¹⁹ Frequent SITCEN reports related to blockade events and threats were created and shared. ²⁰
- 30. TC officials used this information to monitor the Convoy event and any responses required to support the national transportation system.²¹

A. NOTAMs

- 31. A notice can be made under section 5.1 of the *Aeronautics Act* (*AA*), to prohibit or restrict the operation of aircraft on or over any area or within any airspace where the Minister is of the opinion that the prohibition or restriction is necessary for aviation safety or security or the protection of the public. This authority is exercised by officials. A notice is communicated via a NOTAM to inform the aeronautical industry of prohibitions or restrictions imposed by TC under the *AA*.
- 32. In January and February, consistent with past practice in situations involving complex policing operations, TC put in place temporary airspace restrictions at the request of law enforcement. These were done through the use of notices and Notices to Airmen (NOTAMs) at various locations deemed necessary for aviation safety or security or the protection of the public. TC was also in contact verbally with some stakeholders (e.g. City of Mississauga, City of Toronto, Toronto Police Service and police of jurisdiction in Coutts and Milk River, AB) to inform them of the availability of this measure.
- 33. From January 29 to February 28, 2022, TC issued a total of 12 notices communicated via NOTAMs for airspace restrictions associated with blockades and protests, including: the area adjacent to the airspace over Parliament Hill, Ottawa, ON²²; Fredericton, NB; Quebec City,

¹⁹ See e.g. PB.CAN.00001000, E-mail exchanges on potential impacts to rail crossings, dated January 28, 2022; PB.CAN.00000793, E-mail exchanges between TC and Detroit International Bridge Company (Ambassador Bridge), dated January 21-26, 2022; PB.CAN.00000803, E-mail exchanges between TC and Ottawa International Airport officials, dated February 8, 2022; PB.CAN.00000831, E-mail exchanges between TC and Seaway International Bridge Crossing, dated February 12, 2022.

²⁰ See e.g. PB.CAN.00000832, SITCEN report Potential Protest in Cornwall, dated February 12; PB.CAN.00000798, SITCEN report Convoy on HWY 402 Sarnia, dated February 6, 2022; PB.CAN.00000807 and PB.CAN.00000808 SITCEN report on Toronto Planned Protest (1 of 2); PB.CAN.00000805 and PB.CAN.00000806 SITCEN report on Toronto Planned Protest (2 of 2); PB.CAN.00000835, Report on Planned Truck Protest Sarnia dated January 18, 2022; PB.CAN.00000868, SITCEN report on Slow Roll Convoy Windsor dated February 7, 2022; PB.CAN.00000873, SITCEN report on Potential Protest in Sarnia dated February 8, 2022.

²¹ See e.g. PB.CAN.00000862, Protest Update PNR dated February 13, 2022; PB.CAN.00000869, Protest Updated PNR dated February 14, 2022.

²² PB.CAN.00000887, NOTAM Airspace Restriction over Parliament Hill, dated January 29, 2022; PB.CAN.00000903, RCMP request dated January 29, 2022; PB.CAN.00000904, Coordinates with respect to NOTAM, dated January 29, 2022.

- QC²³; Queen's Park, Toronto, ON²⁴; Windsor, ON; Winnipeg, MB²⁵; Emerson, MB; Milk River, AB²⁶; Coutts, AB²⁷; North Portal SK; Northgate, SK; and Surrey, BC.
- 34. In Ontario, notices were issued at the request of Ottawa Air Service (RCMP), Toronto Police Service and the Ontario Provincial Police (OPP). The notices were issued for the protection of the public and for the safety of air operations in Ontario. The following provides additional detail regarding the notices that were issued by TC pursuant to the AA in Ontario:

Date of issue of NOTAMs and extension	Location	Airspace Restrictions via NOTAM
NOTAM issued - January 29, 2022, to February 2, 2022.	Ottawa, Ontario	Airspace restricted over Parliament Hill
Extension of NOTAM from January 31st, 2022, to February 7, 2022.	Ottawa, Ontario	Airspace restricted over Parliament Hill at the request of the RCMP
Extension of NOTAM February 7, 2022, to February 14, 2022.	Ottawa, Ontario	Airspace restricted over Parliament Hill at the request of the RCMP
Extension of NOTAM proactively February 11, 2022, to February 28, 2022.	Ottawa, Ontario	Airspace restricted over Parliament Hill, is proactively extended at request of RCMP
Parliament Hill NOTAM cancelled on February 23, 2022	Ottawa, Ontario	Airspace restricted over Parliament Hill is cancelled
NOTAM issued - February 4, 2022, to February 9, 2022.	Toronto, Ontario	Airspace restricted over Queen's Park, Toronto.
NOTAM Issued – on February 17 (Start date February 19 to February 21, 2022).	Toronto, Ontario	Airspace restricted over Queens Park, Toronto at the request of Toronto Police
NOTAM issued February 12, 2022, to February 14, 2022.	Windsor, Ontario	Airspace restricted over Windsor, ON at request of OPP

²³ PB.CAN.00000890, NOTAM published over Quebec City, QC on February 3, 2022; PB.CAN.00000892, SPVQ request dated February 3, 2022.

²⁴ PB.CAN.00000796, Toronto Police Service NOTAM request for Toronto, dated February 3, 2022.

²⁵ PB.CAN.00000893, NOTAM Restricted Airspace Winnipeg Protest dated February 12, 2022.

²⁶ PB.CAN.00000889, NOTAM published over a protest in Milk River, AB dated February 3, 2022.

²⁷ PB.CAN.00000888, NOTAM published over a protest in Coutts, AB dated February 2, 2022.

- 35. Failure to comply with airspace restrictions imposed by way of notices issued under section 5.1 of the AA can result in fines. Pursuant to subsection 7.3(3) of the AA, an individual who is convicted of an offence punishable on summary conviction, can receive a fine not exceeding \$5,000, whereas a corporation may receive a fine not exceeding \$25,000.
- 36. TC investigated 13 incursions of the NOTAMs over Parliament Hill during the Freedom Convoy period. To date, one notice of violation has been issued, not in relation to the NOTAMs but associated with drone usage contrary to requirements under the *Canadian Aviation Regulations*. In addition, 3 warnings were issued in relation to the NOTAMs, when individuals were caught in the act.

