



PORT METRO
vancouver

Canada Transportation Act Review Submission to the Panel

*Leveraging Canadian ports as a long-term national
competitive advantage*

March 31, 2015

CORRECTED: April 29, 2015

Contents

Introduction and context	3
Executive summary	4
About Port Metro Vancouver	7
Recommendations and discussion	8
1. Reciprocal availability of long-term planning data	8
2. Operational data sharing	12
3. Strategic infrastructure development	17
4. Industrial land supply	22
5. <i>Canada Marine Act</i> and other legislation	27
6. Communities and sustainability	33
7. Labour relations	36
8. U.S./Canada trade policy	39
Appendix A: Port rental practices	42
Appendix B: Summary of stakeholder consultation	44

Note: This version replaces Port Metro Vancouver’s earlier submission dated March 31, 2015 due to changes on page 22 related to the extent of benefits of industrial land and the amount of industrial land available for logistics use. All other content remains unchanged.

Introduction and context

Port Metro Vancouver would like to thank the Canada Transportation Act (CTA) review advisors, and the secretariat for the opportunity to present our views.

This submission encompasses our earlier December 2014 submission focused on the grain industry and is aimed more broadly on Port Metro Vancouver's views for improving overall transportation policy and legislative frameworks.

In developing this submission, and with the assistance of KPMG LLP, we have consulted with stakeholders across the supply chain and have included their input where appropriate. Our submission represents the views of Port Metro Vancouver and should not be seen as an attempt to represent the views of the larger group of port stakeholders, including those who were consulted.

This submission summarizes the key issues that impact the stability, competitiveness, transparency and efficiency of the supply chain and, ultimately, the ability of Port Metro Vancouver to support Canadian trade objectives, provide for a high level of safety and environmental protection, and consider local community interests.

We look forward to discussion with the review panel, and other stakeholders, focusing on how we can advance our common goals.

Executive summary

Port Metro Vancouver has focused on several key themes to improve the stability, competitiveness, transparency and efficiency of the supply chain:

1. **Reciprocal availability of long-term planning data** between shippers, rail and trucking companies, terminal operators, ocean carriers, regulatory authorities, and arbitrators to support long-term supply chain planning.
2. **Operational data sharing** to provide an objective data set that could stimulate performance improvement discussions and facilitate definition of service level expectations between rail and trucking companies, terminal operators, ocean carriers, and shippers. Focused on legislated agreements (e.g. common carrier provisions), non-legislated agreements (e.g. service level agreements) and dispute resolution/arbitration.
3. **Strategic infrastructure development** to align supply chain capacity with trade demand over the medium and long term, and collaborate with national, regional and local authorities to advance projects.
4. **Industrial land supply** relating to the need to align regional capacity with national trade demands and address critical shortages of land in the Vancouver gateway.
5. **Canada Marine Act and other legislation** in terms of the framework for managing port lands and serving Canada’s objectives for expanded international trade.
6. **Communities and sustainability** relating to coordination with regional municipalities and port communities on issues including traffic, land use, port impacts, permitting, infrastructure planning, and safety and sustainability.
7. **Labour relations** across the Canadian transportation system, focusing on the need for fair and sustainable labour relations and bargaining processes.
8. **U.S./Canada trade policy** and the completion of *Beyond the Border* initiatives to improve the flow of trade and cruise traffic.

Port Metro is offering the following recommendations for consideration by the panel:

Topic	Recommendations	Page
Reciprocal availability of long-term planning data	<ul style="list-style-type: none"> • Ensure compilation on an ongoing basis of strategic information from industry partners across the national transportation system. • Define mechanisms to develop and maintain an integrated, system-wide data set. • Leverage strategic system-wide information to identify national transportation priorities. 	8
Operational data sharing	<ul style="list-style-type: none"> • Ensure regulatory mechanism is focused on regulating transparency and provision of data to stimulate performance improvement, rather than seeking to regulate performance. 	12

	<ul style="list-style-type: none"> Thoughtfully create the ability to regulate terminal performance in extreme situations. 	
Strategic infrastructure development	<ul style="list-style-type: none"> Identify existing infrastructure constraints and accelerate long-term solutions to mitigate bottlenecks. Ensure collaboration between government and industry partners in planning and executing major infrastructure projects. Create oversight to optimize rail operating agreements governing the use of existing transportation infrastructure. 	17
Industrial land supply	<ul style="list-style-type: none"> Amend Port Metro Vancouver letters patent, the <i>Canada Marine Act</i> or other acts, regulations or guidelines to allow for greater flexibility in managing a looming critical shortage of available industrial land. Stimulate the creation of an industrial land reserve to protect the land base critical to growth in trade infrastructure, and the economic and jobs growth generated by industrial activity. 	22
<i>Canada Marine Act</i> and other legislation	<ul style="list-style-type: none"> Enhance the board appointment process. Develop a more effective mechanism that coordinates multiple authorities for resolving community concerns. Give port authorities the ability to issue administrative monetary penalties to modify behaviour. Make other technical enhancements to the <i>Canada Marine Act</i> to enhance the jurisdictional scope of Port Metro Vancouver and potentially other port authorities. Amend related legislation to remove port authorities from being subject to access-to-information requests. 	27
Communities and sustainability	<ul style="list-style-type: none"> Consider opportunity to define nationally significant corridors and establish funding or designated benefits for adjoining communities through programs such as the New Building Canada Plan and/or by re-allocating federal stipend payments back to port authorities to fund local community projects. 	33
Labour relations	<ul style="list-style-type: none"> Facilitate a labour model that will ensure the supply chain remains fluid, reliable and globally competitive. 	36
U.S./Canada trade policy	<ul style="list-style-type: none"> Complete <i>Beyond the Border</i> initiatives to improve the flow of marine trade and cruise traffic. 	39

We have also anticipated that some stakeholders may raise the issue of port rental practices and have therefore provided related information in Appendix A.

The issues raised in this submission require action and collaboration by a variety of stakeholders. Port Metro Vancouver has therefore taken the opportunity presented by the CTA Review to consult with a diverse group of industry and government stakeholders on

issues specific to this submission. A summary of key stakeholder feedback and recommendations on these issues can be found in Appendix B.

About Port Metro Vancouver

Port Metro Vancouver is Canada’s largest and most diversified port – a dynamic gateway for domestic and international trade and tourism, and a major economic force that strengthens the Canadian economy.

Port Metro Vancouver’s overall vision is to be recognized as a world-class gateway by efficiently and sustainably connecting Canada with the global economy, inspiring support from our customers, and from communities locally and across the nation.



Port Metro Vancouver is a port authority created pursuant to the *Canada Marine Act* as a non-shareholder, financially self-sufficient corporation. The purpose of the *Canada Marine Act* is to promote the success of Canadian ports to contribute to the competitiveness, growth, and prosperity of Canada’s economic and trade objectives; ensure marine transportation services satisfy the needs of users at a reasonable cost; provide a high level of safety and environmental protection; and manage infrastructure in a commercially-viable manner taking into account input from users and the community.

Port Metro Vancouver’s jurisdiction includes 28 major marine cargo terminal operations, 3,157 vessel calls in 2014, coordination with three major railways (CN, CP, BNSF), management of 16,000 hectares of water and nearly 1,000 hectares of land and assets.

According to a 2012 independent report from InterVISTAS Consulting Group, the economic impact of all port operations includes 98,800 total jobs across Canada (38,200 direct jobs in British Columbia, 2,700 direct jobs in Alberta, 700 direct jobs in Saskatchewan, 1,000 direct jobs in Manitoba), \$9.7 billion in GDP, \$20.3 billion in economic output, \$6.1 billion in wages, and \$184 billion in cargo value handled annually.

Recommendations and discussion

1. Reciprocal availability of long-term planning data

This section outlines the need for additional strategic data transparency and accountability to support Port Metro Vancouver and others in their ability to plan. Ultimately, such information could be used toward more effective long-term planning of regional capacity, infrastructure, land use and operational efficiency.

The recommendations discussed in this section are:

- Ensure compilation on an ongoing basis of strategic information from industry partners across the national transportation system.
- Define mechanisms to develop and maintain an integrated, system-wide data set.
- Leverage strategic system-wide information to identify national transportation priorities.

1.1 Discussion

Improved transparency in information related to capacity and long-term forecasts throughout the supply chain is critical to the stability and efficiency of Canadian ports. Supply chains that include marine ports are complex and a lack of information across participants makes it difficult for any one player to obtain data needed to plan for capacity, identify infrastructure requirements, manage industrial lands, and implement efficiency improvements.

Specifically, Port Metro Vancouver requires additional data about demand for the movement of goods, existing efficiency constraints, industry service levels, operating capacity, and infrastructure utilization. This information would be best and most useful if gathered and managed not only in a regional context, but also integrated across national partners.

The collective benefits for improving transparency across the Canadian transportation system are significant. For example, with better information on infrastructure utilization, industry and government partners can optimize investments in capital projects. With better information on capacity, Port Metro Vancouver can help ensure it is capable of meeting the needs of Canadian shippers over the long term.

Current barriers to transparency impede ability to plan

There are several barriers that restrict information sharing between industry and regulators. Transparency requires effort from both industry and government analysts and, given the complexity of the supply chain, it can be difficult to obtain meaningful insight into key metrics. Transparency also requires adequate data-capturing and monitoring systems and processes are established.

