

November 26 , 2018

Honourable Marc Garneau, PC, MP
Minister of Transport
Transport Canada
330 Sparks Street
Ottawa, ON K1A 0N5

Dear Minister Garneau,

On behalf of the members of the BC Marine Terminal Operators Association ("BCMTOA"), I am pleased to provide our submission to Transport Canada's Ports Modernization Review.

BCMTOA's membership was glad to see you launch this important initiative last March and thought it particularly fitting that you announced the review in Delta, British Columbia, which is home to Canada's largest bulk and container terminals. As you and your colleagues at Transport Canada appreciate, British Columbia's economy – and Canada's as a result – hinges on a robust and fully-enabled marine transportation industry. Canadian ports are an integral part of the overall supply chain, and it is critical that they operate in a predictable, accountable and sustainable way.

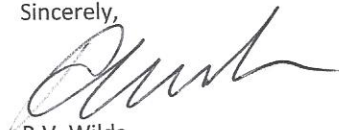
Celebrating its 55th anniversary this year, the BC Marine Terminal Operators Association is the representative voice of all 19 major marine terminals in British Columbia. Collectively, BCMTOA members have invested over \$1 billion in capital expansion and upgrades at their facilities since 2004 and are fully prepared to invest upwards of \$2 billion in future years to meet the projected growth of Canada's Pacific Gateway. BCMTOA's members are significant employers in British Columbia, providing jobs to approximately 6,000 Canadians, including new Canadians and First Nations and Indigenous peoples. In short, the mandate of our organization is to improve the economic and environmental viability of B.C.'s marine terminals, and to invest in and promote the value of the port industry to local communities, the province and the nation.

Our members play a central role in the Western Canadian marine shipping supply chain. Because of that, they continue to invest billions of dollars into capital infrastructure, equipment and people, to ensure sufficient capacity to address current and projected growth in trade volumes efficiently, safely, and in an environmentally responsible manner. Our members are equally committed to increasing Canada's global competitiveness and to generating positive economic benefits for all.

Included in BCMTOA's submission are responses to each of the five key themes identified in the Review's Discussion Paper. We are glad to expand on these and would welcome an opportunity to meet with you and your officials to discuss them in more detail.

Thank you again for your commitment to these important issues.

Sincerely,



R.V. Wilds
Executive Director

cc: Robert Dick, Assistant Deputy Minister, Pacific, Transport Canada
Marc-Yves Bertin, Director General, Marine Policy, Transport Canada
Patrick Gosselin, Director, Port Policy, Transport Canada

Submission to the Ports Modernization Review

**Submitted to Honourable Marc Garneau, PC, MP
Minister of Transport**

November 26, 2018

Executive Summary

The following submission provides context and outlines a range of subjects that underpin the relationship between the members of the BC Marine Terminal Operators Association (BCMTOA) and Canada Port Authorities (CPAs). These issues are integral to the health and long-term sustainability of maritime trade in Canada and the many economic benefits it provides. Some of these recommendations stem from past policy development exercises including the *Canada Transportation Act Review Report*. The validity and need for action on some of the recommendations are enhanced and more pressing with the passage of time from when the Canada Transportation Act Review Report was first issued, and we hope that this modernization exercise provides an opportunity to implement them.

Ultimately, present and future success of maritime commerce in Canada hinges on the overall integrity of the national ports framework, its integration, partnership and ability to pursue new opportunities. BCMTOA members are committed to cultivating productive commercial relationships with all partners, and to harnessing the best operational models.