B. Transportation of Dangerous Goods

- 37. The TC Transportation of Dangerous Goods Directorate (TDG Directorate) is responsible for developing standards and regulations, providing expertise, and exercising oversight concerning the transportation of dangerous goods by all modes to promote public safety. TDG Directorate works closely with partners who are responsible for and have authorities with respect to enforcement.
- 38. On February 9, 2022, the Ottawa Police Service (OPS) contacted the TDG Directorate after media and eyewitness reports identified several occupiers bringing large quantities of flammable liquids to fuel trucks, BBQs, and propane heaters at the site of the Ottawa protest. The OPS had identified potential violations of the *Transportation of Dangerous Goods Regulations* relating to the handling and transport of UN1202 Diesel Fuel and UN1203 Gasoline, in relation to the re-fueling of trucks and vehicles involved in the Ottawa demonstration, and the handling of UN1075 Liquified Petroleum Gases (i.e. propane) in cylinders and stationary tanks. They requested the assistance of TDG inspectors to participate directly in joint OPS-Ministry of Transportation of Ontario (MTO) operations to provide subject matter expertise to identify violations and assist with enforcement pursuant to sections 17 and 19 of the *TDG Act*, where necessary and warranted.²⁹
- 39. Between February 11 and February 13, 2022, TDG inspectors accompanied OPS on patrols around the Ottawa protest area and assisted them in identifying violations of TDG laws and regulations. The patrols resulted in the identification of several instances of non-compliance

²⁸ PB.CAN.00000813, E-mail exchange respecting TC TDG participation; PB.CAN.00000814, Ottawa Police Service Partner Assistance for State of Emergency dated February 9, 2022; PB.CAN.00000815, E-mail exchanges respecting Ottawa Police Service request dated February 9, 2022.

²⁹ PB.CAN.00000809, E-mail exchange between TC officials re TDG inspector deployment, dated February 9, 2022; PB.CAN.00000810, Transportation of Dangerous Goods, Freedom Convoy Demonstration Support to Ottawa Police State of Emergency Guidance Document, dated February 9, 2022; PB.CAN.00000811, E-mail exchange between TC officials and Ottawa Police Services re TDG inspector deployment, dated February 9, 2022; PB.CAN.00000812, Transportation of Dangerous Goods Offences, dated February 9, 2022.

and the issuance of fines by the OPS Enforcement Team for unsafe handling and transportation of goods such as diesel fuel, gasoline and propane³⁰:

- On Friday February 11, 2022, the OPS issued four tickets for unsecured means of containment and lack of shipping documents. Each ticket is \$400 with a \$90 surcharge. The total amount is \$1960.
- On Saturday February 12, 2022, eleven tickets were issued for unsecured loads, having no placards, lack of training and lack of shipping documents. Each ticket is \$400 with a \$90 surcharge. The total amount is \$5390.
- On Sunday February 13, 2022, five tickets were issued for unsecured loads, having no placards, lack of training and lack of shipping documents. Each ticket is \$400 with a \$90 surcharge. The total amount is \$2450.
- 40. TDG also provided guidance to some violators to encourage compliance. This included advice on how to properly secure loads, completing the proper shipping documents and on the placards that are required.

C. Review of Legislative Authorities and Preparation of the Strategic Enforcement Strategy

41. In January, in the early days of the Convoy demonstrations, various groups within TC examined the authorities in TC legislation that could be used to respond to actions of the Freedom Convoy activities.

Overall, it determined that TC did not have any legislative or regulatory levers that it could directly apply in the context of actual blockades and unlawful actions taking place as part of the convoy demonstrations. TC officials considered additional authorities that might be needed in the context of protecting critical infrastructure; concluding that new prohibitions and authorities can only help if there is a clear pathway and commitment to enforcement by those with enforcement authority.

42. That said, TC was able to identify *Criminal Code* and provincial legislative authorities that could be used to assist police or serve as best practices. For example, enforcement through provincial highway traffic legislation could impact motor carrier profiles and affect license and insurance eligibility thereby providing a needed incentive to comply with the law. This work contributed to the Strategic Enforcement Strategy.

³⁰ PB.CAN.00000864, E-mail Update on TDG Support to Police dated February 13, 2022; PB.CAN.00000872, Ottawa Police Service CVSA-TDG Convoy Initiative Summary February 11-13; PB.CAN.00000847, PB.CAN.00000853, PB.CAN.00000854, PB.CAN.00000855, selection of photographs taken while TC was assisting OPS.

- 43. The Strategic Enforcement Strategy³¹ was a strategic options document prepared by TC, after extensive consultation with provincial and territorial officials. It was developed between February 4 and February 13, 2022.
- 44. The impetus for the document was the recognition that given the complexity of the ongoing multi-day occupations and blockades, safe resolution would require three levels of government to collaborate and exercise all appropriate authorities and the required relevant transportation authorities under provincial jurisdiction. In the area of road and commercial vehicle safety, enforcement falls under provincial jurisdiction. Recognizing that TC had no enforcement role to apply in the context of provincial legislation of the commercial and other vehicles involved in the blockade activities, the purpose of the Strategic Enforcement Strategy was to ensure that police services, local governments and transportation authorities of jurisdiction, cities, and provinces had a clear line of sight on the full suite of enforcement options, approaches and tools at their disposal. The strategy was to coordinate the maximum number of existing authorities, not to replace authorities or direct the actions of other jurisdictions.
- 45. The strategy had two parts: Communication and Enforcement.

Communication. The Strategy called for establishing an approach for consistent communication to the perpetrators about the illegal activities at play, the impact of those activities, and the economic costs and risks associated with them. This included a set of key messages containing information about laws and regulations being broken and their consequences, and that could be used/adapted by law enforcement. The key messages aimed to help encourage compliance, based on the theory that to the extent some protestors did not believe they were doing anything illegal, education about consequences could inspire some vehicle owners to cease their unlawful activities.

Enforcement. The second part of the strategy involved describing the continuum of decisive enforcement options available to police, provincial transportation authorities, and others where commercial trucks or other vehicles were involved as part of an unlawful protest/demonstration. This included examples of possible infractions under typical municipal by-laws, provincial highway legislation, and the *Criminal Code*. It also included information on additional considerations relevant to truck drivers for continued unlawful behavior leading to convictions. Consequences included implications for Class 1 (Class A) driver's license holders and commercial motor vehicle profiles (known in Ontario as a commercial vehicle operator's registration certificate). There were also potential risks to publicly-available carrier safety ratings issued to companies or owner-operators. These risks could ultimately affect the cost and availability of insurance.

46. TC led consultations on the development of the strategy. These consultations began on February 4, 2022, via the federal/provincial/territorial Policy and Planning Support Committee ("P&PSC"). The P&PSC is an Assistant Deputy Minister-level governance body reporting to the Council of Deputy Minsters Responsible for Transportation and Highway Safety. Consultations with provinces continued over several days at various levels and focused on tools, approaches and communications elements that could be featured in the strategy. Additional key meetings took place on February 5 (Assistant Deputy Minister level meeting with Ontario and Alberta for a follow-up discussion to the February 4 PPSC

³¹ PB.CAN.00000860, Strategic Enforcement Strategy – Working Draft dated February 13, 2022.