During consultation with Port Metro Vancouver stakeholders, many expressed concerns about sharing information with government. Some fear data may be used to inform potentially damaging new policy development. Others expressed concerns that competitors to their benefit may use any publically available data. In this context, it is incumbent on government to foster the right conditions for improved transparency across the

transportation system so that all supply chain participants can achieve the collective benefits of improved transparency, while respecting the needs of industry.

Access to strategic data could provide much needed support for long-term planning

With access to additional data, Port Metro Vancouver would be better able to support long-term capacity planning, identify infrastructure requirements, manage industrial lands, and implement efficiency improvements. However, with these goals in mind, it is important to note Port Metro Vancouver does not require comprehensive access to industry information to provide strategic benefit.

Example: Port stakeholders have been expressing the need to replace the New Westminster railway bridge for some time. However, without a comprehensive data set and an accurate long-term view of the supply chain, Canada may not be able to confidently seize such an opportunity at the correct time to ensure competitiveness.

Recent discussions with industry have focused on improving the exchange of two different types of information: operational data and strategic data.

Operational data is characterized as being granular, shipment-specific information meant to improve logistical efficiency amongst industry partners. For instance, shippers must notify transportation companies of expected shipments in order to coordinate pick-up and ensure available capacity. Likewise, transportation companies must inform shippers of progress in order to coordinate drop-off and ensure accountability.

Port Metro Vancouver does not believe this granular data is necessary to provide the long-term strategic information that informs transportation policy and national strategies, though it does see value in using the data to improve operational efficiency as discussed in section 2.

In contrast, Port Metro Vancouver recommendations in this section focus on improving the ability of regulators, supply chain partners and enablers such as port authorities to access and leverage *strategic information* for long-term, strategic planning purposes. From a port perspective, this involves ensuring macro-level data – not currently available or collected and aggregated – on demand, efficiency constraints, industry service levels, operating capacity, and infrastructure utilization is available to support planning. From a regional and national perspective, this involves ensuring federal authorities have the ability to aggregate supply chain data and provide the required insight into the overall performance and capacity of the transportation system to support long-term planning and national policy development.

1.2 Recommendations

The following recommendations focus on the practical requirements for accessing, managing, and leveraging strategic information.

1.2.1 Ensure compilation on an ongoing basis of strategic information from industry partners across the national transportation system.

For industries critical to national trade interests and the national supply chain – such as marine terminal operators, railways, trucking companies, and ocean carriers – Port Metro Vancouver is recommending federal action to ensure strategic information on demand, efficiency constraints, operating capacity, and infrastructure utilization is shared in a timely

and accurate manner. In particular, there needs to be the ability to forecast capacity, which would require capacity constraint analysis using data that reports on weekly, monthly and annual goods movement and performance throughout the supply chain.

Achieving this level of transparency is expected to require significant buy-in from Transport Canada and changes to the existing legislative framework. It can also be expected to face industry challenge. However, without ensuring ongoing compilation of strategic data, government and supply chain participants will continue to lack critical information to inform planning and encourage efficiency.

1.2.2 Define mechanisms to develop and maintain an integrated, system-wide data set.

In addition to implementing the required measures to ensure ongoing compilation of strategic data, government partners must implement mechanisms to develop and maintain an integrated, system-wide data set. This would require a comprehensive review of the analytical requirements and the identification of responsible data stewards to manage the information.

Port Metro Vancouver and others are currently collecting data to inform some decisions and report out on such things as trade volumes, but there is significant opportunity to have access to more information that could go a long way toward overall supply chain efficiency. Though some stakeholders may be reluctant to share for competitive reasons, a national entity such as government could be sufficiently neutral so as to provide that coordinating role that could result in overall efficiency improvements for all stakeholders.

The benefits of an integrated, strategic data set to assess federal infrastructure investment decisions are significant. Clearly, any consideration of infrastructure expansion requires accurate insight into forecast capacity and efficiency improvements. The investment decision must consider not only the regional improvements to capacity and efficiency, but also the system-wide improvements across the entire supply chain.

For example, if the federal government were assessing a rail infrastructure investment somewhere in the supply chain and away from the Vancouver Gateway, it must first be able to identify the potential for downstream capacity bottlenecks which may mitigate any expected benefits. Alternatively, if the government decides to support investment that generates upstream corridor rail capacity, suspected bottlenecks that are already operating near peak capacity, such as the New Westminster Rail Bridge, must factor into any investment decision.

An integrated, strategic data set would provide the federal government with a full purview into the impact of the infrastructure investment given supply chain realities. Conversely, from a port perspective, it would enable Port Metro Vancouver to better consider upstream realities to support regional planning. Through this recommendation, Port Metro Vancouver is seeking continued collaboration with government partners to achieve these shared objectives.

1.2.3 Leverage strategic system-wide information to identify national transportation priorities.

Once the required mechanisms are established to capture and manage strategic information, the resulting data set should be used to collaborate and create harmonized planning across the supply chain related to operating capacity, infrastructure and land use, and efficiency measures.

The use of critical strategic information on demand, efficiency constraints, industry service levels, operating capacity, and infrastructure utilization will allow government, port authorities and supply chain partners to take a more analytical approach in identifying system constraints – analyzing not only the suspected regional bottlenecks, but also the resulting impact on other areas of the supply chain.

From the perspective of Port Metro Vancouver, integration of strategic information would allow for much improved long-term planning because it would align port-specific requirements with national transportation priorities and ensure better understanding of roles and responsibilities across partners. Port Metro Vancouver has already experienced a glimpse of how effective this can be in its Port 2050 planning process. This long-range scenario-planning exercise is done with a large group of port stakeholders and therefore benefits from broad perspectives. However, it could be greatly improved by strategic information about the supply chain, shared with other port authorities and with federal and provincial agencies.

Canadian port authorities and senior government are becoming increasingly interdependent in developing and maintaining transportation policy. Without a strategic, national transportation focus, port authorities lack direction in implementing various improvement measures. Without regional insight into the requirements of Canadian gateways, the federal government cannot establish long-term national priorities that accommodate the needs of the entire supply chain.

Likewise, government and industry are increasingly interdependent in pursuing their respective mandates. Industry cannot thrive in the long term without an effective governance strategy, and government cannot appropriately regulate without meaningful insight into industry performance.

Looking forward, there is an opportunity to create more effective working relationships amongst industry stakeholders and regulatory authorities, and move towards our collective objective of supporting a world-class transportation system.

2. Operational data sharing

This section outlines the need for improved service levels between transportation companies, terminal operators, ocean carriers, and shippers, focusing on both regulated and non-regulated solutions.

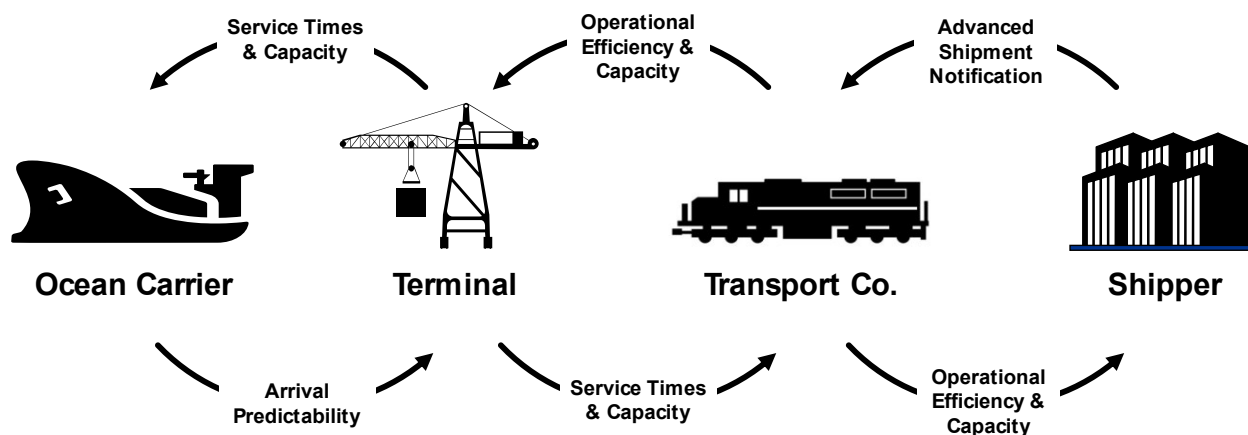
The recommendations discussed in this section are:

- Ensure regulatory mechanism is focused on regulating transparency and provision of data to stimulate performance improvement, rather than seeking to regulate performance.
- Thoughtfully create the ability to regulate terminal performance in extreme situations.

2.1 Discussion

Canada’s transportation system relies on strong service levels and effective cooperation between private sector businesses. Marine terminal efficiency depends on ocean carrier operations. Trucking performance depends on marine terminal efficiency. Shipper success depends on trucking performance. Given these interdependencies, the efficiency of the national supply chain is really the collective service levels of the private sector businesses from which it is comprised.

The diagram below shows examples of independencies between industry partners. If any of the required services between partners is limited, the entire supply chain is indirectly impacted. Conversely, any improvement in service levels for one area of the supply chain has the potential to create a virtuous cycle, wherein benefits are passed on to other areas of the supply chain in the form of improved efficiency.



