



CN Submission to Transport Canada
Ports Modernization Review
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Introduction

The Government of Canada has undertaken the Ports Modernization Review to review the major ports, designated and governed as Port Authorities. CN moves a wide variety of cargo through the Canadian port system made up of bulk cargo, intermodal containers and automobiles. As a result, the efficient and reliable operation of the port system and the related supply chain is extremely important to CN and our customers.

Canadian businesses wishing to access markets or import goods from beyond North America rely on Canadian ports to provide access to world markets. While some Canadian imports and exports move through United States ports, the vast majority are dependent on the Canadian port system.

Of the 18 ports governed as Canada Port Authorities (CPA), 16 have rail access onto port land. CN has direct access to 10 CPA ports and is able to access several others through connecting railways.

In broad terms for railways, the system has been working well, however, the port system has seen a steady increase in traffic in recent years (2.3% annually since 2010 with much higher growth at West Coast ports) and we are concerned with the ability of the system to react in a timely manner to address the growing needs of Canadian shippers. We are also concerned with the ongoing loss of industrial land at several of our major ports making growth difficult, increasing costs for all system participants and negatively impacting the environment through the need for increased movement of goods by truck.

Supply Chain Perspective

The efficiency and fluidity of the supply chain is essential to ensuring the competitiveness of Canadian business. The rail system is a key part of the supply chain and equally, Canadian ports and the terminals operating at the ports play a significant role in ensuring the capacity, reliability and competitiveness of the Canadian supply chain. The supply chain must operate in a collaborative manner from end to end in order to maximize efficiencies and throughput.

While this review is focussed primarily on the structure and operation of the port authorities on a day-to-day basis, CN's primary interaction is with the terminal operators at the various ports. The vast majority of issues that arise relating to level of service,

are primarily rail – terminal issues, and port authorities are often limited in the role they can play in addressing such problems. The Government plays a clear role in overseeing the port authorities from an arms length perspective under the Canada Marine Act, however, the tools they have under the legislation to address problems such as terminal delays are limited. Similarly, the port authorities, while often looked to for solutions when problems occur between railways and terminals, generally lack the authority to do more than try to help mediate or facilitate discussions between the parties.

Growth of Trade

The Government of Canada has identified the need to significantly grow trade as a major pillar in ensuring Canada’s economic future. CN strongly supports this view and with our customers, has aggressively pursued growth opportunities. We have also aggressively sought opportunities to move goods bound to and exported from the United States through Canadian ports, providing significant economic benefit to Canada.

Customers tend to gravitate to jurisdictions where it is easiest to do business. Unnecessary regulatory burdens can result in increased compliance costs and project delays, which in turn increases risk, reduces return on investment and ultimately leads to a redirection of capital to other, more competitive jurisdictions. In the case of Canadian ports, it is essential that the ports’ ability to react to changing circumstances and the rules around port development are clear, predictable and timely in order to minimize the project costs in the context of regulatory approvals and construction permitting. It is also key to promoting private sector investment in port terminals and infrastructure. The Government is in the process of making changes to the environmental review process and this presents a good opportunity to ensure the process is made more efficient for ports and other entities looking to grow capacity.

One example of the cumbersome regulatory approval process under the Canada Marine Act is the process for a port to attain a borrowing limit increase. While we understand the need for the Government of Canada to impose borrowing limits on the port authorities, the very lengthy process required has caused significant issues, particularly for the midsized ports such as the Port of Prince Rupert. The delays have jeopardized growth opportunities where often the ports are called on to invest in off terminal or near-terminal infrastructure expansion and where the midsized ports often lack the resources to do so.

Increasingly, the ports have played an active role in infrastructure and operational planning well beyond the borders of the actual port lands that are under their control. The distance over which ports have a legitimate role to play varies by location, but in recent years, the growth of traffic and the complexity of the supply chains have led to the need for ports to expand their involvement significantly. This process is by necessity informal as the ports lack any jurisdiction, however, it remains extremely important as the potential impacts on the port's efficient operations are significant.

There are many aspects to this role, for example, ports have been involved in trying to address concerns regarding the diminishing availability of industrial land for port users within a reasonable distance of the port facilities. This involvement has also been needed to enable the port to play a role in the coordination between supply chain partners and to help manage relationships with other stakeholders. As an example, the Vancouver Fraser Port Authority has been involved in and supportive of improvements along the rail corridor leading into their port property. While in the past, this role may only have been relevant for a few kilometers leading into the port, today they are involved in and supportive of improvements along the entire corridor leading into the lower mainland all the way to Mission, B.C., a distance of over 60 km.

While we recognize that this role will need to remain informal, it would be useful for the Government of Canada to acknowledge the legitimacy of the ports' involvement beyond their boundaries and to encourage the relevant jurisdictions, in particular the municipalities to include the legitimate needs of the ports and the supply chain in their planning process.

Land Availability and Proximity

The scarcity and cost of oceanfront land has led ports and terminals to maximize the use of the land that is available. Land constraints are becoming a growing issue at many Canadian ports and have a significant impact on rail operations. Existing port lands are under constant pressure from population growth and changing municipal priorities.