- meeting); February 6 (Director General-level meeting with Ontario); February 7 (Deputy Minister meeting with Ontario; Deputy Minister meeting with Alberta) and February 8 (meeting with the P&PSC).
- 47. Senior TC officials also participated in Public Safety Canada-led discussions with law enforcement, including a joint call between the Deputy Minister of Transport, the Deputy Minister of Public Safety and law enforcement.³²
- 48. Ontario's Deputy Minister of Transportation shared views with respect to the driver's license / commercial vehicle operator permissions by letter on February 8, 2022.³³
- 49. On February 16, 2022, federal officials (PS, PCO, DOJ, Finance, RCMP and TC) met with PT ADMs representing Transportation and Public Safety Ministries and a broad cross section of law enforcement officials from across the country, at which government officials presented on the new Emergency Act Powers. The meeting included a presentation by TC on the Strategic Enforcement Strategy.
- 50. The Strategic Enforcement Strategy was not operationalized by TC but by enforcement agencies.

D. The Tow Truck Strategy

- 51. Local law enforcement, municipalities and provinces reported an inability in procuring specialized tow services needed to move large trucks in critical areas (e.g., Ottawa, ON; Coutts, AB; near the Ambassador Bridge). Tow trucks are privately owned and operated and they were proving hard to secure. TC officials participated in discussions with law enforcement, and provincial authorities of Government of Alberta who made an official request for assistance to the Minister of Public Safety and Minister of Emergency Preparedness and other stakeholders.³⁴ TC officials themselves were not the direct recipients of requests for assistance for tow truck capacity.
- 52. TC developed a Tow Truck Strategy on behalf of the government given its relationship with the commercial vehicle industry, other stakeholders, and provincial ministries of transportation. The "Tow Truck Strategy" was an options analysis document that was prepared by the TC Safety and Security Group with input from Public Services and Procurement Canada.³⁵

³³ PB.CAN.00000821, E-mail circulating Letter from Ontario Deputy Minister of Transportation, dated February 8, 2022.

³² SSM.CAN.00000363, Notes of Aaron McCrorie of FPT discussions February 7, 2022.

³⁴ Information about tow truck challenges was shared at meetings of the Deputy Ministers' Operations Committee, discussions with law enforcement; calls with the OPS and City of Ottawa that took place between February 3 and 8 at which TC officials were present, discussions between TC Prairie and Northern Region (PNR) and Alberta government officials, and informal discussions between TC officials and contacts in the trucking industry who relayed that tow truck operators had been receiving threats from convoy supporters and did not believe they could be adequately protected if they should provide tow services. TC officials also received a copy of Alberta's written request for assistance from the federal government: SSM.CAN.00000082, Letter Honourable Ric McIver to Honourable Marco Mendicino and Honourable Bill Blair, February 5, 2022.

³⁵ PB.CAN.00000866, Tow Truck / Vehicle Removal Strategy Working Draft dated February 13, 2022.

- 53. The purpose of the document was to examine the feasibility of a wide range of escalating potential options for the federal government to support, both directly and indirectly, the removal of vehicles from blockades. In its final iteration, the strategy included considerations for the federal government to contract tow services, provide trained personnel and/or provide support for vehicle storage. During the time the Tow Truck Strategy was being drafted, TC officials became aware that the Canadian Armed Forces were not considered a viable option to provide tow services at the blockades. As such, the Strategy only considers the possibility that CAF personnel, as well as other federal personnel, might be considered should the federal government need to draw on individuals with a Class 1 driver licence in the context of a vehicle removal effort.
- 54. The document was developed between February 10 and 13, 2022. Consultations on the document at the DM level took place with PSPC, Public Safety and the RCMP on February 12. ADM-level consultations on the strategy took place on February 13 and involved TC and PS, as well as provincial representatives from Alberta, Manitoba and Ontario.
- 55. Work on the Tow Truck Strategy document stopped following the declaration of a public order emergency under the *Emergencies Act* on February 14.
- 56. Elements of the Tow Truck Strategy were incorporated as part of the operational response by the appropriate authorities, and concepts thereof are reflected in the *Emergency Measures Regulation*. Even under the Tow Truck Strategy itself, TC would not have been the actor undertaking enforcements pursuant to it.
- 57. TC discussed the Tow Truck Strategy and the Strategic Enforcement Strategy at an ad hoc meeting of the FPT Crime Prevention and Policing Committee that was convened on February 16.

E. Engagement with Provinces and Municipalities

i. Engagements with provinces and municipalities

- 58. Throughout the occupation and blockades, the Minister of Transport engaged with counterparts and officials at the provincial and municipal levels. For example, the Minister of Transport spoke directly with Ontario's Minister of Transportation regarding blockades at border crossings. He similarly spoke with Alberta's Minister of Transportation, Manitoba's Minister of Transportation and Infrastructure, British Columbia's Minister of Transportation and Infrastructure and Nova Scotia's Minister of Public Works. The Minister also spoke directly with municipal leaders such as the Mayor of Windsor.
- 59. TC officials likewise engaged regularly with counterparts at the provincial and municipal levels, as well as with stakeholders across the transportation sector.

- 60. These meetings were to discuss how the Federal Government and Provincial Governments could work together and use the authorities within their jurisdictions to end the blockades and resume the flow of goods across the border. They spoke of the economic impacts within each region and shared information on ongoing efforts by local law enforcement at the borders.
- 61. On February 5 and 9, 2022, Minister Alghabra spoke with Rajan Sawhney, then-Minister of Transportation in Alberta. On February 5, the Ministers discussed the situation on the ground with the blockade at the Coutts Port of Entry, and how both levels of government could assist each other going forward. On February 9, the Ministers again discussed the situation on the ground with blockades at Ports of Entry across the country, and committed to continuing to engage with one another.
- 62. On February 9, 2022, Minister Alghabra also spoke with Caroline Mulroney, Ontario's Minister of Transport. The Ministers discussed the situation on the ground regarding the blockades at Ports of Entry in Ontario.
- 63. On February 11, 2022, Minister Alghabra spoke with Mayor of Windsor, Drew Dilkens. The Minister and the Mayor discussed the situation on the ground. The Mayor provided a brief overview of the blockade at the Port of Entry, and the actions the municipality was taking to deal with the blockade.
- 64. On February 12, 2022, Minister Alghabra spoke with Doyle Piwniuk, Manitoba's Minister of Transportation and Infrastructure. They discussed the situation on the ground regarding the blockades at the Emerson Port of Entry.
- 65. On February 14, 2022, Minister Alghabra spoke with Rob Fleming, British Columbia's Minister of Transportation and Infrastructure. The Ministers discussed the impact of the blockades in British Columbia, specifically at the Pacific Highway crossing, and Minister Alghabra provided an update on the emergency measures that had been invoked, particularly the tow truck component.
- 66. On February 15, 2022, Minister Alghabra spoke with Kim Masland, Nova Scotia's Minister of Public Works to provide a brief overview of the new federal emergency measures that had been invoked. They also discussed the financial component of the emergency measures to target the financing of illegal activity through crowdfunding or other platforms. Minister Masland provided an update on the impact of the blockades in Nova Scotia
- 67. TC officials also engaged regularly with counterparts at the provincial and municipal levels, as well as with stake-holders across the transportation sector. For example:
 - TC's Transportation Security Emergency Preparedness team had email communication with a contact at the Ministry of Transportation of Ontario on February 9-10, 2022 in regards to the Pigeon River bridge's current situation at the time of the protest.
 - TC's Prairie and Norther Region (PNR) participated in an FCG meetings where the protests were discussed (January 25 (NU), February 3 (NWT) and February 16 (AB)). However,