Service levels within the national transportation system are primarily an industry responsibility. Canada’s market-based approach to transportation encourages industry autonomy in pursuing commercial interests, and in most cases, industry seeks to provide strong service levels to partners across the supply chain to be competitive.

There is currently much frustration with industry performance across the supply chain. Shippers have been impacted by the perceived inability of rail companies to meet short-

term demand, and rail companies are frustrated with shippers for not providing sufficient advanced notice to meet spikes in demand.

Notwithstanding the understandable impacts of weather and other factors, many perceived weaknesses in industry service levels are the result of substantive challenges that impact the overall efficiency of the transportation system.

In this context, it is incumbent of government to take action – through oversight and regulation – to ensure critical national transportation infrastructure is fully leveraged. There are many examples of legislated action to improve industry service levels, such as the service level provisions outlined in the CTA and the *Canada Grain Act*. When taking these types of action, the appropriate balance must be struck between the need to maintain a market-based approach – allowing industry to seek commercial interests – with the need to maintain baseline standards for how industry will operate critical national transportation infrastructure. To this end, Port Metro Vancouver recognizes the move by the federal government to create the Crop Logistics Working Group with a goal to find solutions that will enhance the transparency and effectiveness of grain handling.

The U.S. Surface Transportation Board provides a potential starting point for industry reporting requirements. To operate in the United States, Class 1 railways are required to provide weekly reporting to the board, identifying average terminal dwell times, total volumes by car type, weekly instances of excessive interchange times, and average train speed, amongst other metrics.

Canadian National and Canadian Pacific Railway are currently in compliance with the board, and provide weekly reporting on these strategic metrics in the U.S. Requiring the same level of information within the Canadian rail industry could be a valuable first step in compiling strategic information.

Example: The recent trucking disruption in Vancouver is an interesting case in point. One of the acknowledged contributing factors in the disruption was container terminal wait times for trucks. The trucking industry generally operated using per trip compensation so delays at terminals resulted in lower overall trucker revenue. However, causing delays for truckers did not result in any direct economic consequence to terminals.

Indirect financial incentives for terminals to extend operating hours had been ineffective. In October 2014 Port Metro Vancouver imposed a fee for excessive truck delays. The structure of this was further amended through the Joint Action Plan. This action ultimately resulted in terminal decisions to extend operating hours on a consistent basis that has largely alleviated the wait time problem. It seems unlikely the terminal operating change would have been achieved without the direct imposition of the fee described. However, the terminals through judicial review are at the time of this submission, challenging this decision.

Similar examples have arisen in the grain sector, where misalignment of operating hours between terminals and railways can cause inefficiencies for supply chain stakeholders. However, there is currently no mechanism, short of legislation, to compel changes in operating practices to align operating hours and improve supply-chain performance.

Ports lack ability to enforce regulatory service levels

For Canadian ports, the performance of marine terminal operators is critical to the efficiency and stability of the supply chain. As the last stop for exports, and the first stop for imports, service levels provided by marine terminal operators and other participants can have profound indirect impacts across the entire supply chain. While Port Metro Vancouver recognizes the contribution of marine terminal operators in supporting national trade, we see a case for some additional mechanisms to regulate terminal performance in order to ensure critical terminal infrastructure is operated in a manner that aligns with national interests. These mechanisms need to be very carefully defined and controlled. It is equally important that terminal operators, who make significant capital investments in infrastructure critical to national trade, continue to have the ability to earn a return on that capital and the ability to effectively and efficiently operate their terminals to generate those returns.

Greater operational transparency in the supply chain and the resultant objective data set could stimulate performance improvement discussions, provide the ability to establish operating service levels for supply chain participants, and stimulate the definition of those agreements between participants in a more commercial and objective manner. Commercial stakeholders will naturally operate in their best interests, which may not be in the best interests of the gateway as a whole. While there exist mechanisms to regulate other industry partners operating in port communities (e.g. federal regulation of ocean carriers and rail companies, port authority licensing of trucking companies), Canadian port authorities and other government partners currently have limited tools to manage service levels for marine terminal operators. Port authorities may be able to provide incentives to encourage participation in practices that benefit the supply chain, but they cannot mandate them and they cannot enforce them. Through consultation with other Canadian port authorities, Port Metro Vancouver understands this challenge extends across Canadian gateways. This has the effect of restricting the very significant potential of the port authority to create efficiencies across terminals that benefit the supply chain and overall port competitiveness.

2.2 Recommendations

The recommendations presented here are intended to enable practical definition, and if and where necessary, regulation of service levels.

From a port perspective, there is a continuous need to improve industry service levels between supply chain partners. Port Metro Vancouver's preference is to adopt a market-based approach to achieving improvements, and in many cases industry partners have implemented improvements to service levels without the need for regulation. However, there are also situations for which non-regulated solutions are not viable, and regulator action is necessary to govern minimum industry service levels, such as recent truck licensing reform implemented by the federal and provincial governments and Port Metro Vancouver.

Before regulating performance, it is important to note historical examples of regulation producing unwanted indirect consequences, such as the recent imposition of minimum grain shipments on rail companies. This action had the effect of addressing a political imperative

while at the same time causing inefficiency in several areas of the supply chain. Also, greater transparency and the creation of a clear, accurate common data set about supply chain performance have been seen to be strong drivers of commercial, market-based supply chain performance improvement, without the need for direct performance regulation.

In developing regulations, government requires sufficient transparency into industry dynamics to understand the root causes of the challenges they're trying to address, and also the risk of any undesirable impacts from implementing the regulation.

In this way, the recommendations presented in this section also build upon the need to improve transparency for strategic information from industry partners as outlined in section 1.

2.2.1 Ensure regulatory mechanism is focused on regulating transparency and provision of data to stimulate performance improvement, rather than seeking to regulate performance.

The interdependencies between industry partners are extremely complex, and service levels in one area of the supply chain can often have unpredictable impacts on other areas. While Port Metro Vancouver believes in some cases regulation is required to improve service levels, we recognize the introduction of regulations can create the risk of unknown consequences that may impact overall performance.

For example, given that much of Canada's transportation infrastructure is currently operated at high levels of overall utilization, stakeholders in some industries believe it is sometimes impossible to increase capacity for one specific industry without affecting available capacity for other industries. Therefore, before regulating industry performance, government must understand whether any regulated standards (e.g. minimum shipping thresholds, maximum revenue entitlements) focused on one industry will impact service levels across the supply chain as the allocation of infrastructure capacity responds to regulation.

Through this recommendation, Port Metro Vancouver is calling on government partners to regulate for transparency in sharing operating data before regulating specific performance measures. This will ensure there is a better and thorough understanding of supply chain dynamics before any specific regulations or policies are introduced, and will act as a natural stimulus for commercial market-based supply chain performance improvement.

Without additional data on the demand for the movement of goods, efficiency constraints, industry service levels, operating capacity, and infrastructure utilization, port authorities will continue to lack critical information to inform how to structure service level regulations. Likewise, without system-wide information detailing performance of the overall supply chain, federal authorities will lack information required to reform the national legislative and regulatory framework.

2.2.2. Thoughtfully create the ability to regulate terminal performance in extreme situations.

Under the *Canada Marine Act*, port authorities have a responsibility to promote the success of Canadian ports, however the *Canada Marine Act* lacks specific information to govern marine terminal operator performance. For example, within the existing regulatory

framework, Port Metro Vancouver is not able to mandate that marine terminal operators provide the required level of strategic transparency to understand critical operating efficiency metrics. In addition, while Canadian port authorities may use lease agreements with marine terminal operators as a mechanism for increased transparency and compliance, lease agreements are reached bi-laterally and typically cover significant time periods of 30 years or longer. Amendments are possible if they can be negotiated, but generally leases do not provide an effective means of regulating long-term marine terminal performance.

Through this recommendation, Port Metro Vancouver is calling for a national framework, such as the Canadian Transportation Agency, to regulate terminal operator service levels. Specifically, this framework could involve providing port authorities, as the logical choice, with legislated powers to access strategic information and enforce the implementation of high level and reasonable terminal efficiency measures – ensuring marine terminal operators are balancing their commercial interests with the interests of national trade while protecting the ability of a terminal operator to earn an appropriate return on capital investment.

3. Strategic infrastructure development

This section outlines the need to identify and address regional transportation infrastructure bottlenecks, optimize operating agreements governing the use of existing transportation infrastructure, and expand collaboration between government and industry partners. It also emphasizes the critical role governments need to continue to play in investing in common user national supply chain infrastructure.

The recommendations discussed in this section are:

- Identify existing infrastructure constraints and accelerate long-term solutions to mitigate bottlenecks.
- Ensure collaboration between government and industry partners in planning, funding and executing major infrastructure projects.
- Create oversight to optimize rail operating agreements governing the use of existing transportation infrastructure.

3.1 Discussion

Canadian shippers rely on transportation infrastructure that extends from coastal waters to facilities across North America. This infrastructure includes marine terminals, highways, railways, bridges, inland terminals, and distribution facilities – all acting as an interconnected system to support trade. Constraints within any one component of this system affect the system overall.

Trade-enabled opportunities are strong drivers of the Canadian economy and seizing opportunity requires public and private investment in common user infrastructure to help ensure timely delivery of infrastructure.

