

Submission

to

**Transport Canada
Ports Modernization Review**

Manitoba Infrastructure

Honourable Ron R. Schuler, Minister

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Manitoba Submission to the Federal Ports Modernization Review

Manitoba wishes to thank Transport Canada for the opportunity to participate in its Ports Modernization Review and to contribute our perspectives on improving the role of the Canada Port Authorities (CPAs) in the Canadian transportation network.

Manitoba Context

As a trading province, Manitoba relies on a smooth flowing transport system for getting our products to global markets in a timely and reliable manner at a reasonable cost. Manitoba's primary interest is to ensure that the supply chains linking to and through our key CPAs such as Thunder Bay, Vancouver, Montreal and Prince Rupert offer sufficient capacity and quality services at competitive prices, to enable access for Manitoba products in overseas markets. It stands to reason that efficiency of CPA operations, and governance arrangements overseeing them, figure prominently in this equation.

It is not our intent to speak to all of the issues raised in the federal scope document accompanying the review announcement. Many of the themes raised in the scope document speak more so to a CPA's local operational context, for example, around issues of port safety, security, and urban proximity challenges.

Generally, our submission will speak to principles-level issues that, from our perspective, will help ensure that the role of CPAs to enable regional and national trade is given continued adequate attention and governance structural support. CPAs are operating in an ever-evolving complex global supply chain and trading environment. Paradoxically, to meet *global* market access challenges will increasingly require enabling CPAs to be flexible in their management of complex *local* issues, where the natural tensions between industrial port activity and citizens' values relating to community liveability, environmental stewardship and Indigenous inclusion are increasingly heightened.

Continuation of the Canadian Port Authorities Governance Model, in Substance

At the outset, Manitoba was pleased to learn that, upon announcement of the review in April 2018, the federal government quietly signalled it was not considering privatization of the CPAs as part of this review scope. We raise this insofar as the recommendations of the Canada Transportation Act Review, and other reports throughout 2016 and 2017, seemed to be giving strong impetus to this consideration.

Manitoba finds that the CPA model and network has enabled Manitoba's commodity mix and growth to be fully accommodated. For example, within a challenging urban context, the Port of Vancouver has shepherded multi-party approaches to development approvals and leveraged strategic investments that have improved supply chain fluidity in the BC lower mainland. This has spurred new and expanded private facilities to flourish, such as the terminal developments for Manitoba-headquartered companies G3 and Richardsons. Similarly, other ports, such as

Prince Rupert, have been able to grow market share by developing innovative infrastructure and service offerings that capitalize on its competitive distance advantages to Asia. This is proof that as a foundation, the CPA model can work in the most complex of global competitive and market access settings.

Our stakeholders and port users favour maintaining the CPA model, generally expressing a concern that port privatization may lead to higher fees with no offsetting evidence of improvement in efficiency.

CPAs are the only public, national-interest entities operating within our major supply chains; all other key players such as shippers, terminal operators, intermediary logistics providers, and railways are private. CPAs can serve as a mechanism to help ensure supply chains continue to be grounded to a national policy interest. We have seen tangible evidence where this broader public interest mandate of CPAs helps to achieve a greater common good than otherwise might have occurred under a privatized framework. The Port of Vancouver's current supply chain data visibility project, for example, is a unique collaborative approach to benchmarking origin-to-port supply chain performance. As a province whose strategies for economic growth require transparency, accountability and insight into the supply chains affecting it, this kind of work is invaluable. This is achievable because of the Port's unique placement and credibility within the supply chain, combined with a mandate approach and leadership foresight to undertake an activity that will enable good, collaborative public policy and planning.

In the future, as land at our key ports might become constrained and difficult strategic development choices have to be made, Manitoba has confidence that the governance arrangements under the CPA model will result in optimal choices supporting our provincial export trade and market access interests.

Manitoba recommends that the Government of Canada strongly re-iterate its intention to maintain the current system of port governance in the form of a network of Canadian Port Authorities.