- information that was considered confidential was shared directly with RCMP and CAF, not at the FCG meetings.
- February 6, 2022: TC consulted with Ministry of Transportation of Ontario officials on options for leveraging key commercial vehicle safety provisions under the Ontario Highway Traffic Act to prevent further entrenchment and encourage occupiers to leave the area
- February 7, 2022: TC chaired DM level *ad hoc* meetings with Ontario and Alberta on Strategic Enforcement Strategy
- February 8, 2022: Provincial DM of Transportation for Ontario issued a letter to TC DM indicating that authorities related to commercial vehicle licensing and permits were intended to address road safety, and that any requests related to the blockades be addressed to the Solicitor General.³⁶
- February 17, 2022: TC chaired ad hoc meeting with BC for a check-in and information sharing on impacts to railways
- February 17, 2022: TC chaired ad hoc meeting with Ontario for a check-in and information sharing on impacts to railways

ii. Discussions occurring at the Federal/Provincial/Territorial Policy and Planning Support Committee

- 68. A summary of meetings of the P&PSC is provided as follows:
 - February 4, 2022: TC chaired an ad hoc meeting of the Policy and Planning Support Committee (ADM-level table of Council of Minsters Responsible for Transportation and Highway Safety) and Board members of the Canadian Council of Motor Transport Administrators (CCMTA), to gather information on what mitigation measures provinces and territories were and could take in response to the blockades. An objective of the call was to gather input on authorities under provincial/territorial legislation that could be relevant to the law enforcement response for the development of the Strategy Enforcement Strategy. During this discussion, many jurisdictions indicated that they viewed the response to the situation as primarily a policing matter.
 - February 5, 2022: TC chaired an ADM level meeting with Ontario and Alberta for a follow-up discussion on Strategic Enforcement Strategy.
 - February 8, 2022: TC chaired a second ad-hoc meeting with of the Policy and Planning Support Committee as a continuation of previous discussions on relevant infraction and enforcement sections of provincial and territorial road safety statutes that could aid in the

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³⁶ PB.CAN.00000821, E-mail circulating Letter from Ontario Deputy Minister of Transportation, dated February 8, 2022.

- response to ongoing truck convoys and demonstrations. TC explains that it is developing a "playbook" to identify various authorities that could be used by law enforcement.
- February 18, 2022: Policy and Planning Support Committee (ADM-level table of Council of Minsters Responsible for Transportation and Highway Safety) meeting to discuss preparations for the Council of Ministers' meeting on Feb. 25, 2022.

F. INTELLIGENCE AND ENFORCEMENT

i. Security Intelligence Assessment Branch (SIAB)

- 69. Canada's national transportation system is vital to Canada's economic prosperity. It is a key national security component that can be undermined by criminal activity as well as threats to or interference with its vast and complex systems. TC's security-related roles and responsibilities include identifying, tracking and responding to threats to surface (including rail, international bridges and tunnels), marine and aviation transportation, including as a result of terrorism, sabotage or other forms of unlawful interference such as hostile cyber activity.
- 70. Of the TC groups responsible for promoting security in areas within TC's mandate³⁷, the Security Intelligence Assessment Branch (SIAB) is the departmental point of contact with the intelligence community. It is responsible for analyzing and disseminating received intelligence that is relevant to TC's areas of responsibility within TC and to industry stakeholders. More specifically, it:
 - maintains accreditation and access to Top Secret environments within the TC ecosystem (i.e. secure areas, systems) to facilitate TC access and handling of classified reporting (SECRET and TOP SECRET) produced by security and intelligence partners;
 - provides threat assessments for Canada's transportation system on a regular (annual) or asneeded, based on intelligence provided by partners;
 - liaises with internal and external partners to identify and communicate TC requirements for intelligence support, primarily through (but not limited to) the Government of Canada National Intelligence Priorities framework administered by the Privy Council Office;
 - coordinates development of TC corporate-level national security policy to support compliance requirements (i.e., policies in support of the Avoiding Complicity in Mistreatment by Foreign Entities Act and Security of Canada Disclosure Act);
 - coordinates TC engagement with external security and intelligence review agencies (i.e., National Security and Intelligence Committee of Parliamentarians, National Security and Intelligence Review Committee); and

³⁷ These include Aviation Security, Marine Safety and Security, Surface and Intermodal Security, the Security Screening Program and Security Intelligence Assessment Branch.

• leads TC engagement with Government of Canada Economic Security activities (i.e. national security reviews under the Investment Canada Act, economic security policy development).

ii. Emergency Preparedness Directorate (EPD)

- 71. The EPD works to prevent disruptions to Canada's transportation system resulting from emergency situations, natural disasters, intentional and unintentional human actions such as safety and security incidents, or emerging threats having an impact on the national transportation system. It works with other departments, agencies and the transportation industry to maintain a safe and secure transportation system for Canada and Canadians in all incidents, emergencies and crises. It plans and trains for responses to all emergencies that affect and/or require the support of any part of the national transportation system.
- 72. The EPD includes TC's situation centre (SITCEN), which operates 24 hours a day, 7 days a week, and works in close co-operation with other government response centres. SITCEN is the Department's focal point for information reporting related to transportation incidents and facilitates decision-making forums for senior management as it responds to various incidents. Through SITCEN, TC supports a constant state of readiness through regular reporting.

iii. Security briefing relating to anticipated blockades of railway lines and highways

- 73. During the convoy, SIAB disseminated open-source information to enhance monitoring of Convoy-related developments of concern to the Transportation portfolio. This included contribution to the Public Safety Government Operations Center and one Threat Watch product for internal use.³⁸ SIAB highlighted world-wide media reporting on Convoy-related developments within Canada and elsewhere as movements emerged in other countries, including the United States, New Zealand and France.
- 74. Beyond passive monitoring of information on the demonstrations, TC had no role in the security/intelligence management of the demonstrations. Neither the SIAB nor other TC groups have an intelligence-collection mandate. Rather, SIAB generally depends on both open source information and classified information from other government institutions such as the Canadian Security Intelligence Service (CSIS), the Royal Canadian Mounted Police (RCMP), Global Affairs Canada (GAC) or the Communications Security Establishment Canada (CSE).
- 75. During the convoy, for example, SIAB relied on open media sources in order to help assess Convoy-related developments of interest or concern to the Transport portfolio. SIAB also received information on threats of blockades to railway lines and international bridges that were communicated directly to TC officials by railway companies and bridge operators.

iv. Information sharing with Law Enforcement or Intelligence Agencies

³⁸ SSM.CAN.00000386, Threat Watch Transport Canada dated February 11, 2022.