Infrastructure planning a complex prospect

As Canada's largest and most diversified port, Port Metro Vancouver works to ensure local infrastructure supports the overall transportation system. Planning infrastructure expansion considers many things, including the growth of the global economy, changing transportation and manufacturing technologies, shifting Canadian shipper production levels, and variations in the global maritime industry. Given this, it not sufficient for government and industry partners to take action just to expand infrastructure; rather we must expand the right type of infrastructure, in the right place, at the right time, in part by using the information described in section 1.

For example, Canadian ports have to consider how the national import and export profiles will change over time. Much of the infrastructure in our transportation system is product-specific, and cannot be easily switched to support the transportation of different goods (e.g. grain vs. coal terminals).

The technology underlying infrastructure is also expected to change over the long term. For example, marine terminals are increasingly integrating their terminal operating systems with automated hardware solutions that are utilized at the yard and at the quay, which should have the effect of increasing capacity at the terminal

Moving forward, various other forms of technology, including real-time locating systems, radio frequency identification, and optical character recognition will help terminals automate the tracking of vehicles and the movement of cargo, providing real-time data streams to support additional automation. With yard automation, container terminals are expected to be able to increase capacity using existing lands. However, without corresponding changes in supporting infrastructure (e.g. highway systems and rail lines) the potential benefits of this innovation may not be fully realized.

The emergence of inland terminals – such as CentrePort – are also expected to change how we utilize and expand infrastructure. Port Metro Vancouver is supportive of inland ports generally where there is potential to improve supply chain efficiency, and a business case exists for their creation. Any major changes in the utilization of inland terminals could have a significant impact on local infrastructure requirements and therefore must also be considered.

Optimizing existing infrastructure must come first

Planning future infrastructure is a priority for all Canadian ports; however it is also critical to ensure existing infrastructure is being fully optimized. Unlike long-term infrastructure planning, which is a forward-looking exercise, optimizing existing capacity involves gathering data on the utilization of existing infrastructure capacity, and in some cases creating policy and regulation to ensure industry operating agreements governing the use of critical infrastructure are serving the best interests of Canadians.

Co-production operating agreements between supply chain participants currently exist, though the details are often unknown to government, even though they direct how trade infrastructure is shared and utilized between industry partners. Without the backstop of government enforcement of such agreements, there is no assurance they are serving the best interests of national trade or resulting in the efficient use of gateway infrastructure. For example, rail co-production agreements have been positive for rail company operations and for the supply chain as a whole, but since they are agreements between independent private parties, there is always a risk they could be terminated by one or another party. There is also a risk, since there are many agreements and interfaces between the individual commercial railroads, that an agreement in one region could be negatively affected by unrelated negotiations between the parties in another region. A failure of these agreements could cause limits on utilization of rail lines and unnecessarily constrain system capacity.

Example: Agreements like the CN/CP South Shore Operating Agreement can be the subject of commercial disputes and are always subject to cancellation or modification at the request of either entity without regard for the impact throughout the supply chain.

Collaboration has proven remarkably successful

In addition to the potential of information sharing on infrastructure planning, structured and organized collaboration among supply chain partners and government offers the ability to best plan, prioritize and deliver infrastructure investment.

Formal collaborative forums have been very successful in the Asia-Pacific Gateway by bringing together local, provincial and federal levels of government, industry participants such as the port authority and railroads, and other stakeholders to fund and prioritize regional infrastructure. With the addition of reliable and shared information on long-term capacity needs as outlined in section 1, such forums could be even more effective as overall system capacity could be optimized without being degraded by competing or unrelated agendas.

Example: The Asia-Pacific Gateway and Corridor Initiative has proven the benefit of collaborative infrastructure planning, resulting in about \$1.8 billion in strategic investments to benefit the west coast gateway.

While there are of course regional differences between ports, Port Metro Vancouver also believes there are a number of factors which must be managed by all Canadian port authorities: the growth and impact of the global economy and changes in industry trade patterns, manufacturing technologies, Canadian shipper production levels and transportation technologies. Many of these factors depend on global drivers (e.g. commodity prices, technological innovation) and therefore systemically affect all Canadian port authorities.

3.2 Recommendations

The recommendations outlined in this section focus on how best to identify and address supply chain bottlenecks and much needed infrastructure improvements through formalized collaboration.

Port Metro Vancouver believes national, provincial and regional partners have a strong track record in the Vancouver gateway for taking the necessary actions to ensure infrastructure capacity will support changing trade patterns. Collaboration with government, industry, shippers, and railways has mobilized billions of dollars in trade-enabling infrastructure projects, producing significant tangible improvements in the Canadian transportation system and underpinning strong growth in trade through the Vancouver gateway.

However, despite this success, continued investment and collaboration is critically needed to eliminate new regional bottlenecks, make further use of existing infrastructure capacity, and plan and deliver future infrastructure to meet the needs of Canadian shippers. Given the significant opportunity presented by anticipated growth in trade through the west coast, it is critical the level of focus provided over the last 10 years through the Asia-Pacific Gateway and Corridor Initiative be continued through the next decade.

The recommendations presented in this section focus on identifying and addressing regional infrastructure bottlenecks by expanding collaboration between government and industry. In many ways, these recommendations build upon those for improved transparency described in section 1, as improved access to strategic information is critical to effective infrastructure management.

3.2.1 Identify existing infrastructure constraints and accelerate long-term solutions to mitigate bottlenecks.

Stakeholders have described several potential regional infrastructure bottlenecks, including congestion at the Fraser River and the Second Narrows rail crossings, operating hours for marine terminals, capacity availability from railways, and congestion in the highway system.

Not only may these potential bottlenecks limit the ability of industry to seek operational efficiencies, but in many cases, they can have an indirect impact on other areas of the supply chain which in turn impede growth.

In the short term, mitigating infrastructure bottlenecks may require interim solutions, such as expanded operating hours, additional rail capacity, and expanded cooperation by railway partners, to ensure the required levels of infrastructure capacity are available in the years before long-term infrastructure projects are delivered. However, such operating efficiency improvements will not be sufficient to meet growing trade demand.

The opportunity costs of not addressing system bottlenecks are immense. Through collaboration with port authorities, Port Metro Vancouver is calling for the development of a national framework to monitor changing trade patterns, technologies and other factors to facilitate the joint effort of port authorities, government, and industry partners to harmonize national infrastructure planning.

This should also involve ongoing funding and delivery of major capital projects, accelerated through partnership with industry and private equity.

3.2.2 Ensure collaboration between government and industry partners in planning and executing major infrastructure projects.

Collaboration, led by Transport Canada and involving, Port Metro Vancouver, the provincial Ministry of Transportation and Infrastructure, TransLink and industry, has produced impressive results in recent years in the Vancouver gateway; however that collaboration is by no means assured. For example, in 2014 Port Metro Vancouver took the initiative to create the Gateway Transportation Collaboration Forum to address the opportunity provided by the New Building Canada Fund. The forum brings together government and others to develop a request for gateway infrastructure funding available via the National Infrastructure Component of the fund.

Recognizing the need for ongoing and expanded collaboration in planning and executing infrastructure projects, Port Metro Vancouver recommends regional infrastructure planning be done through required and formal collaborative frameworks.

Port Metro Vancouver also sees the potential of expanded collaboration between Canadian port authorities, focusing on identifying opportunities to act more effectively within our purpose under the *Canada Marine Act*.

Government funding of investments in the Asia-Pacific Gateway and Corridor Initiative was critical to the success of that program, both as a catalyst for other funding partners, and to fund project elements for which there was not a sufficiently strong commercial business case. Ongoing funding by government of similar investments in the Vancouver gateway will be critical to ensuring the overall potential economic benefits of those investments can be seized.

3.2.3 Create oversight to optimize rail operating agreements governing the use of existing transportation infrastructure.

Improved transparency to supply chain collaboration agreements (e.g. Port Metro Vancouver/CN agreement, Roberts Bank/BC Rail agreement and CN/CP agreement) will help regulators identify potential constraints to critical infrastructure, and identify the measures

required to optimize the use of existing assets. Through this recommendation, Port Metro Vancouver is calling for federal action to ensure industry operating agreements governing critical rail operations are made available to regulators and port authorities.

Since much of the infrastructure, such as rail, is owned and operated by private sector businesses, strong partnerships with industry are needed to address capacity requirements. Port Metro Vancouver recognizes the complexity of the agreements, and appreciates the needs of industry in pursuing commercial interests, but must balance these needs against our responsibility under the *Canada Marine Act* to promote the success of Canadian ports in contributing to the competitiveness, growth, and prosperity of the Canadian economy.

Further, Port Metro Vancouver thus suggests the long-term viability of these agreements must be assured through some mechanism that prevents their arbitrary change or cancellation. Without the presence of a federal mediation process, railways have the ability to alter or cancel agreements without consideration for the impact of such action on the rest of the supply chain.

4. Industrial land supply

This section outlines the need to optimize the allocation and utilization of limited port industrial land to better align regional capacity with port demands.

The recommendations discussed in this section are:

- Amend Port Metro Vancouver letters patent, the *Canada Marine Act* or other acts, regulations or guidelines to allow for greater flexibility in managing a looming critical shortage of available industrial land.
- Stimulate the creation of an industrial land reserve to protect the land base critical to growth in trade infrastructure, and the economic and jobs growth generated by industrial activity.