Over the last several decades, Canada's maritime industry, and the network supporting it, has developed into one of the best in the world. Foreign trade enabled by the Canadian maritime shipping industry sustains 1 out of every 4 Canadian jobs and 1 out of every 5 jobs in Canada is dependent on exports, either directly or indirectly. Canada's efforts towards a fully-integrated logistics supply chain and supporting network-driven initiatives like the Asia-Pacific Gateway & Corridor Initiative, ensure Canada's port system is world-class. To sustain this, there is more government can be doing to drive a truly national ports system, designed and capable of delivering the greatest possible economic benefit to the broadest group of Canadians now and into the future. Today, the Canadian ports system suffers from a vague mandate and does not readily consider port-specific dynamics or circumstances. Furthermore, there is a built-in negative, and often conflicting, dichotomy between the desire for free-market private sector behavior and the regulatory responsibilities of a publicly-owned government agency which creates conflict zones. Local economic and business realities cannot always be accommodated when national policy and investment decisions are made. With these factors at play, the modernization study can and will play a critical role in arriving at a fully-optimized commercial system where existing and future capacity is maximized and investments are truly strategic.

In order to achieve this goal of full optimization and value-driven investment, the issues detailed in this submission must be considered and addressed by sound public policy responses. BCMTOA members will continue to actively contribute to all dialogue concerning these matters and hope that all other port stakeholders will do the same.

Please note that a summary of the recommendations contained in our submission is found below on Page 14.

Key Issues in Focus

Competitiveness

The Canadian maritime system, and the industries and companies that support it, are important contributors to the Canadian economy and trade competitiveness. Remaining globally competitive continues to be a focus at all levels of government. At a time when Canada is faced with low productivity rates, a limited private investment rate and, thanks to reforms put forward under the current Trump administration, an increasingly attractive business tax and investment landscape in the United States, Canadian business stakeholders – along with government – need to be as vigilant as possible in enabling business growth.

From this perspective, there are certain issues related to how the Canadian port system currently functions that need to be seriously considered.

One is the overall approach to labour management. As with other sectors, unpredictable labour developments and disruptions can wreak havoc on a supply chain's ability to function. Furthermore, these kinds of workforce issues dissuade prospective investors looking at the Canadian market and call into question the Canadian network's capacity to efficiently move both current and future potential traffic. BCMTOA members fully appreciate and respect the rights of workers, but also believe there is a role for government to play in protecting the viability and health of the maritime sector in Canada. **We encourage the federal government to closely monitor potential labour disruptions moving forward, and to engage from a mediation and legislation standpoint when required.**

Another critical issue is ensuring a healthy and solution-oriented interface between CPAs and their railway partners. The holistic and highly integrated nature of the marine supply chain, as mentioned above, necessitates communication and collaboration between the industry's key players. Chief among these are Class 1 railways. **BCMTOA strongly encourages the Government of Canada to continue to support policy, investments and initiatives that underline the importance of a positive port authority-terminal operators-railways dialogue and positions it for long-term sustainability.**

Like many other sectors, **the integration of new technology solutions that help make operations more efficient and profitable is critical to the Canadian ports system.** BCMTOA members remain at the forefront of developing some of the most innovative technology and process solutions in the world. The Government of Canada, together with industry, has a role to play in investing in this kind of innovation and encouraging all to engage in its development. One excellent example – and one which emphasizes how the port/customer interface can work well – is the Supply Chain Visibility Project launched by the Vancouver Fraser Port Authority in 2015. Aimed at gathering and assessing real-time data on supply chain performance for all rail cargo moving to and from the Port of Vancouver, early results of this initiative look

to be positive, thanks to the involvement of many BCMTOA members, among others. This is the kind of forward-looking initiative that ports, and those that work with them, need to stay focused on.

Another item that should be addressed relates to ongoing challenges with container trucking. In short, obligations and regulations being imposed by both government and CPAs is rendering a more costly and less efficient trucking model.