76. As part of its liaison function with national security and intelligence partners, SIAB was in regular contact with partners at the RCMP, CSIS and ITAC throughout the relevant time period. SIAB conveyed information to the RCMP and CSIS in three specific instances: (1) regarding the receipt of threatening emails targeting the Minister of Transport; (2) in relation to open media source information associated with mariners organizing an event at various ports to support the convoy; and (3) regarding information received from the Ottawa airport regarding threats of a slow roll on the roads leading to the airport.

4.0 ECONOMIC IMPACT ASSESSMENTS OF BLOCKADES IN ONTARIO AND WESTERN CANADA

A. Nature of trade between Canada and the United States of America

- 77. Trade and transportation within Canada and between Canada and the USA is highly integrated. Relative to global competitors, Canadian products travel significantly further, through challenging geography and climate conditions. Border crossings, railway lines, intraprovincial highways, airports, and ports are integrated and are adversely affected where any one or more of the components is blockaded or prevented from operating under normal capacity.
- 78. Critical goods, medical supplies, food, and fuel are transported across the border between the USA and Canada every minute. For example, over \$4B in pharmaceutical and \$2.4B in medical equipment was imported into Canada via the Ambassador Bridge in Windsor, Ontario, in 2021. Over \$2 billion each in pharmaceutical products and prepared foods were exported as well. A disruption or delay in that trade has very serious detrimental effects to Canada's economy and Canadians' lives. Indeed, even the perception of disruption or the appearance of delays can have detrimental effects.

B. Traffic disruptions from the Convoy begin affecting trade

79. TC began observing traffic disruption on the roads approaching the Ambassador Bridge on January 23, 2022.³⁹ The border closures due to the blockade raised intense concerns related to the impacts on the fluidity and integrity of cross-border trade and Canada's supply chains. The blockades added additional strain to Canada's economy at a time when it was already affected by pandemic-related supply chain disruptions, labor shortages, and the flooding in British Columbia in November 2021.⁴⁰

³⁹ PB.CAN.00000793, E-mail exchanges between TC and Detroit International Bridge Company (Ambassador Bridge), dated January 21-26, 2022.

⁴⁰ SSM.CAN.00000357, Compilated SITREPs; SSM.CAN.00000360, Photograph, February 7, 2022; SSM.CAN.00000361, Photograph February 7; SSM.CAN.00000362, SITREP 37.1 February 7, 2022.

C. Transport Canada's Assessments of Economic Impacts from Transportation Disruptions

- 80. TC's Transportation Economic Analysis Directorate is responsible for providing analysis to the Minister of Transport and the Senior Management Team on factors (e.g., economic, demographic, health, transportation) affecting current and future performance of the transportation sector both domestically and with respect to all export/import of commodities.
- 81. The Economic Analysis Directorate conducted its first assessment with respect to the Ambassador Bridge, which plays a crucial role in the supply of important medical and pharmaceutical products and other goods necessary to support the health and welfare of Canadians. The bridge is the busiest crossing along the Canada-US border, and handled 2.7M commercial vehicle crossings in 2020, representing 28% of the national total volume of commercial vehicles annually.⁴¹
- 82. On February 11, 2022, the Transportation Economic Analysis team produced a Backgrounder report assessing the economic impacts of the blockade at the Ambassador Bridge to Canadian trade. As of this date, three border crossings (Coutts, AB; Emerson, MB; and Ambassador Bridge, ON) were affected.
- 83. The Backgrounder report concluded that the loss of trade through this border crossing would be exceptionally damaging to the economy and could result in a shortage of crucial medicine, food and fuel. Some of its key findings were:
 - The Ambassador Bridge is the busiest crossing along the Canada-US border, handling over \$390 million of trade per day, representing 26% of the country's exports (\$63 billion) and 33% of its imports (\$80 billion) by road. The bridge records more than 7,000 daily commercial vehicle crossings a day.
 - It is estimated that the cost to the Canadian economy of a full shutdown of the bridge for around a week with varying degrees of mitigation efforts would likely be in the range of \$45 million per day, but potentially reaching to \$86-161 million per day if other crossings also become unavailable and the situation drags on in length.
 - That range reflected three possible scenarios of the bridge closure, depending on the success of mitigation efforts and attempts to reroute traffic to other gateways: (1) shutdown of the auto sector (\$45 million / day); (2) shutdown of the manufacturing sector (\$86 million / day); and (3) shutdown across the economy (\$161 million / day).
 - The impact would be especially acute for manufacturers, especially in the auto sector given that industry's high concentration in Southern Ontario, its high integration with the US, and the just-in-time nature of its business model. The report observed that automakers in Canada and US had already begun scaling back or cancelling production by this stage.

⁴¹ PB.CAN.00000817, Ambassador Bridge Fact Sheet, dated February 9, 2022.

⁴² PB.CAN.00000840, Backgrounder on the Impact of a Road Blockade at the Ambassador Bridge, February 11, 2022.

- 84. The report observed that the blockade had diverted some traffic from the Ambassador Bridge to the Sarnia, Fort Erie and Queenston crossings, but that this rerouting came at a cost: rerouting adds unnecessary time to a trucker's journey and affects capacity because of Canadian regulations that limit the number of consecutive hours a commercial truck driver can work.⁴³ The Backgrounder included six annexes of supporting maps, charts and tables.
- 85. On February 15, 2022, the Transportation Economic Analysis team produced a descriptive report entitled Key Facts on Major Road Border Crossings in Ontario and Western Canada. This document provided summary statistics on trade volumes and values for the three most significant border crossings in Ontario (Ambassador Bridge, Sarnia and Fort Erie-Niagara together, \$315 billion in trade annually), and the four most significant land border crossings in Western Canada (Pacific Highway, BC; Coutts, AB; North Portal, SK; and Emerson, MB together, \$86 billion in trade annually).
- 86. On May 13, 2022, TC authored a note entitled Critical Goods Trade at Major Road and Rail Crossings in Ontario and Western Canada. This document presents an overview of critical goods flows across the Canada / United States border that are carried by trucks and by railways. It identifies the following categories of goods as "critical": Petroleum/Energy; Agri-Food; Computers/Phones/Batteries/Semiconductors; Critical Minerals; Pharmaceuticals and Fertilizers. It includes key facts for road and rail border crossings, with detailed support statistical tables.
- 87. TC prepared a summary table entitled Blockades at Key Border Crossings: Trade Impact⁴⁶ that estimated trade impacts for the Ambassador Bridge, Coutts, Emerson and Pacific Highway, based on the total value of trade crossing at each location and the days of blockades. Based on the durations noted in the table and total value of daily trade, the table reports a total trade impact of \$3.9 billion.

D. Actual and Anticipated Disruptions to the Transportation of Crucial Goods, Medical Supplies, Food and Fuel across the Canada-US border from the Blockades

88. Among the overall set of goods crossing the Canada/U.S. international border by truck pharmaceutical products, agri-food and energy (fuel) can be considered as critical in terms of supporting Canadian health and well-being. From a purely economic perspective, machinery and mechanical appliances, base metals and plastics can be considered as relatively more important in terms of impact on overall trade and output. Taking the value of goods in January 2022 as a baseline, we can get a relative sense of those products that would be most affected by the blockades at the international road border crossings in Windsor,

⁴³ For an explanation of the methodology into the economic impact analysis of a blockade of the Ambassador Bridge, please see Annex II.