4.1 Discussion

Industrial land enables trade and creates jobs and tax revenue. According to analysis completed by Site Economics Ltd. for Port Metro Vancouver, every 100 acres of industrial land results in \$1.8 billion of direct and secondary economic benefits (Site Economics Ltd., March 2014).

In the Metro Vancouver region, industrial land constraints are becoming severe and will soon impact Canada's port and industry competitiveness. Beyond federal port lands, industrial land continues to be converted to other uses through municipal zoning changes, and Lower Mainland municipalities have rezoned about 30,000 acres in the last 30 years.

There are approximately 28,000 acres of industrial land in Metro Vancouver, of which less than 6,000 acres remain vacant and only about 1,000 acres are suitable for the logistics industry. Demand for industrial land is projected to absorb between 1,500 and 3,000 acres of land within the next five to 10 years, resulting in the exhaustion of the industrial land inventory potentially as soon as 2020.

Given the capital-intensive nature of Canadian ports and the choking effect the lack of industrial land will have on Port Metro Vancouver's competitiveness, it is critical the port authority has the tools to respond to the realities of the local real estate market place. The following detail specific opportunities to provide those tools.

Restrictions on interim uses impact flexibility

Port Metro Vancouver letters patent set out permitted uses for Federal Real Property (Schedule B Lands) and Property Other than Federal Real Property (Schedule C Lands).

With the eroding Metro Vancouver industrial land supply and limited regional governance to protect against the conversion to non-industrial uses, Port Metro Vancouver may need to purchase strategic lands to hold until such time as redevelopment needs are determined. At present, Transport Canada has a policy to allow Port Metro Vancouver and other CPAs to apply on a case-by-case basis whenever we seek to purchase land that is not currently industrial. Much-needed flexibility would be gained by being permitted to purchase, for example, residential tenanted blocks. Their use could be maintained in the medium term, but phased out so that they could be available for industrial use in the long term. In other words, allowing for longer interim holding uses such as commercial, office, residential or

manufacturing would allow ports to acquire strategic buffer zone properties and readily lease them for non-port use until such time as they need to be, or can efficiently be, converted to industrial use.

Autonomy to purchase needed to react quickly to opportunities

Port Metro Vancouver letters patent allow for purchasing and selling of property other than Federal Real Property (Schedule C Lands) and Transport Canada currently prefers Port Metro Vancouver to acquire any new lands as Schedule C Lands. These lands can be purchased in Port Metro Vancouver's name and proceeds can be retained upon resale. However, acquisition of new Schedule C lands still requires issuance of supplemental letters patent.

Vancouver is a highly competitive real estate market, and this is only expected to increase given pressure on general land availability in the region. To take advantage of opportunities that present themselves, it is critical Port Metro Vancouver have the autonomy to purchase and add Schedule C Lands in a timely manner and without needing the approval of Transport Canada (i.e. similar to purchases made through subsidiaries).

Greater rights to expropriation may become essential

The *Canada Marine Act* and Port Metro Vancouver letters patent do not currently grant us the ability to expropriate land.

Historically, expropriation powers were granted under various federal statutory instruments, empowering various types of federal bodies with the ability to expropriate, including railways and federal water and power companies. The National Harbours Board also originally held the power to expropriate and although Canada Ports Corporation had no direct power of expropriation, it could expropriate for port purposes provided it obtained the minister of transport's approval to do so. Section 95 of the CTA grants railways the ability to divert roads and build tunnels, bridges and embankments on adjacent land for the purpose of constructing or operating the railway. The *Expropriation Act* has express provisions allowing the minister of transport to request of the minister in charge of expropriations that lands required by railways be expropriated. It is noted that the railway must first demonstrate it requires the lands for railway operations, there are no other alternatives and every effort has been made to negotiate a commercial arrangement.

Example: The City of Richmond owns a 30-acre parcel of industrial land that lies between two Port Metro Vancouver sites. The property is not currently being used and is not available for sale. Despite it representing a significant opportunity for Port Metro Vancouver, there appears no way to acquire it.

With the Metro Vancouver industrial land supply reaching critical levels, it may become necessary for Port Metro Vancouver to hold this power in the future so as to secure lands essential for gateway competitiveness in a timely way.

With the Metro Vancouver industrial land supply reaching critical levels, it may become necessary for Port Metro Vancouver to hold this power in the future so as to secure lands essential for gateway competitiveness in a timely way.

Lending restrictions on subsidiaries slow ability to purchase land

The easiest way for Port Metro Vancouver to purchase land consistent with our letters patent is through our subsidiaries. However, our letters patent restrict us to lending funds to subsidiaries to a limit of 50 per cent of annual net income or 10 per cent of the current

\$510 million borrowing limit (i.e. \$51 million). This limit currently restricts Port Metro Vancouver from acquiring property through subsidiaries in Metro Vancouver where the value of industrial land is high at typically \$1 million to \$2.5 million per acre.

This restriction impedes Port Metro Vancouver's ability to secure needed land. We operate in a highly competitive marketplace and have found ourselves unable to secure land in a competitive bidding situation because we cannot secure funding in a timely way. Ideally, there would be no such limit on lending restrictions to subsidiaries.

Leasing land from third parties

Port Metro Vancouver letters patent allow Port Metro Vancouver to occupy or hold land *from* third parties subject in every instance to issuance of supplemental letters patent.

Conversely, Port Metro Vancouver is permitted to lease land *to* third parties for prescribed terms up to 60 years.

The shortage of industrial land may require Port Metro Vancouver to secure land through unconventional measures such as lease vs. purchase. Increased autonomy to lease land from third parties will ensure Port Metro Vancouver can deliver the land necessary to fulfill, in a timely way, its mandate in the highly competitive Metro Vancouver market.

Inland facilities could provide opportunities for Port Metro Vancouver to expand

To ensure Port Metro Vancouver is capable of providing land to meet future trade objectives, it may become necessary to purchase property located well beyond traditional port boundaries. In addition to the lack of available industrial land for development, the cost of the limited industrial land base in Metro Vancouver within close proximity to marine terminal facilities could precipitate the need to push certain supply chain-related uses inland.

Port Metro Vancouver may need to acquire land in other markets to fulfill its mandate and requires that appropriate amendments to its letters patent be made to assure this.

Land transactions procedures and timeframes causing missed opportunities

The Canada Port Authorities Land Transactions Procedures and Timeframes were first established under the *Canada Marine Act* to ensure port authorities could buy land in a timely way by ensuring letters patent amendments could be turned around quickly. At present, the procedures and timelines are under revision by Transport Canada.

In reality, it is already taking too long to issue amendments, which is seriously limiting Port Metro Vancouver's ability to secure needed real estate in a highly competitive market and bring on new capacity in a timely manner. Port Metro Vancouver is being forced to require at least a six-month closing period to purchase property given that, on average, it takes six to eight months to receive

Example: The Land Transactions Procedures and Timeframes prescribe a 30 day timeframe for issuance of letters patent for Federal Real Property land exchanges; Port Metro Vancouver needed to put in place interim agreements in order to open the new Low Level Road transportation corridor while it continues to await letters patent.

supplementary letters patent; this is compared to thirty days for competitive offers by private purchasers.

Port Metro Vancouver needs procedures and timelines that accurately reflect market realities and are adhered to when supplementary letters patent are required.

Preservation of existing industrial land critical

In British Columbia, zoning of land falls under the control of local municipalities pursuant to the provincial *Local Government Act*; a board of Metro Vancouver member municipalities carries out regional planning.

A 2011 Metro Vancouver 2040 Regional Growth Strategy endeavors to protect industrial land. However, it has other policies that conflict with this goal, its powers seem to be limited, and the plan has little focus on the drivers of regional economy or a national perspective.

The pending shortage of industrial land is a problem with serious national consequences. Land must be protected and reserved for uses that support national trade objectives.

The Pacific Gateway Initiative has successfully implemented initiatives to increase gateway competitiveness and the Pacific Gateway Alliance continues to collaborate on matters of mutual interest for the benefit of the region, province and Canada. An opportunity may exist for the Pacific Gateway Alliance to put in place measures to safeguard land that enable trade, create jobs and tax revenue for municipalities, and support national objectives

Examples: The City of Port Moody has designated 980 acres, nearly four percent of the total industrial land inventory of the entire Lower Mainland, as a “Special Study Area” with the intent to convert some or all to non-industrial use.

The City of New Westminster’s Queensborough area features new and proposed residential developments located over existing and former industrial-zoned land adjacent to Port Metro Vancouver’s 50-acre site leased for container distribution and logistics.

The City of Coquitlam has approved redevelopment of industrial lands for a new, 60-acre mega-development to include multi-family residential.

4.2 Recommendations

The following recommendations focus on the need to preserve valuable land for port and related use.

4.2.1 Amend Port Metro Vancouver letters patent, the *Canada Marine Act* or other acts, regulations or guidelines to allow for greater flexibility in managing a looming critical shortage of available industrial land.

Port Metro Vancouver is recommending a number of changes to letters patent and acts, ultimately to ensure the port remains sustainable and competitive.

Port Metro Vancouver could also greatly benefit from having a blanket option to acquire land that is not currently used for industrial activity.