Differentiated Approach to Governance

The 18 CPAs comprising the national ports network range dramatically in size, functions, scope of commodities handled, land ownership/management and growth development prospects. While each CPA has its own letters patent outlining its governance context (e.g. board composition, federal properties and waters to be managed), generally, the letters patent are currently "templated" to a one-size-fits-all port dynamic. Although Manitoba supports the current CPA governance model, we propose that the federal government consider the capacity for flexibility within the model to account for the different scale, situational contexts and capabilities of the various CPAs.

Certain CPAs, to achieve national trade development objectives, may be in greater need for flexibilities than the current letters patent "template" approach permits. For example, we have heard variously that borrowing restrictions and land use limitations, in terms of planning, acquisition and disposition, are imposed in the template letters patent approach that might be

constraining CPAs' needs. As well, federal approval processes are numerous and cumbersome to on-the-ground realities.

Manitoba, as a government entity, is appreciative of the need for administrative stringencies and risk frameworks that likely inform the current federal approach. This is not to say that these matters should not be dealt with in a less transparent or accountable manner. However, where a CPA can demonstrate how transparency, risk management and accountability can be maintained at the highest standards, the federal government should be open to permitting flexibilities around financial, borrowing, land dispositions, environmental management, and other management requirements CPAs might identify as needing flexibility to allow them to better meet local contexts. In this manner, their national interest mandates are upheld.

It may require the federal government to develop a policy-based framework for how CPA's can be organizationally tiered, from the perspective of according these flexibilities in a consistent and predictable manner for all CPAs. Manitoba has no strong prescription on how to achieve or set up this framework. We encourage Transport Canada and CPAs to explore whether this can be achieved through legislative amendment, individual treatment of each CPA's letters patent, regulation, guideline, delegation of approvals, or other suitable framework of instruments. CPAs can directly speak to their unique challenges and opportunities. We do expect, however, the review to tease out and organize in a useful way the common themes CPAs may raise on these management flexibility aspects and link them to improving the governance frameworks for all CPAs.

Manitoba recommends that the federal government assess a policy basis for a tiered or differentiated oversight approach and processes to CPAs of varying size, situational and operational contexts, and organizational capacities. This assessment should be based on recognizing CPAs' need for flexibility to meet their national trade enablement mandates.

Environmental Reviews

At the same time that it is assessing these flexibilities for CPAs, the federal government should be careful not to inadvertently create new "inflexibilities" where none is warranted. For example, we are concerned to learn that the federal government, under its intentions to revise project environmental review frameworks, may shift the environmental review and permitting of certain port project categories, currently under the accepted management of the CPAs, to a more complex, costly and uncertain review tier under Canadian Environmental Assessment Agency authority. This could have the effect of chilling the development of future capacity at ports, and hasn't been adequately justified or explained from a cost-benefit perspective.

Manitoba recommends that the federal government maintain the current project review criteria for CPA-conducted environmental reviews and permitting of port projects, where CPAs have clearly demonstrated the capacity to do so.

Regional Representation on Boards

Manitoba appreciates the foresight of the federal government in allowing the Prairie Provinces a collective nomination of one member to the Board of the Port of Vancouver. This formal connection between the region where the Port's commodity basis is produced and the Port's Board has resulted in, our estimation, a much closer mutual dialogue and cooperation than may otherwise have occurred naturally.

Manitoba, in collaboration with Alberta and Saskatchewan, have established internal protocols for appointing Board members in keeping with the intent and spirit of the *Canada Marine Act*. A CPA's board typically comprises persons living in that CPA's locality. Having a non-local Board member representing larger regional interests has the effect of balancing, broadening and enriching the perspective of the overall Board on its national trade-enablement mandate.

From Manitoba's perspective, this is a "two-way" street. This formal connection has also helped make our senior decision makers aware of the complexities and challenges CPAs might face to meet regional trade needs while satisfying local demands. We were very pleased, for example, by the first ever visit of the Board of Directors of the Port of Vancouver to Manitoba, which included meetings between Board members and key political and senior officials of government. These meetings enabled a frank and fulfilling dialogue on mutual trade and supply chain opportunities and challenges. Positive results come out of such an arrangement, and it is on this basis that we are supportive and cognizant of the need for investment priority in the BC lower mainland.