⁴⁴ PB.CAN.00000878, Key Facts on Major Road Border Crossings in Ontario and Western Canada, February 15, 2022.

⁴⁵ Critical Goods Trade at Major Road and Rail Border Crossings in Ontario and Western Canada

⁴⁶ Blockades at Key Border Crossings: Trade Impact

Emerson, Coutts and Pacific Highway. In terms of the top three impacted product categories (where the 4 blockaded crossings were particularly important for critical goods noted above):

- The total value of agricultural and Food products was \$4.98B at all crossings and \$2.53B at these 4 crossings, representing a share of 50.7%.
- The total value of road transportation vehicles and parts at all crossings was \$4.36B and \$2.17B at the 4 blockaded crossings, representing a share of 49.9%.
- The total value of pharmaceuticals was \$1.72B overall, and \$818.19M at the 4 select crossings, representing a share of 47.5%.
- 89. Overall, the Ambassador Bridge itself accounts for 5.2% of Canada's total critical goods exports and 11.2% of critical goods imports across all modes and all points of entry/exit. For several specific product groups, Ambassador Bridge handles an even more significant percentage of the national total value:
 - Agri-food: 10.7% of all exports and 21% of all imports
 - Pharmaceuticals: 19.6% of all exports and 17.2% of all imports
 - Critical Minerals: 9.6% of all exports and 11.5% of all imports
- 90. In Western Canada, the Emerson, MB international road crossing is responsible for over 20% of Canada's pharmaceutical exports, owing to Winnipeg being a life sciences hub. Collectively, the other major border crossings in Western Canada each account for about 1-2% of critical exports and imports, while tending to be more specialized in agri-food.
- 91. The blockade of the Ambassador Bridge had an immediate impact on Canada's economy, particularly automobile manufacturers. The blockades led to immediate shutdowns and production cancellations in Canada's auto sector, which is highly concentrated in Southern Ontario, highly integrated with manufacturers in the U.S. and dependent on a just-in-time business model. The following factories had been affected by the blockade:
 - Ford Canada was running its plants in Oakville and Windsor at reduced capacity.
 - Toyota Canada's facilities in Cambridge and Woodstock were closed temporarily.
 - Honda Canada suspended production at its facility in Alliston,
 - Stellantis' plant in Windsor (which makes Chysler minivans) cut production short at its two shifts, and
 - General Motors had to send shifts home at their facility in Oshawa.
- 92. The Canadian food and beverage manufacturing industry also heavily relies on U.S. suppliers (fruits and vegetable), especially during wintertime since delays created by the blockades will impact the freshness of products. It appeared likely at the time that some manufacturers would have to shut down if the blockade persisted, which in turn could lead to less availability of food and beverage products and higher prices in the market.

- 93. TC developed an estimate of the total flows of trade impacted by the blockades in Eastern and Western Canada. The total trade volume impacted by the blockades at each border crossing was calculated as a product of the duration of the blockades and the daily value of the merchandise crossing the border by road.
- 94. The trade data for cross border goods flows at each of these crossings came from TC's Canadian International Merchandise Trade database for 2021, which is custom data prepared for TC by Statistics Canada. A filter was applied to the data from TC's merchandise statistics database to select only the goods that are moved by road at each border crossing. The database provides annual values, so the daily value of goods transported was calculated by dividing the annual value by 365. The total daily merchandise volume at each border crossing is the sum of related export and import values. For reference, the duration of each blockade was calculated from the day the blockade was put in place to the day it was cleared.
- 95. Using the Ambassador Bridge as an example, the total Trade Impact (\$2,358M) is equal to the duration (6 days) multiplied by the total Trade per day (\$393M).
- 96. The impact at each border crossing was summed up to obtain the total value of the merchandise impacted by the disruptions, which was estimated at \$3.9 billion.⁴⁷

Blockades at Key Border Crossings: Trade Impact

Border crossings	Days of blockades	Trade per day	Trade impact
Ambassador Bridge	6 days	\$393M	\$2,358M
Coutts	18 days	\$48M	\$864M
Emerson	6 days	\$73M	\$438M
Pacific Highway	3 days	\$81M	\$243M
Total	-	\$595M	\$3,903M

- 97. In terms of cross border truck traffic flows, the total number of trucks entering or returning to Canada from the United States was down 5% in February 2022 relative to the same period in 2021. In Ontario, the blockades at the Ambassador Bridge led to an immediate shift in truck traffic to the Sarnia international crossing, with an increase of 29% year-over-year for February 2022. This accounted for 57% of the decline observed at the Ambassador Bridge.
- 98. A reduction of traffic was also observed in Western Canada. In February 2022, the number of trucks entering or returning to Canada decreased by 48% year-over-year at Coutts, AB, by 29% year-over-year at Emerson, MB, and by 6% year-over-year at the Pacific Highway Crossing, BC.

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⁴⁷ Note that this number reflects the total trade volume affected by the blockades. It is not to be understood as economic impact, because it is assumed that, eventually, most of the merchandise would reach its destination either delayed or by diversion to different routes.

99. It is clear that the blockades have had an impact on cross-border truck patterns and goods flows. However, it is difficult to attribute the shifts noted above solely to the impact of the blockades, given other prevailing economic conditions at the time – and in many respects continuing today. These include, for example, changes in global consumer demand and the associate impacts on international goods flows, including between Canada and the U.S., labour shortages that have impacted the availability of drivers, Covid-19 related border controls and vaccination requirements, global supply chain imbalances affecting car production and the reduction of production in some sectors (cars, food and beverage manufacturers) in light of these challenges.

E. ADVERSE EFFECTS ON TRADE AND OTHER TRANSPORT RELATIONSHIPS

i. Industry Consultations before February 14, 2022

- 100. Since the onset of the pandemic, TC has engaged regularly with individuals in the commercial trucking industry, the motor coach industry and the vehicle manufacturing industry (i.e. Teamsters Canada, Canadian Trucking Alliance, Private Motor Truck Council of Canada, Motor Coach Canada, Canadian Vehicle Manufacturers Association, Global Automakers Canada) to identify emerging issues early and mitigate disruptions. At the time that the blockades began, TC was hosting calls with these stakeholders every other week to apprise them of any development with respect to COVID-19 measures and receive feedback on any implications of existing measures.
- 101. During the time period in which the blockades were ongoing, TC held regularly scheduled conference calls with these stakeholders as follows:
 - Teamsters Canada: January 17, January 31, February 14,
 - Canadian Trucking Alliance/Private Motor Truck Council/Motor Coach Canada/Canadian Vehicle Manufacturers Associate/Global Automakers of Canada: January 19, February 2, February 15
- 102. While the blockades were branded as a "trucking" issue in some parts of the public domain, TC's feedback from these stakeholder engagements was and these organizations' own statements confirmed⁴⁹ that the leadership of the trucking industry publicly denounced and/or were not involved in these events.⁵⁰ Anecdotally, TC had been informed that in instances where commercial motor vehicles (trucks) were involved at protest sites, these were primarily owner-operator operations.⁵¹ For the most part, among those in the cross-border trucking industry, there was frustration about supply chain concerns tied to delays or closures at border crossings where blockades were entrenched.