It is also recommended that our letters patent be amended to grant Port Metro Vancouver autonomy to amend Schedule C to reflect additions/deletion of Schedule C lands.

An express recognition in the *Expropriation Act* of the potential need to expropriate for port purposes at the request of the port authority, and language in the *Canada Marine Act* granting the port authority the same power as granted the railways, would improve our ability to secure needed lands for future port growth. The *Canada Marine Act* and our letters patent should be amended to grant Port Metro Vancouver the right to expropriate land for uses related to logistics, shipping and navigation or where the actions of one entity threaten the ability to facilitate trade or will negatively impact the diminishing industrial land supply base.

Our letters patent should be amended to remove the restriction on Port Metro Vancouver's lending to our subsidiaries to allow greater nimbleness in acquiring new land.

A further amendment is recommended to allow Port Metro Vancouver to lease land from third parties without issuance of supplementary letters patent for terms consistent with leases to third parties.

Letters patent generally should contemplate the purchase of inland property by Port Metro Vancouver for port supply chain-related uses.

Another opportunity for improvement is around the transfer or sale of non-port federal property. Port authorities should have the right of first offer on available federal land before it is offered to the general marketplace. Any such land should be remediated by the federal government so as not to jeopardize port authorities' financial self-sufficiency.

Lastly, Port Metro Vancouver requests that any new procedures and timeframes for significantly faster issuance of supplementary letters patent, and subsequent use of same, allow port authorities to operate effectively in a highly competitive market where success is dictated by market forces as opposed to government processes.

4.4.2 Stimulate the creation of an industrial land reserve to protect the land base critical to growth in trade infrastructure, and the economic and jobs growth generated by industrial activity.

The protection of designated zoned land is not new in British Columbia. For decades, the Agricultural Land Reserve has proved an excellent system of protecting valuable agricultural land.

Port Metro Vancouver believes the same concept urgently needs to be used to protect what remains of Lower Mainland industrial land and therefore recommends the federal and provincial governments enact legislative measures to preserve industrial lands within key trade areas and corridors and identify areas for growth to support the gateway. Given the national interest in the ongoing development of the Vancouver gateway – Canada's largest gateway and primary gateway for Asia-Pacific trade – the involvement of the federal and provincial governments in the protection of industrial land in the Lower Mainland is necessary.

5. Canada Marine Act and other legislation

This section is relating to the mandate of Canadian port authorities under the Canada Marine Act to promote national trade interests and manage port industrial lands to serve Canada's trade objectives. It also addresses the responsibility of port authorities under the Access to Information Act.

The recommendations discussed in this section are:

- Enhance the port authority board appointment process.
- Develop a more effective mechanism that coordinates multiple authorities for resolving community concerns.
- Give port authorities the ability to issue administrative monetary penalties to modify behaviour.
- Make other technical enhancements to the *Canada Marine Act* to enhance the jurisdictional scope of Port Metro Vancouver and potentially other port authorities.
- Amend related legislation to remove port authorities from being subject to access-to-information requests.

5.1 Discussion

Governance structure of Canadian port authorities is a competitive advantage

Canadian port authorities are well served by the *Canada Marine Act* purpose clause which facilitates commercial decision-making ability while ensuring national trade objectives.

By contrast, U.S. ports can struggle with the impact of being governed locally, which results in operations that often do not serve the national interest and limit the ability of a port authority to source capital for infrastructure improvements. Our U.S. counterparts have frequently expressed their admiration for the Canadian model that is allowing Canada's ports to modernize and adapt at a pace ahead of many American ports.

In the Lower Mainland, the amalgamation of three port authorities in 2008 went a step further to increase the competitiveness of port infrastructure in the region. Given their close proximity and importance as a gateway to Asia-Pacific, maximizing the ability of the three ports to coordinate their planning, asset utilization and operations has allowed a far greater ability to respond to Canada's trade interests on the country's west coast.

Though the *Canada Marine Act* provides some flexibility to manage port authorities of varying sizes by virtue of their letters patent, there may be further opportunity to address the vast differences in size between the various ports. The act could specifically reference governance structures that apply or can be scaled up or down depending on the size and complexity of a port.

Board appointment process could be improved

A potential area of improvement in governance lies in the appointment process of the Port Metro Vancouver board of directors. There is a need for consistent and timely turnaround of nominating committee recommendations to ensure board member vacancies are filled within a reasonable period of time. Also, the current process allows for the input of the

existing board, such as to identify a particular skill set that is lacking, but this input is often not reflected in the actual appointment. For example, it is entirely possible a board may lack critical skills brought only by an accountant or lawyer. Additionally, Port Metro Vancouver has found increased geographic representation on the board (beyond B.C. and the Lower Mainland) could potentially be beneficial, though the size of the board should not be increased.

Current scope of the Canada Marine Act can create project delays

The jurisdictional powers granted to port authorities pursuant to the *Canada Marine Act* currently focus primarily on geographic proximity to a seaport. However, as portside lands become increasingly scarce, inland opportunities may offer an important avenue for expansion. In addition, transportation infrastructure found at locations not on, adjacent to, or even on occasion, near the port itself can be significantly impacted by port-related activities. As such, Port Metro Vancouver can and will need to continue to be involved in supporting or leading off-site, but port-related, projects. To avoid unnecessary jurisdictional conflict and to facilitate timely development, the *Canada Marine Act* could provide a more balanced approach, addressing both geographic powers and subject matter powers (port-related shipping and navigation), to ensure there is clear, federal jurisdiction for vital, off-dock infrastructure projects.

Inability to enforce operating regulations inhibits supply chain efficiency

Another concern relates to the scope of a port authority’s ability to refuse a lease or licence. For example, Port Metro Vancouver’s recently revamped Truck Licensing System restricts the number of licences it will grant to container trucking companies serving the port, in order to reduce the number of trucks gaining access to port terminals. However, it has been suggested by unsuccessful trucking companies that, as per Regulation S. 27(b), if a party makes a request for a licence and pays a fee, the port authority is obliged to grant the licence, unless Section 5 otherwise prohibits the activity, or unless the party refuses to get insurance. Though likely not intended, the regulation wording appears to limit the more broadly worded power to grant licences under the *Canada Marine Act*.

Lack of ability to enforce undermining authority and security

Canadian port authorities can set regulations prohibiting certain activities without prior authorization, but there is no consequence if those regulations are violated. For example, a port authority can interact with recreational boaters and advise of regulations that may be in place, but cannot issue tickets or fines if those regulations are violated. Similarly, port authorities can implement environmental standards but cannot fine operators who are found to be non-compliant.

This has the effect of reducing the ability of the port authority to fulfill its mandate. Decisions, programs, regulations and other initiatives designed to enhance supply chain efficiency, improve environmental sustainability or reduce community impacts are

Example: Protests on port lands that prevent ready access by legitimate users are prohibited, but local authorities are reluctant to intercede in what they often perceive to be a ‘civil’ matter.

Example: Using port lands to sell products without approval is prohibited. However, there are no express consequences for failure to abide by the prohibition.

limited by the inability to properly enforce. It also may create or appear to create an unintended jurisdictional vacuum.

Port Metro Vancouver also has a number of similar concerns related to security. In March 2015, the Association of Canadian Port Authorities delivered *Strengthening Security in Canadian Port Authorities*, a white paper on port security, to the minister of transport. The paper spoke to concerns raised by Canadian port authorities about security, including designating marine and air exclusion zones, the status of future marine transportation security regulations and the critical need for port security funding support.

The white paper report was in response to a series of Transport Canada-chaired meetings with port authorities to establish a framework around waterside security responsibilities. In the proposed framework, port authorities would be expected to take a primary coordination role in security. However, the position taken by port authorities, as presented by the association, was that port authorities are unable to commit to a Transport Canada policy framework until the government provides adequate legislative and regulatory authority as well as resources.

The legislative downloading of responsibilities to port authorities does not provide an adequate enforcement framework or the tools to fulfill those responsibilities. Port Metro Vancouver has identified three areas of primary importance.

1. Port authorities lack true enforcement authority as they do not have a means of enforcing regulations such as Section 7 of the Port Authorities Operations Regulations (Unauthorized Access to Port Property); put simply, port authorities do not have any enforcement mechanism to remove trespasses or issue penalties for trespass. For example, an apparent disconnect was identified prior to the February 13, 2015 *Shut down Canada* blockade of Port Metro Vancouver. Transport Canada advised that the Vancouver Police Department had the authority it needed – under the provisions of the Criminal Code, *Canada Marine Act* and Port Authorities Operations Regulations – to prevent or remove unauthorized protesters/trespassers. However, the police department’s legal counsel advised there was no mechanism for enforcement under the *Canada Marine Act* and that employing the Criminal Code would be excessive for an issue of trespass. The result was the port authority was left with no ability to enforce Section 7 of the Port Authorities Operations Regulations.
2. In the Waterside Security framework, Transport Canada asked port authorities to coordinate waterside security, including interactions with law enforcement. However, port authorities have no legal ability to share restricted law enforcement information nor are they equipped to adhere to government standards for classified and protected information. Port authorities require the ability to share restricted law enforcement information on a limited basis to fulfill these requirements and have encouraged Transport Canada to explore the potential of appointing a limited number of Port Enforcement Officers as RCMP Special Constables to resolve this shortfall.
3. Port authorities have been authorized as Enforcement Officers under the *Canada Marine Act*, identified by the minister of transport as “persons or classes of persons”

qualified to be so designated. Unfortunately the Act is more useful when managing large vessel enforcement and is not well suited to deal with our largest group of violators: recreational and small commercial vessel operators. The most appropriate pieces of legislation are:

- *Canada Shipping Act 2001*
- Small Vessel Regulations
- Vessel Operator Restrictions Regulations

There is potential for the *Contraventions Act* to provide port enforcement officers ticket-writing ability for the above-mentioned legislation.