To be truly competitive at a global level, and sustain that competitiveness, **the Government of Canada must establish a truly national framework approach underpinning the port and maritime sector in this country. One enabling mechanism is the implementation of a national transportation strategy involving provinces, municipalities, indigenous and First Nations groups and industry that identifies and protects national transportation corridors like the Asia-Pacific Gateway.** BCMTOA appreciates that economic, trade and logistics realities differ from region to region throughout Canada; these regional differences must be contemplated and at times exploited for benefit of the nation, and of course, taken into account when making important policy or investment decisions. However, **there is a need to bring increased uniformity or, at a minimum, a basic set of standard commercial goalposts/methodologies regarding CPAs' operations.** This extends across items including transparency around rent-setting and leasehold management, accountability pertaining to fee collections and subsequent capital investment decisions, and permitting and approval processes. It also extends to the notion of CPAs' dual role as both regulator and landlord, and how to apply appropriate checks and balances. Revisiting the existing framework could also provide an opportunity to reflect on the existing Letters Patent model and whether it remains suitable as currently structured to facilitate future success of the ports framework and Canadians' confidence in the system.

One of our recommendations would be to **activate the Canadian Transportation Agency (CTA) to conduct a national review of port competitiveness** to ensure that CPA methodologies and rate-setting mechanisms are serving the national interest and providing desired benefits to both government and the industry partners, who are at the front-line in developing trade-enabling infrastructure. Furthermore, the review would provide a benchmark that the CTA could use to monitor and review on a regular basis, ensuring optimal and ongoing competitiveness of the national ports framework.

Lastly, to maximize our competitiveness and utilize all our national port assets to their full potential, amalgamation of port authorities should be explored on both the east and west coasts of Canada. In particular, on the west coast, there is a proven concept as to how port amalgamation in the Lower Mainland has enabled growth and increased private sector investment into the gateway. This should be considered on a coast-wide basis. Different levels of scope under 'amalgamation' could be considered – including a consolidation of planning and other regulatory mandates and responsibilities of CPAs on the west coast but leaving commercial/land management decision-making at the local level.

Consultation

BCMTOA has publicly stated many times that **the need for predictable, honest and unbiased input to the investment and land management decision-making of Canada Port Authorities is critical.** This includes the input of the user community, including BCMTOA members, as well as local communities, First Nations

and Indigenous Canadians, and other important stakeholders. At this point, no formal process exists to include external expertise and considerations in these decisions. Without this kind of dialogue, decisions are made in a vacuum and do not take the appropriate operational, logistical and sometimes legal considerations into account – especially those offered from the private sector’s perspective.

With that said, it is imperative this not devolve into ‘consultation for consultation’s sake.’ Engaging with users, commercial partners and other relevant stakeholders is always important, but the rationale for this engagement must be clear at the outset. **The purpose of consultation must be to render timely decisions that actually account for the input received and draw on the expertise available to the CPA in question.**

Management

As stated above, we are fortunate in Canada to have a ports management system which, overall, has performed well over the last few decades. At the same time, there are certainly improvements that can be made, and this relates directly to the existing governance approach taken by certain CPAs.

Ports must be much more responsive to community and customer concerns. The CPA mandate was first developed in 1998. The world has changed and evolved since. Most of the conflict being seen today stems from the current mandate of CPAs and the way that mandate is implemented differently in each region and local context. This unpredictable framework often causes jurisdictional tensions with other levels of government, be they municipal or provincial, around items such as land use planning and environmental permitting, as CPAs at times threaten or exercise their federal supremacy. As such, one of our recommendations is to **update the CPA mandate section of the Act to clearly and strategically define the roles, responsibilities and national interests to be advanced by CPAs.** Some of this ability to be responsive stems from frank and meaningful dialogue and consultation, as mentioned previously. It also hinges on a commitment by ports to make decisions that actually take into account and demonstrably act on user/customer input.

In cases where this kind of approach to commercial management is not being used, there are few tools at users’/customers’ disposal to respond to decisions. The arm’s length nature of CPAs is one thing; BCMTOA members understand this model and appreciate its origins. However, significant challenges arise when commercial and/or operational relations are not optimal, and there is no real recourse available to assist in mediating disagreements. While CPAs do report to Parliament through the Minister of Transport, **the absence of a more direct and regular oversight function or structure is risky, and oftentimes, detrimental.** There are a number of examples that illustrate how more robust oversight would rebalance the port/user relationship and inject more transparency and accountability into it. As mentioned above, with a clearer sense of the philosophy and approach to be used in defining CPAs’ mandate as federal entities and allowing that mandate to reflect the economic and commercial realities of 2018, not 1998, we as a country will be better served.

