



## **Submission to Transport Canada – BCMTOA Responses to the Final Report of the *Canada Transportation Act December 2015***

The members of the BC Marine Terminal Operators Association (BCMTOA) are operators of terminal facilities, direct employers of longshore labour and are tenants of the Western Canadian port authorities and/or private Terminal Operators. Our members manage and operate best-in-class terminals and have a recognized track record of excellence, both domestically and globally. In the last decade, our members have invested in excess of \$1 billion in private capital in key trade-enabling infrastructure and equipment. BCMTOA estimates that there is a further \$2 billion in private investment potential that can be leveraged to further enable Canada's trade with the Asia-Pacific. Such investment would lead to the significant creation of new jobs and direct benefits to both local and regional economic development. Both of these only contribute to making Canada a more important global competitor in the maritime sector.

Numerous thought leaders in Canada including the Canadian Chamber of Commerce<sup>1</sup>, the Conference Board of Canada<sup>2</sup>, the Canada West Foundation<sup>3</sup>, Drewry<sup>4</sup> and Ocean Shipping Consultants<sup>5</sup>, among others, have led studies which outline various growth scenarios for different components of the resource supply chain. This is important to fully consider given the changing dynamics of the maritime shipping sector. As detailed in the Vancouver Fraser Port Authority's 2016 mid-year statistics report, total cargo for the half-year ending June 30, 2016 was 66.0 million metric tonnes, an overall decrease of 5.9 per cent over the same period in 2015. These results represent a softening of volumes in all major commodities except grain, where increases in barley (up 41.8 per cent) and canola (up 40.1 per cent) contributed to overall growth in that sector. With these particular changes in the grain market, as well as other commodity shifts, the long-term forecast for Western Canadian port volumes, however, is one of

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<sup>1</sup> Canadian Chamber of Commerce, Trade Trouble: We are Headed for Two Years of Zero Growth, September 6, 2016,

<sup>2</sup> Conference Board of Canada – Building for Growth March, 2016

<sup>3</sup> Canada West Foundation, The Infrastructure that Matters Most, July 6, 2016

<sup>4</sup> Drewry, Global Container Terminal Operators Annual Review and Forecast, 2016

<sup>5</sup> Ocean Shipping Consultants, Container Traffic Forecast Study – Port of Vancouver, 2016



growth. BCMTOA members are ready, willing and able to facilitate the movement of increased volumes and deliver the many economic benefits that this activity will generate for both British Columbia, and indeed Canada, but it will also require operating in a new paradigm of data transparency and collaboration across the supply chain partners, and all levels of government agencies, regulators and funding departments.

We note that the Final Report by the CTA Review Panel provided a critique of the Canadian Transportation System and its' inadequacies and short comings. We agree with many of their findings.

We appreciate the opportunity to provide you with our comments related to both the Final Report of the *Canada Transportation Act* Review, as well as Minister Garneau's ongoing exercise to develop a long-term transportation strategy for the country. We were pleased to be invited to share our views at the associated meetings held in Vancouver on June 16 and July 4, respectively. Further to those discussions, we further appreciate the chance to provide this submission and hope it will be considered in the context of the Minister's deliberations. Key points to consider include:

### **1. Needed Enhancements to CPAs' Governance Model**

In regard to the Final Report's recommendations pertaining to modernization of the governance model employed with Canadian Port Authorities (CPAs), BCMTOA members endorse the call for a new model aimed at supporting decision-making at the speed of business while enhancing accountability.

As outlined earlier, world trade patterns are shifting, new shipping alliances are emerging and different sectors are in various stages of their boom and bust cycle. While Canada's Port Authority (CPA) model has largely achieved its objectives, the speed and scale of changes in global trade and commerce have reached a critical point which necessitates looking at means to improve the robustness of the CPA framework. In particular,

improvements in governance ensuring market based approach to growth, nimbler commercial decision-making, and further enhancements to accountability that will result in a more trade competitive Canada.