⁴⁸ For details about Transport Canada Consultations, please see Transport Canada Activities: Emergencies Act/Blockades, PB.CAN.00000884.

⁴⁹ SSM.CAN.00000335, Canadian Trucking Alliance Statement on Road/Border Protests, January 19, 2022.

⁵⁰ See also summary of public statements and engagements at Annex III.

⁵¹ SSM.CAN.00000343, E-mail re Emerson Blockade and inability to do more, February 1, 2022; SSM.CAN.00000345, E-mail exchange re Atlantic Truckers Association Jan 27, 2022 and Feb 2, 2022.

- 103. As of February 11, TC had also received questions about potential exemptions from federal Hours of Service requirements for commercial vehicle drivers from two industry associations: Canadian Vehicle Manufacturers Association (CVMA which includes Ford, GM and Stellantis), and the Alberta Cattle Feeders Association. Hours of service relates to commercial driver hours of work, driving and mandatory rest periods. Section 16 of the *Motor Vehicle Transport Act (MVTA)* permits the Minister to provide an exemption to the federal Hours of Service regulations set out in the *Commercial Vehicle Drivers Hours of Service Regulations* if the exemption is in the public interest and is not likely to affect motor carrier safety. The CVMA was concerned that because of the blockades impact at the Ambassador Bridge port of entry, drivers carrying auto parts across the border were having to take alternate routes that were adding several more hours on to their trips. The delay in shipment of parts was having negative impacts on vehicle manufacturing operations.
- 104. The Cattle Feeders Association indicated that, due to the blockades at Coutts and Emerson, they were having considerable trouble getting live cattle destined for slaughter at US plants across the border, getting empty trucks for re-loading, and getting trucks carrying feeder cattle and other supplies back into Canada. Their members were experiencing extended wait-times and having to drive off-route to find other options for crossing the Canada US border. These extended hours were causing concerns related to both Hours of Service obligations and the welfare of cattle which are prohibited from transport beyond 36 hours in accordance with the *Health of Animals Regulations*.
- 105. TC engaged with the two stakeholders to get a clear understanding of the scope and impacts of the blockades on motor carriers. TC officials met with CVMA members on Friday February 11, 2022, and with the Alberta Cattle Feeders Association on Monday February 14. In the end, neither association submitted a formal request to TC for an Hours of Service exemption. 52
- 106. Minister Alghabra also met on a number of occasions with key stakeholders to discuss the impact of the blockades on their industries, as follows:
 - February 1 Canadian Trucking Alliance
 - February 7 Canadian Trucking Alliance, to address driver shortage concerns
 - February 8 Canadian Vehicle Manufacturers' Association, to discuss impacts of blockades at Ambassador Bridge
 - February 8 Automotive Parts Manufactures' Association, to discuss potential need to shut down plants if things get critical. APMA observed that access to other bridges is helping, but there were concerns about items backing up on the US side.
 - February 8 Retail Council of Canada (RCC), who communicated that if border blockades last longer than a couple of days, there is not enough inventory available to avoid shortages on shelves and it will take weeks to restore inventory levels. The RCC communicated concerns from large furniture retailers who rely heavily on the Ambassador Bridge, and that Metro was starting to get notices about fruit and

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⁵² SSM.CAN.00000388, E-mail exchanges re Hours of Service Exemption questions, dated February 12, 2022.

vegetables being affected if the blockade were to continue for the next 24 hours or more. Food, Health & Consumer Products of Canada (FHCP) said that this could be catastrophic with major food waste as product spoils: approximately half of the goods in grocery stores come from the US. Blockades could also lead to manufacturing shut downs on the Canadian side since certain key ingredients/inputs/packaging components come from the US. The RCC noted that transport companies are starting to pass along costs to retailers who will ultimately pass them on to consumers. The RCC/FHCP planned to put out a statement outlining the impacts on employees, the economy, and consumers. The Minister committed to working to convene and collaborate with other levels of government and stakeholders to address both the immediate and long-term challenges.

- February 9 Canadian Manufacturers & Exporters, a discussion of the impacts of blockades at Ambassador Bridge, Blue Water Bridge, and Coutts crossing. Participants included P&G, Toyota, Dofasco, 3M, Stellantis, and Ford. They discussed auto plant shutdowns and concerns about health/medical supply.
- February 10 Global Automakers, who asked for all levels of government to work together to address the issue. GA communicated that production at Toyota and Honda plants had halted due to parts and components shortages. They were observing similar shutdowns in the US. The low availability of parts was affecting consumers.
- February 11 Unifor, a discussion of the impacts of blockades being seen for workers in auto and trucking sectors.
- February 11 Canadian Association of Importers & Exporters, who asked how government and industry can better collaborate (formally or informally) to address issues at the border. There was a discussion of border vulnerability overall. CAIE identified a need for measures to address labour shortages in trucking and transportation sector overall, and communicated concerns about essential supplies reaching Northern communities as a result of blockades at Coutts/Emerson.

ii. Industry Consultations after February 14, 2022

- 107. On February 14 and 15, immediately after the declaration of a public order emergency under the *Emergencies Act*, TC provided a written update to transportation sector stakeholders on the invocation of the *Emergencies Act* by e-mail, which included links to the News Release, Backgrounder and the *Act*.⁵³
- 108. On February 18, TC, together with the Department of Public Safety and the RCMP also facilitated a briefing session about the towing provisions in the regulations with representatives of major Ontario towing associations. Stakeholders in attendance included the Canadian Trucking Alliance, Canadian Automobile Association, Private Motor Truck Council, Ontario Recovery Group, and the Provincial Towing Association of Ontario.

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⁵³ Transport Canada Activities: Emergencies Act/Blockades, PB.CAN.00000884.