Responses to Specific Ports Modernization Review Questions

As per the Discussion Paper released in conjunction with the launch of the Ports Modernization Review, BCMTOA has identified various positions under each of the five key streams. Many of these – which touch on both challenges and opportunities – are critical for government and industry to address together and in a timely fashion, in order to fully maximize the potential of Canada’s Western Canadian marine transportation supply chain and generate long-term economic benefit for all.

1. Innovation and Trade Logistics

The importance of a predictable and efficient supply chain cannot be overemphasized in today’s competitive and ever evolving marketplace. CPAs have a convening role to play in facilitating these efficiencies, especially with trade and maritime traffic set to continue strong growth in the years ahead. This is especially the case on Canada’s west coast where, driven by successful partnerships between terminal operators, ocean carriers and the railways to grow market share for all destinations, there has been record container, bulk and breakbulk cargo growth and volume. In this regard, and in a bid to remain globally competitive, BCMTOA and its members believe that CPAs have an important role to play in ensuring port lands are accessible by the supply chain and contributing to supply chain optimization by way of investing revenues in partnerships with tenants, industry, and governments and by funding common-use off-terminal, trade-enabling infrastructure.

In light of this view, terminal operators are most concerned by constraints that have been exposed stemming from a lack of rail capacity and the ability of rail to meet projected growth in a cost effective and efficient manner. Rail service capacity and predictability are crucial to BCMTOA members, who rely on it to meet customers’ service expectations. Failure to find solutions will result in our customers seeking more reliable service providers, and this will impact Canadian exporters’ competitiveness in the world market. While the current government’s investments under the National Trade Corridor Fund will alleviate some of these off-terminal infrastructure constraints, it is not enough to maximize existing infrastructure and planned expansions of terminals. BCMTOA strongly encourages the Government of Canada to continue to support policy, investments and initiatives that underline the importance of a positive terminal-port-rail dialogue, centred on collaborative and responsible investment decision-making, and positioning all parties’ industries for long-term sustainability.

With this in mind, CPAs must be mindful of prioritizing investments that they make with their excess revenues. For instance, BCMTOA members operating in the Vancouver Fraser Port Authority jurisdiction are increasingly concerned with the level of net revenues being generated from current port users, as well as how those monies are being spent. A large majority of revenues designated for capital investments are being committed to acquiring privately-held lands (in a way nationalizing them) by outbidding private sector land developers and holding them for speculative purposes due to expected decline of available industrial land capacity in the Lower Mainland. These land purchases that are being held idle for speculation purposes and are then used to set rents for tenants, unnecessarily adding to current port

users/customers' cost burden without an effective and balanced commercial agreement in place where parties are held accountable to perform.

Instead, optimized expansion must be driven through partnership, and CPAs have a key role to play in facilitating this collaborative platform. BCMTOA believes one way this could be realized is through CPAs, terminal operators, and beneficial cargo owners collaborating to prioritize near-term and long-term needs, ensuring that the right/relevant lands are acquired. Furthermore, this collaborative effort should focus on identifying where current supply chain improvements are needed, and investments from CPAs directed into rail capacity improvements, inland terminals or short-sea shipping. Most importantly, this optimization process must be driven through effective and balanced commercial agreements with the link in the chain on either side, where parties are held accountable to deliver.

For its part, BCMTOA members are responsible for investing in on-terminal plant and equipment required to ensure that Canadian import and export cargoes are handled in an efficient, safe and environmentally-responsible manner. Over the course of several years, terminals have invested billions of dollars, with significant future investments planned to ensure that projected growth in cargo volumes can be appropriately accommodated.