As an example, the Vancouver Fraser Port Authority (VFPA) has seen its net revenues increase significantly year over year. While this appears to be a positive result when taken at face value, one has to consider how and where those additional revenues are being re-invested in order to facilitate the long-term sustainability of the Asia-Pacific Gateway and private investments into port lands. BCMTOA members operating in the Port of Vancouver are increasingly concerned with the level of net revenues being generated from current port users, as well as how those monies are being spent. They are being spent on nationalizing privately held lands through additional purchases while also developing new terminal capacity that directly competes with other projects funded solely by private capital. This activity has aggravated relationships with BC municipalities who see the port land acquisitions in their communities as encroachment of federal jurisdiction into local community plans<sup>6</sup>. Simultaneously, little is being invested in off-terminal infrastructure within the port jurisdiction. Instead, the port authority is seeking government contributions of taxpayer dollars to fund core infrastructure which VFPA should be responsible for financing itself, as per its founding letters patent. Additionally, we believe that the Port Authority is extending its' mandate beyond both the CTA and the CMA as evidenced by the implementation of a permitting process which is extremely burdensome from both a cost and time perspective resulting in terminals not complying and/or not improving their facilities. We believe that their effort to become an environmental regulator duplicates existing regulatory agencies at the Federal, Provincial, Regional or Municipal level. Furthermore, the rising costs of doing business within Port of Vancouver lands has the real potential of making Vancouver an uncompetitive market for cost-sensitive globally competitive maritime businesses and

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<sup>6</sup> The Province, Richmond Mayor sees "war" with federal port authorities over agricultural land, January 13, 2016



organizations where transportation costs can be a significant portion of the landed cost of our commodity exports.

Further, our members experience a lack of interface between VFPA board members and industry stakeholders, which would otherwise provide the CPA's Board with unfettered industry perspective on matters which the Board is ultimately responsible for. Due to the unique mandate and nature of CPAs, our members strongly feel that there should be a regularized, structured process for terminal tenants as ports' key customers to interface directly with board members on a consistent basis. This will provide the Board with a complete perspective on matters coming before them that directly impact terminal operations and in turn increase governance accountability.

The primary role of the CPA is acting in the capacity of landlord and regulator. Much of the interface between port operations and communities is between the Terminal Operators and the communities in which they handle goods. Our members spend significant time and effort to ensure that they have a functional and beneficial relationship with municipal representatives, First Nations and other community members. Millions of dollars are paid in municipal taxes, as well as significant investment in local community development initiatives as well as participation in discussions and deliberations on important local matters through local chambers of commerce and social service clubs.

In recent years, VFPA in particular, has spent significant public agency dollars on an expensive and professionally-run public relations exercise (including TV and social media ads, and the development of a YouTube channel)<sup>7</sup>. While some of the collateral is educational and is in support of the standard CPA mandate, some of this PR exercise has caused confusion on areas of responsibility and accountability with the public and First Nations in surrounding communities, as well as with some segments of terminal operators' own customer base. Therefore, BCMTOA strongly

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<sup>7</sup> Delta Optimist, MLA cautions to be way of the port's spin doctors, August 26, 2016

supports the needs to clarify the role of CPAs versus Terminal Operators in these important areas of responsibility, in order to eliminate confusion in the market, as well as duplication of costs and inefficient deployment of valuable resources (both human and financial).

As outlined, BCMTOA believes that the current CPA model is no longer suitable for fostering long term competitiveness of Canada's trade and the governance model's lack of accountability is no longer sustainable in current environment of increased scrutiny, transparency, First Nation and community engagement. With these serious flaws in the current CPA framework, BCMTOA strongly recommends that the Government of Canada look at alternative options and needed improvements, some of which are outlined in the Final Report of the CTA Review Panel.

## **2. Focusing of CPAs' mandate to efficient gateways**

CPAs should be focused on their core mandate of facilitating trade by investing earned revenues into off-terminal trade-enabling infrastructure where there is no business case for private-sector involvement or where there are multiple beneficiaries and common users.