High public interest can amplify a void in federal authority

Public interest in issues around transportation safety is increasing, particularly related to protection of the environment and public well being. Critical infrastructure projects and port activities are subject more than ever before to challenge by local government and organized public opposition.

By way of illustration, Canadian port authorities do not have authority to decide what commodities are traded. In the face of well-intentioned but misinformed public dialogue about the supposed health risks of a particular commodity, having a national authority – such as Health Canada – provide factual information and actively engage in a timely way to reassure the public would be highly desirable. In the absence of such authority, misinformation is easily spread, threatening projects and unnecessarily creating widespread and significant public concern.

The lack of visible authority in these arenas also raises the likelihood of others stepping in to claim defacto jurisdiction, such as a local government that seeks to claim the right to subject terminals on federal lands to municipal bylaws (e.g. air quality monitoring and enforcement).

Further, the reputation of a Canadian port authority can be damaged when the public assumes it has jurisdiction where it does not, and no other entity steps up to claim jurisdictional responsibility.

Access-to-information requests threaten commercial viability of port authorities

Unlike airports, port authorities are subject to requests for information under the *Access to Information Act*. Port Metro Vancouver does not object to the sharing of information wherever possible, but we operate within a competitive framework. Therefore, while the Act allows for the protection of some proprietary information, it does not allow us

Example: In the case of the Fraser Surrey Docks coal transfer proposal, having Health Canada vocally weigh in on the health impacts of coal or the rigour of the assessment of impacts could have mitigated wide spread but misinformed concern about coal dust, including from local regional health authorities.

Example: In October 2014, a Russian container cargo ship lost power off the B.C. coast. Media reports failed to adequately identify the risks, incorrectly reporting on the seriousness of the situation and the logistics of the response effort. Without a Canadian authority to explain the situation accurately, incorrect reports prevailed and unnecessarily created heightened public concern over perceived risks. The situation quickly became a beacon for anti-marine shipping activists, particularly as it related to petroleum tankers.

to retain enough confidentiality to negotiate and manage port lands and projects in the best interests of all parties. For example, if the port authority were to commission a study on a particular parcel of land, that study could be requested under the act, compromising any plans for that land. The provision of this information could provide prospective proponents with information about the port authority's preferential use for that parcel, which could impact lease negotiations and consequently commercial return on the land.

5.2 Recommendations

5.2.1 Enhance port authority board appointment process.

Port Metro Vancouver has found having a representative of western provinces on its board has been beneficial and could even be enhanced by representation from elsewhere in Canada. We encourage broadening of the geographic composition of the board of Port Metro Vancouver to ensure multi-provincial, and perhaps even national, perspectives are appropriately brought to board discussion.

We are also supportive of consistent and timely turnaround of nominating committee recommendations.

Lastly, we ask consideration be given to increasing board involvement in the board member appointment process to help ensure an appropriate mix of skills. This could be achieved by allowing one at-large member appointment to be made by the board, though the overall size of the board should not be increased.

5.2.2 Develop a more effective mechanism that coordinates multiple authorities for resolving community concerns.

A review of the criteria and mechanisms for federal intervention in critical projects may be required with the intent to ensure greater visible presence of authority in matters that impact a port authority's reputation or ability to deliver its mandate, but that are beyond the jurisdiction of port authorities to address. This ability to enforce may be granted to port authorities or, where it already exists within other federal agencies, could be made more visible.

Greater collaboration among federal regulators could provide an effective mechanism for addressing community conflicts well before they have the opportunity to gain public momentum.

5.2.3 Give port authorities the ability to issue administrative monetary penalties to modify behaviour.

Without regulations that address administrative monetary penalties, port authorities have statutory power without any ability to enforce. The ability to impose administrative monetary penalties aimed at behavior modification would be beneficial.

This includes providing the operational ability to ensure the enforcement of Sections 7 and other applicable sections of the *Canada Marine Act*, to port authority officials or law enforcement agencies that may be called upon to assist.

Another improvement would be the development of a framework for the limited legal sharing of law enforcement information to proactively ensure the safety and security of the port.

Lastly, through the use of the *Contraventions Act*, port authorities could be given the ability to change behavior through the issuance of written warnings and monetary tickets. The ability to issue warnings and tickets should be extended to encompass related legislation such as the *Canada Shipping Act* and Small Vessel Regulations.

5.2.4 Make other technical enhancements to the *Canada Marine Act* to enhance the jurisdictional scope of Port Metro Vancouver and potentially other port authorities.

To avoid delays to port-related federal projects beyond the geographic footprint of the port, provide an express indication within the *Canada Marine Act* that a port authority's scope relates to "operating the port", without specifying the definition of port as within geographic jurisdictional boundaries.

Further, to allow port authorities to effectively and practically control port access for commercial purposes, ensure port authorities have wide discretion respecting the terms of such authorizations. This could be aided by the ability to use the *Contraventions Act* to provide port enforcement officers ticket-writing ability.

To improve the ability to share sensitive law enforcement information, Port Metro Vancouver suggests defined and limited peace officer status be enabled. This is potentially achievable through the RCMP, which can designate special constables with limitations. Port authorities also require clear authority to ensure the safety and security of the port through clear and prescriptive regulations and frameworks.

5.2.5 Amend related legislation to remove port authorities from being subject to access-to-information requests

Port authorities are commercial entities and, like airports, could serve the public better by not being subject to access-to-information requests. Port Metro Vancouver fully supports transparency wherever possible and supports any amendment to the *Canada Marine Act* that holds port authorities accountable for a reasonable level of transparency. However, to protect proprietary and competitive information, we recommend port authorities be removed from other legislation that specifies their subjectivity to the *Access to Information Act*.

6. Communities and sustainability

This section is relating to the coordination of regional municipalities and port communities regarding traffic, land use, permitting, infrastructure planning, safety and sustainability and long-term strategic planning.

The recommendation discussed in this section is:

- Consider opportunity to define nationally significant corridors and establish funding or designated benefits for adjoining communities through programs such as the New Building Canada Plan and/or by re-allocating federal stipend payments back to port authorities to fund local community projects.

6.1 Discussion

Communities hosting nationally significant trade infrastructure are subject to the impacts of that infrastructure. There is often conflict between gateway operational requirements and community concerns, and that conflict is increasing in certain areas. Residents are witnessing what they view as dramatic and mostly negative changes to the livability of their immediate area, which is increasing opposition to large-scale projects.

Port Metro Vancouver and regional municipalities often have conflicting interests for the use of port lands and the development of transportation infrastructure. Recent years have seen a marked increase in municipal government opposition to federal projects, particularly as such opposition has had the result of aligning city councils with activists on issues such as climate change.

Port Metro Vancouver has a robust history and practice of community consultation, often going substantially above and beyond legislated and regulated minimum requirements. For example, in developing our latest land use plan, we consulted with over 1,000 people over a two-and-a-half-year period, well beyond the single meeting required by the *Canada Marine Act*. Nonetheless, vocal opposition continues to grow as residents seek to minimize change in the region.

Research conducted by Port Metro Vancouver in recent years suggests there remains strong support for port activities. However, opposition to the port is increasing, especially in those communities most impacted by port-related projects, such as Delta, B.C. Faced with the prospect of more growth along the critical Roberts Bank Rail Corridor, residents and local governments alike are increasingly rejecting the idea that their community should be impacted for the sake of national interests. As one resident described it, Delta has become the “doormat” of Canada.

Community relations improvements are difficult to legislate and require proactive, multi-party engagement, something Port Metro Vancouver certainly embraces as it conducts about 500 engagement activities per year. Stakeholders frequently call for more communication and increased awareness of matters such as rail safety, but the question of who should do it and how it may be coordinated remains largely unanswered. At the same time, investors in the gateway need the comfort that local support has been earned before they can make commitments.

Certainly port authorities can speak with confidence to marine safety within the context of their own operations. However, regarding operations outside the jurisdiction of a port authority, it is challenging to provide a comprehensive picture of the integrity of the supply chain such as the safety of a commodity being shipped by rail. The result is what some stakeholders termed “economic detachment disorder”: the perception the public does not understand the impact of economic development and is willing to forgo its benefits by vigorously opposing with the intent to prevent operations in the community.

One possible legislative option is a provision for additional federal funding, or preferential treatment through such funding mechanisms as the New Building Canada Fund, for those communities that host nationally significant trade infrastructure and are forced to tolerate the negative impacts of that infrastructure. Similar to residential developments that must include green space, community hosts of port-related infrastructure could be granted a meaningful level of support in some form to offset the impacts of increased traffic, noise and other concerns on a community. This would require clarity on identification of our national trade corridors and what constitutes an adjoining, impacted community. Note, however, it is critical this funding not become a requirement of any particular proponent as this could significantly threaten the ability of that proponent to remain competitive.