Of course, with high container, bulk and breakbulk commodity growth on Canada's West Coast, BCMTOA fully recognizes the serious questions that need to be addressed around long-term labour management in an era where innovation disruption, including new trends in automation and technology, can be developed to facilitate greater efficiencies in particular in improved productivity. As with other sectors, unpredictable labour developments and disruptions can wreak havoc on a supply chain's ability to function. Furthermore, these kinds of workforce issues dissuade prospective investors looking at the Canadian market and call into question the Canadian network's capacity to move both current and future potential traffic. BCMTOA takes these matters very seriously and believes it is imperative that all involved, including employers, unions, CPAs and the Government of Canada are actively engaged in dialogue on them.

2. Partnering with Indigenous Peoples

BCMTOA members continue to commit significant time and effort to ensuring a functional, mutually-beneficial relationship with First Nations and Indigenous Peoples. Both CPAs and their terminal operators have an integral role to play in enabling partnerships that foster and integrate Indigenous perspectives and values, drive socio-economic growth in the communities in which they operate, and work towards reconciliation.

Given the mandated role of a CPA acting as both landlord and regulator, much of the actual interface between port operators and coastal communities is carried out and led by terminal operators. Because of this, many of our members have defined roles within their organizations for First Nations and Indigenous community representatives and perspectives, and vice versa. For example, Squamish Terminals is a member of the Squamish Estuary Management Committee where all three levels of government are represented alongside the Squamish Nation and various other interest groups. They are also a member of the District of Squamish Marine Action Strategy Committee.

BCMTOA members are also actively participating in the Port of Vancouver Indigenous Relations Working Group with a mandate to inform, educate, build understanding and provide a forum for VFPA and terminal operators to collaborate on how best to approach relationship-building with Indigenous groups in and around the port. This important work is enshrined in a Strategic Project Charter which all parties to the Working Group have agreed to and abide by in terms of the ongoing activities of the collective group.

CPAs have a significant role to play in identifying opportunities to develop mutually-beneficial partnerships with First Nations and Indigenous groups. Again, BCMTOA believes this is best achieved when CPAs work in collaboration with terminal operators. Take for instance the Prince Rupert Airport Tsimshian Heritage Exhibit. This art installation project, which is currently in progress, includes project committee participation by the Lax Kw'alaams and Metlakatla nations, and is funded by the Prince Rupert Port Authority and DP World. The art installation project is a collaborative effort to establish a Tsimshian heritage exhibit that is in the best social, economic and cultural interests of the Tsimshian.

Beyond community development, economic development benefits accruing to First Nations and Indigenous groups are further enabled through partnership with terminal operators. As an example, Global Container Terminals signed an MOU with the Tsawwassen First Nation in 2010, which enacts a number of important commitments to exploring and pursuing mutual economic benefit opportunities and to ongoing communication and collaboration wherever possible.

The opportunity cited above is but one example of what is made possible when terminals have the ability to invest more, driven by enhanced port operations. In recent years, VFPA in particular, has spent significant public agency dollars on expensive and professionally-run public relations exercises (including TV and social media ads, and the development of a YouTube channel). While some of the collateral is educational and is in support of the standard CPA mandate, some of this PR exercise has caused confusion in 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 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). The oftentimes confusing role and responsibilities of CPAs vis à vis Indigenous relations – Crown or business – needs to be clarified moving forward.

3. Sustainability of Ports and Communities

BCMTOA is proud of its members' commitment to sustainability and environmental stewardship. From operating procedures to equipment, we encourage all terminal operators to consistently look for ways to become greener, especially at a time where business continues to grow and increase its capacity.

For instance, look no further than the Canada's largest maritime employer, and "Green Marine" certified, Global Container Terminals (GCT) Canada. Last year, GCT introduced the new Global Commitment seal, their visible pledge for a sustainable future. Eight new, electric cantilevered rail mounted gantry cranes and two ship-to-shore Megamax cranes at GCT Deltaport are among the first to bear the seal. Moving forward, it will be placed on all new heavy iron GCT equipment that meets their environmentally friendly

standards. Moreover, the year prior, GCT was an honoured recipient of Canada's Clean 50 Top 15 Projects Award for its dedication to establishing a coordinated system to improve truck processing times at both its GCT Deltaport and GCT Vanterm terminals at the Port of Vancouver.