For example, we are already seeing significant private sector investment in Marine Terminal Operations (i.e. Richardson, G3, Neptune, GCT Deltaport, Viterra, PCT, Squamish Terminals). Our members have invested in excess of \$1 billion in plant and equipment since 2004 and there is a potential for an addition \$2 billion of investment. But we believe that the biggest challenge to addressing projected growth in our supply chain will be the ability of rail to meet the projected growth in a cost effective and efficient manner.

As such, we feel CPAs have a role in facilitating efficiencies in the supply chain by providing a trusted data centre and a collaborative platform for multi-sectoral supply chain partners to explore and demonstrate supply chain improvements, like rail capacity improvements, inland terminals or short-sea shipping. For example, Port of Vancouver's competitive position

vis-à-vis other west coast of North America ports is strengthened by investments that increase capacity at the lowest all-in costs from a gateway/corridor perspective.

### **3. Enhancing the financial framework for CPAs**

The mandate of CPAs is to facilitate Canada's trade objectives, ensuring goods are moved safely, while protecting the environment and considering local communities (see purpose clause Canada Marine Act). As outlined earlier, as the government examines enhancements to CPA's governance model, it should consider the financial models that are more reflective of trends in other jurisdictions that provide for asset recycling, greater participation from intuitional investors and private sector.

BCMTOA does not support the full move to a share-capital structure for CPAs, as the change would result in a move toward a greater focus on profitability for the share holder at the expense of greater investment in keeping costs competitive for terminal operators and users of the facilities. The economic well-being of Canada is tied to trade and unfettered access to markets for our natural resource industries. We do not believe that it is in Canada's best long-term interests to turn over the only outlets for our resources to private interests in return for a one-time cash sale of Canada's Ports. Other more sustainable asset recycling models should be examined

Currently, port lands are designated for specific use purposes, per letters patent of each Authority and their respective land use plan, and cannot be used for any other purpose yet when assessed values are considered in determining rent increases the Port Authority considers the local industrial land market values. We do not believe that land values should be determined by the location of the CPA but should be determined on a consistent basis across Canada that is fair and equitable to all.

### **4. Additional comments on the Final Report of the CTA Review Panel**

Overall, BCMTOA is supportive of the general direction and priorities identified in the Final Report. We applaud efforts to improve supply chain efficiency while ensuring the long-term sustainability and continued growth of the marine sector. Still, there remain a number of recommendations in the report that are of concern to our members.

- We do not believe that the Report recognizes the significant economic contribution and importance of bulk commodities that represent the majority of cargoes moving through Canada's West Coast ports.
- We do not believe that the recommendations provide a level playing field for shippers and Terminal Operators. For instance, railways have the unilateral right to cancel MOUs and impose penalties for non-performance yet there is no reciprocal provision for shippers or terminal operators if rail operators do not meet their commitments.
- We are not only concerned with the proposed elimination of the 160 KLM inter-switching provision but believe that it should be available for all commodities in all jurisdictions. This would facilitate increased market access and we believe that elimination would be counterproductive to governments stated approach of market based transportation solutions.

### **Concluding Remarks**

To summarize, we recommend modernization of CPA governance model to become more nimble, adaptable and accountable to remain competitive in the world of rapid changes in global supply chain markets, and increased calls for sustainability and transparency.

Specific to the Minister's own authority and purview with regards to CPAs, this review process presents an opportunity to chart a new course for supply chain participants to collaborate with one another to improve the efficiency of transportation networks. Canada must contend with distance, weather and terrain challenges that our international competitors do not face. To meet the increases in demand, it will be important for Canada's transportation supply chain to remain low cost, efficient and competitive.



In support of continued reliance on market forces, and a history of commercialization and privatization in Canada's transportation system, CPAs financial frameworks need to continue down the proven path of success. Variety of approaches to asset recycling exist and most relevant solutions in a Canadian context should be considered by government that will set up Canada's ports on a new sustainable and globally competitive trajectory for decades to come.

Again, we thank you for the opportunity to provide this written submission. Should you have any questions or comments, we would be pleased to assist. Our members remain available to meet with the government to engage further on matters outlined. I can be reached directly at 604.306.3010 or at [www.bcmarineterminals.com](http://www.bcmarineterminals.com).

Best regards,

ORIGINAL SIGNED

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