Recent decades have seen residential communities building closer and closer to existing port infrastructure. This proximity leads to conflicts between ports and port users and the surrounding communities. Issues related to noise, obstruction of views and safety are inevitable. The attempt by local governments to maximize revenue often leads to very close proximity between ports, railway rights-of-way and residential lands. The Railway Association of Canada, working with the Federation of Canadian Municipalities, has been encouraging municipalities to accept minimum setbacks for construction next

to rail infrastructure. While there have been some successes in this approach, federal legislation is needed to avoid residences being constructed too closely abutting rail and port infrastructure, leading to inevitable safety and noise consequences. These issues are most problematic in the vicinity of ports such as Vancouver and Halifax where high priced ocean views create strong incentives to build immediately adjacent to the railway and port lands.

There are significant advantages in terms of efficiency, competitiveness and the environment to having on dock rail access. Communities seeking to convert valuable port land from industrial to residential and suburban communities with available land often tout the alternative of loading trains away from the port, freeing up more high value land for development. For the reasons cited above, it is important that the port authorities resist these pressures.

Infrastructure Funding

The National Trade Corridors Fund (NTCF) has been a very positive development in beginning to address key infrastructure deficiencies at the ports and in the key corridors leading to the ports. However, we would stress, that the infrastructure investment needed to meet the growth which has occurred and the growth that is anticipated, far exceed the funds currently allotted to the NTCF.

Until the creation of the NTCF, the ports were largely dependent on broad infrastructure programs where they had to compete with a wide range of other projects, often projects whose utility was far more easily understood by the general population. A significant aspect of the NTCF is that unlike other infrastructure programs, a project, to be approved does not require funding from a second level of government. This is extremely important for port related projects as often, the major beneficiaries of the project are not the local municipalities or the host province, but rather producers or manufacturers elsewhere in Canada who rely on the port to export their products.

For example, the NTCF recently funded a much needed project at the Port of Vancouver announced on June 22, 2018 which is intended to improve rail access to North Shore terminals and will primarily benefit grain and potash producers in Saskatchewan and Alberta.

Another positive aspect of the NTCF is the allocation of funds on the basis of need and the impact of the project with no set provincial or regional funding allocations.

Port Labour Issues

Labour issues at the major ports remain a concern for our customers. The frequent strike threats impact the confidence of international customers in the Canadian supply chain and are often cited by shipping lines and customers as a deterrent to expanding their use of Canadian ports.

Labour restrictions such as the significant limitations on the ability of shippers to load grain in inclement weather at the Port of Vancouver have a significant negative impact on the efficiency, capacity and competitiveness of the overall supply chain and negatively impact Canada's reputation as a reliable supplier.

It is our view that the lack of flexibility in the deployment of the port-side labour force and issues related to the implementation of new technology remain impediments to the efficient and reliable operation of the supply chain. It is imperative that these issues be included in the scope of the Review.

Regional Port Strategies

The West Coast ports have generally worked well together enhancing the overall capacity of the Gateway while leveraging private and public money. This approach has served the interests of Canadian port users and has led to creation of a world class regional gateway, enabling trade growth between Asia and North America.

In eastern Canada, a number of competing port projects in various stages of planning and development have largely been developed independently with no overall consideration of need and potential demand. These projects, all vying for the same limited public and private funding, present the risk of funding being spread too thin diminishing the chances of success. CN estimates that the projects currently in the planning stages for the movement of intermodal traffic would add approximately 4.3 million TEU capacity to the Canadian east coast. This would triple the current capacity of the Ports of Montreal and Halifax, the regions two main intermodal ports.

While Governments are understandably reluctant to pick winners and losers, there is a significant danger that failing to do so by providing some funding to all the potential projects would either ensure that none is able to proceed to completion or equally problematic, could lead to a significant overcapacity on the east coast.

Port Governance

CN generally supports the current system of port governance. We recognize that some port authorities do have legitimate concerns about the complexity of some aspects of the Canada Marine Act and that some delays may be the result of issues related to property classification and other elements of the relationship between the Government

of Canada and the port authorities. CN lacks direct experience with these issues and therefore will not comment on these matters.

CN supports the continued input of user groups to the appointment process for the Port Authority Boards of Directors. We have at times been disappointed that the user committee recommendations have not been implemented and that no guidance has been provided as to the skill sets or profile of potential appointees being sought. The provision of more guidance and feedback would better enable the user committees to provide useful recommendations to Government. Chairs of the user groups should be given terms similar to those on the Board to ensure a transparent and democratic process.

Conclusions

The Canadian Port system has generally worked well and the strength of Canadian ports has been reflected in steady growth in traffic and revenue. The large ports are under constant pressure from local communities who rather than recognizing them as major generators of jobs, tax revenue and economic opportunity, tend to see them as anachronisms taking up valuable land while generating noise and blocking streets with train and truck traffic.

These are issues which must be addressed on an ongoing basis by the individual port authorities and their supply chain partners however, it would be a serious mistake to restrict or impede the ability of the ports to develop their land and grow capacity to meet the needs of Canadian business and consumers.

We strongly encourage the Government of Canada to avoid imposing further regulation and restrictions which would impede the ports' ability to react in a timely way to business opportunities and also damage their competitiveness within the global marketplace. The Government's goals for growing trade are attainable but only if our supply chain is able to continue to grow capacity and improve efficiency. The port authorities are a vital part of the supply chain and must have the funding and the independence necessary to remain competitive and grow.