- 109. TC also engaged in outreach to stakeholders after the measures were revoked. On February 24, TC reached out (through calls and e-mails) to a number of transportation stakeholders to advise that the powers under the *Emergencies Act* are no longer active, to confirm that strong plans to address any future disruptions are in place, and to underscore the importance of vigilance and maintaining up-to-date security plans and cyber security measures. TC also shared a Canadian Centre for Cyber Security bulletin that provided additional details and resources. Stakeholders included: Teamsters Canada (road and rail labour representatives); participants in the road, rail and marine industries; marine union; Canada Port Authorities and SLSMC; domestic and international aviation stakeholders; and international bridge and tunnel operators.
- 110. Lastly, Minister Alghabra spoke with two stakeholders on February 23:
 - Unifor Auto Sector Locals (Windsor), to discuss impacts of closure of Ambassador Bridge
 - Windsor Airport, a brief discussion with CEO Mark Galvin on how the airport was doing and how the recovery was going.

iii. Consultations with the US Government

- 111. The blockades had the attention of various counterparts in the United States. As noted earlier in this report, even the appearance of instability in respect of the movement of goods is serious and will engage the interest of trading partners at a high level.
- 112. On February 10, 2022, Minister Alghabra had a call with U.S. Department of Transportation Secretary Buttigieg to discuss blockades at border crossings and their impact on the auto industry in both Canada and the U.S. They discussed the ongoing protests and the impact on traffic across the international bridges and integrated supply chains. The Minister and the Secretary both recognized an urgency to resolve the issue.
- 113. On February 15, 2022, Minister Alghabra had a call with U.S. Ambassador David Cohen to discuss blockades at border crossings, particularly the situation in Coutts, AB and Emerson, MB. Ambassador Cohen thanked the Minister and the Government of Canada for their efforts to resolve the issue and sought updates about the situation specifically in Coutts and Emerson.
- 114. On February 17, 2022, Minister Alghabra had a call with Montana Governor Greg Gianforte discussed blockades at the border crossing at Coutts. The Governor inquired on the situation at the border, and the impact of the vaccine mandate on the trucking industry. The Minister reassured the Governor that the policy was made following the best medical advice and for the benefit of Canadians, and that we were monitoring the situation at the crossing closely".
- 115. Also on February 17, 2022: Minister Alghabra had a call with North Dakota Governor Doug Burgum to discuss blockades at border crossings and the impact on supply chains. Governor Burgum welcomed the Minister's outreach and was very pleased that the crossing at Emerson, Manitoba had been recently reopened.

Annex I: Responsibility for Oversight of International Bridges and Tunnels within Transport Canada

Surface Policy Directorate (Policy Group)	Rail Safety Directorate (Safety and Security Group)	Intermodal Surface Security Oversight (Safety and Security Group)			
	Authority				
International Bridge and Tunnels Act	International Bridge and Tunnels Regulations	No authority or regulations under the IBTA			
Responsibilities					
Processes proponent applications to the Governor in Council for the approval of the following actions, on the recommendation of the Minister of Transport: -Alterations (includes demolitions) - Construction - Change of Ownership, Operator or Control	Conducts structural inspections of international bridges and tunnels.	In the absence of regulations, the Government of Canada has entered into voluntary, memoranda of understanding with a number of international bridge and tunnel owners, in which these owners agree to establish a security management system for their infrastructure, and encourage a consistent approach to security of international bridges and tunnels.			
Reviews operator notifications to the Minister and briefs up where necessary.	Reviews detailed reports, provided by owners as required under the International Bridges and Tunnels Regulations, on the condition of the respective international bridge or tunnel. Receives and reviews operator notifications to the Minister regarding changes in tolls, fees or other charges; changes in the types of vehicles permitted to use the bridge or tunnel; changes to normal operating hours, and bridge closures lasting more than 48 hours.				

Annex II: Methodology for Economic Impact Analysis for the Blockade of the Ambassador Bridge

In order to estimate the daily impact of the blockade of the Ambassador Bridge, TC used an inputoutput (I-O) model. That model is based on the 2016 supply and use tables (SUT) provided by Statistics Canada.

The key idea behind an I-O model is that each industry purchases inputs from other industries, or from households. Those inputs can be goods, services, or labour. Likewise, each industry sells its output to other industries, or to households. The SUT contain these input-output relationships for each industry in Canada.

When an amount of money is spent in the economy for goods or services, it generates a cascading stream of demand for inputs in subsequent industries, multiplying the value of the initial expenditure. In that way, it is possible to calculate the cumulative value of each dollar that is spent in Canada. That initial spending is referred to as a "shock". As the I-O model is perfectly symmetric, a negative "shock", for example by the disruption of the stream of goods exported and imported, can be calculated in the same way.

TC developed three scenarios to estimate the impact of the blockade of the Ambassador Bridge. Those scenarios were reflected in three different shocks to imports and exports that were fed into the I-O model. All shocks were based on goods exported and imported by road via the Ambassador Bridge from TC's Canadian International Merchandise Trade database. To model the shock, detailed assumptions were made about the goods and sectors impacted by the disruption. It was assumed that a proportion of the total trade volume caused by the blockades translated into lost input for Canadian industries.

<u>Scenario 1:</u> Shutdown of the auto sector. This scenario assumes that the automotive sector shuts down while other industries are able to continue producing thanks to mitigation efforts and rerouting traffic through alternative gateways. However, these other industries are incurring losses based on perishability of their inputs and exports. For example, perishable goods, such as fresh vegetables or flowers are assumed to lose a high proportion of their value every day, while it is not the case for a firm exporting steel.

<u>Scenario 2</u>: Shutdown of the manufacturing sector. This scenario assumes that, in addition to the shutdown of automotive industries, the lack of inputs for other manufacturing industries, such as machinery and primary metal manufacturing, also lead to shutdowns and inability to export.

<u>Scenario 3</u>: Widespread shutdown across the economy. This scenario assumes that the disruption of imports and exports crossing the Ambassador Bridge leads to widespread shutdowns and production outages across the Canadian economy. This scenario assumes that traffic cannot be rerouted to other gateways.

The daily GDP impact on Canada's economy was estimated at \$45 M/day for scenario 1, \$86 M/day for scenario 2, and \$161M/day for scenario 3.

Annex III: Summary of Public Statements, Trucking Industry

- January 25, 2022: Ministers Alghabra, O'Regan and Qualtrough, and the President of the Canadian Trucking Alliance (CTA) issue a joint statement on vaccination (<u>Joint Statement</u> <u>by Ministers Alghabra, O'Regan and Qualtrough, and the President of the Canadian</u> <u>Trucking Alliance</u>)
- January 29, 2022: Canadian Trucking Alliance (CTA) President issues a statement on Ottawa Protests (<u>Statement by Canadian Trucking Alliance President on Ottawa Protests</u>
 <u>Canadian Trucking Alliance</u>)
 - Note: CTA releases additional statements on the protests/blockades, including on February 8, February 10, and February 14. (<u>Voices of Canadian Industry Call to Action on Border Blockades - Canadian Trucking Alliance</u>; <u>Blockades Impacting Trucking Industry & Drivers: CTA - Canadian Trucking Alliance</u>; <u>CTA Statement on Government of Canada Invoking of Emergencies Act - Canadian Trucking Alliance</u>)
- February 1, 2022: Private Motor Truck Council of Canada (PMTC) issues a statement on continuing protests in Ottawa and at land borders (<u>PMTC Statement on continuing protests in Ottawa and at land borders</u>)
- February 7, 2022: Teamsters Canada issues a statement on protests/blockades (<u>The Real Enemy for Truckers is Covid-19 | Teamsters Canada</u>
- February 8, 2033: Voice of Canadian Industry issue call to action on border blockades (Voices of Canadian Industry Call to Action on Border Blockades)