This passion for sustainability also occurs within the community. On the North Shore of Burrard Inlet, the six marine terminals, with financial support from the Vancouver Fraser River Port Authority, have joined forces to produce an annual event that raises over \$200,000.00 for two local charities. Additionally, Cargill facilities and employees give through more than 350 employee-led Cargill Cares Councils worldwide. The councils provide support for local charitable and civic organizations and programs such as, food relief agencies, school and youth programs, and local environmental projects. In their headquarters community, the Cargill Foundation supports education and childhood nutrition programs to nourish and educate the next generation for success in school, work and life.

BCMTOA members have also participated in the Vancouver Fraser Port Authority's Non-Road Diesel Emissions Program since its inception in 2015. Developed to reduce diesel particulate matter emissions with non-road equipment, terminals have worked with the Port to ensure replacement of existing equipment with the lowest-emission equivalent where possible.

In light of examples like this, BCMTOA would like to emphasize that government's expectations need to be realistic and consider the work that is already being done by terminal operators to enhance port sustainability and the communities in which they serve. As with anything, while BCMTOA fully acknowledges the effects of climate change, there must also be some protection against loss of economic development through business investment. BCMTOA and its members believe that everyone can win, while not being put at a competitive disadvantage.

For instance, we believe that as it currently stands, the CPAs' environmental approval process for projects is thorough and effective in ensuring that sufficient safeguards are in place to protect and maintain Canada's environment. These are among some of the most stringent environmental standards in the world. Our members have worked closely with representatives of CPAs that have implemented effective and responsible permit approval processes to ensure that developments can be completed in a timely and cost-effective manner, while ensuring that they are consistent with all regulatory requirements.

BCMTOA does not support expansion of the current designated "Project List", as proposed in the government's Bill C-69 (currently before the Senate), which would require any new or expanded marine terminal project designed to handle ships larger than 25,000 DWT to become a designated project. This added requirement would do little to protect the environment, but would make most expansions cost-prohibitive, reduce Canada's current trade advantage and place an onerous burden on a sector of the economy that continues to contribute millions of dollars to Canada's economy every day. That being said, BCMTOA supports the intentions of C-69 related to the removal of the CPAs' ability to unilaterally permit projects in which they are the proponent.

4. Port Safety and Security

BCMTOA's members are of a strong view that our people are essential to our success. As a result, all BCMTOA member terminals are committed to providing safe and respectful workplace environments. They achieve this through a variety of measures including comprehensive Health and Safety Management Systems and by complying with Federal Occupational Health and Safety Regulations and Canada Labour Code. For example, our member Ridley Terminals Inc. has developed a Health and Safety Management System designed to meet the OHSAS - 18001 standard. The system requires the company to determine priorities, set objectives and measure compliance with regulations. Priorities are systematically assigned based on risk, with the goal to lower the risk of incidents and accidents, demonstrate due diligence and continually try to improve safety performance.

We are also dedicated to the safe and reliable movement of goods and products through BC's ports. Each of our members implements robust safety and security protocols and procedures to maintain safe operations. All loaded imports and exports are kept in highly secured, monitored areas with cargo details archived to keep goods safe. Controlled access and vigilant 24-hour surveillance offer customers and the local community an unparalleled level of accountability and regulatory compliance. Our members, such as Fraser Surrey Docks and Pacific Coast Terminals, among many others, have security procedures in place in accordance with the requirements of the International Ship and Port Facility Security (ISPS) Code and the new Marine Transportation Security Regulations (MTSR) from Transport Canada. They have also adopted the new ISPS marine security levels, from Marsec 1 (lowest security risk) to Marsec 3 (highest security risk).