A similar approach of allowing broad, regionally appointed provincial representation is suggested for the other CPAs serving the west, such as Thunder Bay and Prince Rupert. Being mindful of the need to maintain reasonable limits on the number of Board members, the prairies, as a nominating "unit", is an obvious consideration demonstrated by the successful example of the Vancouver model, which draws upon our common commodity and bulk, rail-based supply chain characteristics.

Overall, this is one means to help ensure that the national interest mandate role of CPAs can be given greater structural and institutional support.

Manitoba recommends that the federal government allow the Prairie Provinces a nomination to the Board of Directors of the Ports of Thunder Bay and Prince Rupert, in addition to the existing Prairie Provinces' nomination rights for the Port of Vancouver Board.

Indigenous Engagement

The federal government has requested a sense of how to better integrate Indigenous issues into CPA management and decisions. As a matter of policy statement, Manitoba is supportive of Indigenous peoples having greater involvement in assets that affect their lives, and we view this as necessary to Indigenous reconciliation. In large measure, while engagement occurs within a local context, it is also a national interest matter. The national Council of Ministers of Transportation is assessing processes and best practices for Indigenous inclusion and partnership,

including adopting a new requirement of meeting with national Indigenous organizations prior to the annual Council meeting to learn of their transportation interests and concerns.

Some CPAs may need or want federal guidelines to understand roles and responsibilities. In keeping with the theme of differentiating governance oversight activities based on various classes of CPAs, such guidelines should be flexible for each CPA's circumstance and capability. The guidelines should reflect the importance of CPAs meeting their responsibilities for outreach to Indigenous peoples, but in a manner that provides a sense of outcome certainty from a CPA's planning, investor attraction and development perspective.

Manitoba recommends that Canada provide guidance to CPAs in relation to Indigenous engagement that ensures clarity and certainty of process such that CPAs can undertake port developments supporting trade growth.

Strengthening Linkages with other Federal Reviews and Policies

Manitoba expects that the Ports Modernization Review will not occur as a stand-alone policy piece, without connecting to other federal transport policy and program review frameworks also under way. This is particularly important in the context of recent World Bank reports outlining that Canada's ranking, relative to our competitors, is falling in terms of logistics and trade infrastructure performance. Manitoba is supportive of the recent passage of the Transportation Modernization Act, particularly the legislative changes that are expected to improve rail service and capacity for moving grain and other commodities in a timelier manner to the ports. In the marine mode, we urge the federal government to analyze and expeditiously act on the findings of other key marine policy reviews (e.g. the Pilotage Review and Canada Transportation Act Review). Manitoba wishes to see progress on issues related to pilotage cost efficiency, opportunities for flexibilities to compulsory pilotage, and improved domestic marine shipping competition, for example, to improve the functioning of our trade-enabling marine transport network.

Manitoba recommends the federal government align the Ports Modernization Review with other policy actions required in the marine mode.

Supply Chain Data and Collaboration:

As supply chains, and the relationships and roles within them, become more complex, the possibility of actors working at cross-purposes becomes more probable. Add to this the evolving concerns over system capacity and limited public finances for transportation, and it becomes more important for collaborative planning to occur. Manitoba has signalled a commitment to develop western partnerships with industry and other jurisdictions to improve our economic growth and market access, as evidenced by our joining the New West Partnership. At the transportation level, we are pleased to participate in collaborative forums such as WESTAC and renewed initiatives relating to the Pacific Gateway Alliance concept.

This entails a need for an accepted common platform of shared national transportation and trade statistics, performance data and supply chain industry information at all levels to support policy

and infrastructure development. We are pleased to co-chair, with Transport Canada, a national multimodal data and performance measurement strategy under processes of the national Council of Ministers of Transportation. Likewise, we are supportive of Transport Canada's recent launch of the Canadian Centre for Transportation Data. Based on the evolving and unique work of the Port of Vancouver's supply chain data visibility initiative, we propose there could be a role for CPAs to lead as neutral repositories for specific regional supply chain information development and performance assessment.

Manitoba recommends that a national framework for the development and sharing of transportation system and supply chain information and performance measurement be developed, including considering a formal role for CPAs at the regional corridor impact level.

Conclusion

Again, Manitoba appreciates the opportunity to share our views on Transport Canada's Ports Modernization Review. We trust our recommendations will be useful to your deliberations.