BCMTOA members have security policies and procedures in place pertaining to site access, port passes for employees and guests and security information for vessels. Members, such as GCT, also participate in the Customs Trade Partnership Against Terrorism (C-TPAT) program, a voluntary government-business initiative to strengthen and improve the international supply chain and U.S. border security. C-TPAT helps U.S. Customs and Border Protection (CBP) achieve the highest level of cargo security through close cooperation with importers, carriers, consolidators, licensed customs brokers, suppliers, and customers.

Looking ahead, there are opportunities to further enhance the safety and security of port operations, and government has a role to play. As the then-new CPA framework was introduced in 1998, a number of roles and responsibilities previously managed by the ports were left in a state of flux, with no sustainable or predictable funding mechanisms. These include forums such as BIEP and FREMP on the environmental front, the debris trap on the Fraser River that impacts the safety of boaters within the port jurisdiction, the Fraser River secondary channel dredging, and more recently, the VFPA's termination of funding of the National Port Enforcement Team. BCMTOA strongly recommends that the Government of Canada address these shortcomings through the Port Modernization Review process, and that it updates the mandates of CPAs, and/or extract a larger share of annual CPA-paid stipends to address these issues.

5. Port Governance

The CPA governance model has some aspects that work well, and others that are in clear need of enhancement and reform. It is important that the Government of Canada gets this right, as the speed and scale of changes in global trade and commerce have reached a critical point that necessitates looking

at means to improve the robustness of the CPA framework to better serve the national interest. Improvements in governance that will facilitate better, timelier and more accountable decision-making are critical, while ensuring a more competitive Canada.

It is important at the outset to highlight the role CPAs play in convening, facilitating and contributing to dialogue and providing critical support to their tenants, including BCMTOA members. These discussions are vital, and BCMTOA encourages not only that they remain, but that more and more opportunities for open communication be identified and put into practice with CPA Boards of Directors. The maritime industry as a whole in Canada does better when armed with more insights, transparency and clarity.

As outlined earlier, as the Government of Canada examines potential changes to CPAs' governance model, it should consider enacting greater accountability measures for the ports in terms of disclosing to government, tenants, and the public, future capital plans that will affect the competitiveness of the gateways, as well as impacts to communities where they hold or look to acquire land. This is especially true when investments are made outside of existing port facilities and real estate footprints. As noted above, BCMTOA has stated many times that the need for predictable, honest and unbiased input to the investment and land management decision-making of CPAs is critical - there is a need for proper due diligence, especially when the port is acting simultaneously as landlord, developer and regulator. Otherwise, scope creep is a real and serious problem in some cases, with ports appearing to compete with their own tenants, as opposed to operating as their landlords and regulators.

This is a position not only shared by terminal operators, but by others including David Emerson, the former Chair of the *Canada Transportation Act* Review Panel. In his testimony to the House of Commons Standing Committee on Transport, Infrastructure and Communities in September 2017, Mr. Emerson stated:

"On the port authorities, my own feeling is that until there is a thorough review of the governance arrangements that deal with port authorities...I get very nervous about opening up more spigots, if you like, for these authorities to get hold of more money, because I'm concerned with the governance framework....I think there is inadequate governance in relation to deployment of capital; there's inadequate governance when it comes to making sure that there is a recourse to a regulator where there is abuse of monopoly power; and there is inadequate governance when it comes to port or airport authorities entering into business in competition with their own tenants, and so frankly I wouldn't give them any more access to money until you clean that up."

The way to address this challenging situation is through a truly national ports framework that is more open and transparent. One potential way, as mentioned above, to inject clarity would be to redefine in greater detail the "mandate" concept in the *Canada Marine Act*, to better explain the role and responsibilities of CPAs. Written over two decades ago, this definition is surely ripe for change, to reflect shifts that have occurred throughout the economy and to make the defining concept more relevant to today's business and trade realities.

Furthermore, our members experience a lack of interface between VFPA board members and industry stakeholders, which would otherwise provide the port's board with unfettered industry perspective on

matters that 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. Furthermore, there should be a protocol requiring the representation of a variety of industries and users on a CPA's board of directors. Major user groups need to have representation from their sector on the board to ensure the port in question is operating to the benefit of its users and to the Canadian economy as a whole, as opposed to the benefit of solely the Port itself. Also, there should be some requirement for marine industry experience and expertise to be represented on CPAs' boards, as well as a requirement that board appointments are made in timely manner and that nominees named in boards' nominating committees lists are actually accepted.

From a financial governance perspective, it is apparent to BCMTOA that certain ports in Canada are focused much more on revenue generation than expense management, all while they officially operate as not-for-profit entities. This seems a flawed financial management philosophy, particularly when coupled with the oftentimes opaque and sometimes questionable nature of financial decision-making at some CPAs. The question of how decisions are made and based on what information and input is one which the Government of Canada should be considering in the context of reflecting on port management and governance practices currently used by Canadian ports. In terms of tangible ways to improve financial management practices at ports, we recommend the public release of all leases administered by CPAs and disclosure of any held interests in private businesses and/land holdings. Furthermore, we recommend an end to the practice of transferring the property tax burden to industrial and port-related property by providing guidance on valuation reflecting restrictions under the *Canada Marine Act*, by capping industrial mill rates and by creating clear exemptions for port-related improvements (similar to those found in British Columbia's *Ports Property Tax Act*). Finally, we strongly recommend the establishment of clear cost certainty for port users and tenants by implementing recommendations from Public Services & Procurement Canada on best practices for valuing special purpose properties (such as those controlled by CPAs).

Conclusion

The Ports Modernization Review is a long-awaited opportunity to gather input from across the supply chain, towards putting in place a national ports management system that will serve the economic and trade needs of Canada long into the future. While there are elements of the existing ports framework that do work well, there is room for improvement, as this document highlights. Furthermore, there are issues and concerns specific to the BC ports landscape, and specifically the approach to governance and decision-making, which are not nearly as acute in other parts of the country. Some of this is enabled by the fact that the Vancouver Fraser Port Authority has developed a significant revenue stream, that allows it to operate much differently than any other CPA in Canada.

We strongly encourage the Government of Canada to seriously reflect on and consider the recommendations included in our submission – both in terms of their applicability at a national level, but also with a specific focus on the local dynamics playing out in British Columbia.

Summary of Recommendations

- The Government of Canada should establish a truly national framework approach underpinning the port and maritime sector in this country. One enabling mechanism is the implementation of a national transportation strategy involving provinces, municipalities, indigenous and First Nations groups and industry that identifies and protects national transportation corridors like the Asia-Pacific Gateway.
- The Government of Canada should continue to support policy, investments and initiatives that underline the importance of a positive port authority-terminal operators-railways dialogue and positions it for long-term sustainability.
- The Government of Canada should request that the Canadian Transportation Agency (CTA) conduct a national review of port competitiveness.
- The Government of Canada must recognize there is a need to establish increased uniformity or, at a minimum, a basic set of standard commercial goalposts/methodologies regarding CPAs' operations.
- Predictable, honest and unbiased input to the investment and land management decision-making of Canada Port Authorities is critical. The purpose of consultation must be to render timely decisions that actually account for the input received and draw on the expertise available to the CPA in question.
- The Government of Canada should update the CPA mandate section of the *Canada Marine Act* to clearly and strategically define the roles, responsibilities and national interests to be advanced by CPAs.
 - The current absence of a more direct and regular oversight function or structure is risky and often detrimental.
- The Government of Canada should closely monitor potential labour disruptions moving forward, and engage through mediation and legislation when required.
- The Government of Canada should seriously consider the integration of new technology solutions that helps make operations more efficient and profitable, and the criticality of such innovation to the Canadian ports system.
- The Government of Canada should be considering all aspects of the port-terminal supply chain including container trucking. The approach to trucking currently being implemented by both governments and CPAs is leading to a costlier and less efficient model.