6.2 Recommendation

6.2.1 Consider opportunity to define nationally significant corridors and establish funding or designated benefits for adjoining communities through programs such as the New Building Canada Plan and/or by re-allocating federal stipend payments back to port authorities to fund local community projects.

The National Policy Framework for Strategic Gateways and Trade Corridors has defined the Atlantic Gateway, the Continental Gateway and Trade Corridor, and the Asia-Pacific Gateway and Trade Corridor Initiative. Further work should be undertaken to define which specific supply chain communities make up these gateways and corridors. Once that work is completed, consideration should be given to grant preferred status to those communities through government’s existing infrastructure programs including the Small Communities Fund of the New Building Canada Fund. This will explicitly recognize the unique role of these communities in Canada’s economy, which can then lead to identification of the specific impacts and benefits realized as hosts of nationally significant trade corridors.

For example, the New Building Canada Fund identifies the National Infrastructure Component as a fund designated for gateway infrastructure of national significance. A portion of that fund could be set aside for those communities as defined through the National Policy Framework for Strategic Gateway and Trade Corridors. Furthermore, the funding criteria could be amended to increase available federal funding from the current practice of one third, to up to one half the cost of the project.

Another option is to specifically designate for community funding the stipend currently paid to the federal government by port authorities. At present, this stipend goes to federal general revenues. Providing port authorities the ability to manage and designate those monies as appropriate in the context of municipalities that host infrastructure could provide the benefits sought by this recommendation and provide significant local exposure for this federal support.

As a further recommendation to support these communities and provide an opportunity for increased engagement, it is recommended the *Canada Marine Act* permit port authorities to apply for federal funding for purposes beyond the current restriction of infrastructure, security and environment. For example, being able to apply for funding from Heritage Canada for support of important public events such as the upcoming 150th birthday celebrations would allow Port Metro Vancouver, through its subsidiary Canada Place, to give greater exposure to the federal government during highly visible and important local events and other opportunities.

7. Labour relations

This section is focused on the need for fair and sustainable labour relations across the Canadian transportation system.

The recommendation discussed in this section is:

- Facilitate a labour model that will ensure the supply chain remains fluid, reliable and globally competitive.

7.1 Discussion

The fluidity of the Asia-Pacific Gateway is critical to Canada's competitiveness as a trading nation. Shippers make continuous changes to their long-term plans based on their assessment of a port's stability, comparing Canadian options to those in the U.S. almost continually. Additionally, stability can have the effect of encouraging investment in favour of other port options.

Internationally, Canada's ports – especially those in British Columbia – have a reputation for difficult labour conditions. To compete and win in a global marketplace, Canada must be more reliable and efficient than its U.S. competitors. Notwithstanding the sensitivity that accompanies changes in labour policies and practices, Canada must take on this challenge to support the stability and growth of its economy, now and for the future.

Labour-related issues manifest to impact our reputation as a reliable gateway not only in the form of work stoppages due to the failure of collective bargaining or withdrawal of services by non-union workers, but also in the threat of disruption causing material changes in cargo flow and damage to reputation, as has been seen in the last 12 months on the U.S. west coast (see box).

Failure in collective bargaining and other work stoppages

It has been demonstrated repeatedly that failure in only one collective bargaining environment or a mass withdrawal of services by a non-unionized sector can disproportionately disrupt Canada's international trade and economy, causing significant negative impact to Canadian business and consumers as well as our reputation as a reliable gateway. Recently, a month-long withdrawal by most Port Metro Vancouver-licensed, non-union container truck drivers had a tremendous ripple effect, disrupting the supply chain to the extent of about \$885 million of cargo per week.

While larger volume shippers have the option, albeit at significant cost, to divert cargo through U.S. gateways, this is not a practical alternative for thousands of small businesses that depend on Canada's import and export trade. For example, the delay in the delivery of

Example: The reputation of Port Metro Vancouver as a stable port has greatly benefited from the negotiation of an eight-year labour contract between the BC Maritime Employers Association and the International Longshore Workers Association, to the credit of those organizations. By way of contrast, the recent and protracted threat of a labour disruption at U.S. west coast ports was enough to create far reaching disruption in the supply chain. Clearly, the economic benefit of labour stability is dramatic and significant.

a single container may jeopardize an entire season for a small Canadian retailer, as well as the livelihood of its employees and their families.

In 2010, Port Metro Vancouver submitted to the federal government our perspective for improved labour/management relations and we reiterate that perspective here.

Port Metro Vancouver submits that full and free collective bargaining does not exist for agreements that are necessarily subject to reactive government intervention in the event of a strike or lockout. Further, allowing full and free collective bargaining, without intervention by Parliament and including the ultimate step of a strike or lockout, would be detrimental to Canada's economy and reputation if it is applied to those collective agreements that could have an 'extreme' impact.

There are two possible solutions to this dilemma:

1. Implement policy that acknowledges the reality that government intervention to prevent disruption will continue to be required where the inability to achieve a collective agreement could lead to significant economic consequences for Canada. For example, arbitration with terms of reference is a model that has been successfully used elsewhere.
2. Restructure labour/management affairs so the failure of any one negotiation is not capable of shutting down a disproportionate amount of Canada's trade.

Inefficient work practices hurt competitiveness

There are instances throughout Port Metro Vancouver where work practices, often set in related labour contracts, set the port apart from other gateways due to the inefficiencies they create. This has the effect of hurting Canada's reputation for supply chain fluidity and adding costs to the supply chain. Shippers and ocean carriers go so far as to describe the labour supply as a monopoly (which they point out is illegal within the European Union) and which has resulted in progressive inflation in cargo handling costs while maintaining restrictive work place practices.

7.2 Recommendation

7.2.1 Facilitate a labour model that will ensure the supply chain remains fluid, reliable and globally competitive.

Port Metro Vancouver supports an Act of Parliament that has the effect of establishing an automatic trigger to a criteria-based mediation/arbitration dispute settlement mechanism for collective agreements where a strike or lockout would substantially disrupt an entire commodity, cargo or cruise sector in a gateway, based on the previous year's statistics provided by the relevant port authority.

In recognition of the importance of encouraging effective collective bargaining, and consistent with the majority of the current bargaining process, our view is mediation or arbitration should only be applied: (1) where the economic impact of a strike or lockout is extreme, i.e. can shut down or substantially disrupt the movement of an entire commodity, cargo or cruise sector, or more than 25 per cent of the west coast maritime trade volume, and (2) where the bargaining units concerned are exclusive to the port authority or gateway. Both conditions must be met.

The criteria for mediation or arbitration must recognize the economic importance of continued goods movement through the gateway, the financial viability of terminals and supply chain businesses, and the well-being of employees.

Port Metro Vancouver recognizes by eliminating the opportunity for a strike or lockout, mandatory criteria-based mediation or arbitration does not allow the collective bargaining process to utilize the traditional economic sanctions. This is seen as a justifiable limitation on both the employer and union in situations where their respective positions in the global maritime supply chain have a disproportionate impact on the Canadian economy.

Implementation of this recommendation will go a long way to inspire greater confidence in the reliability of Canada's gateways.

Port Metro Vancouver envisions the bargaining process would be initiated in the usual manner by the parties attempting, in good faith, to bargain and voluntarily reach a collective agreement. If the parties were not able to voluntarily conclude a renewal collective agreement, either party could request the assistance of the minister of labour by filing a notice of dispute pursuant to Section 71 of the Labour Code of Canada. The minister could then have the option to appoint a conciliation officer, a conciliation commissioner or a conciliation board. If the minister elected not to make such an appointment, or if such an appointment was made and did not result in a voluntary settlement of the collective bargaining dispute, the dispute would be submitted to mediation/arbitration, in lieu of the strike-lockout option, for final resolution.

8. U.S./Canada trade policy

This section is focused on the need to finalize the Beyond the Border agreement between the U.S. and Canada so as to speed the movement of goods and people travelling by sea.

The recommendation discussed in this section is:

- Complete *Beyond the Border* initiatives to improve the flow of trade and cruise traffic.

8.1 Discussion

In 2011, Canada and the U.S. agreed to support the *Beyond the Border* initiative, designed to speed the movement of goods and people between the two countries by expanding the pre-clearance program already in place at several Canadian airports.

On March 16, 2015, the pre-clearance agreement was announced, and is now subject to legislation. The intent is to create American customs facilities in Canada at highway checkpoints, bus depots, train stations and marine terminals. The result will be a reduction in congestion, which will benefit trade. According to the Ministry of Public Safety, about 400,000 people and \$2 billion of goods cross the border every day.

Port Metro Vancouver's cruise terminal will be a particular beneficiary of new legislation. About 800,000 passengers are processed through the terminal each year and congestion can be significant during peak periods. The Vancouver cruise industry stimulates more than \$2 million in economic activity for each vessel that calls at Canada Place. In 2015, there will be 227 cruise ships visiting the city, so clearly the economic benefit of the industry is substantial at about \$450 million per year.

According to the cruise industry, terminal efficiency is a key determinant of whether a cruise line chooses a particular city as a part of its itinerary. In Vancouver, the volume of cruise passengers and ship calls has been stable for several years and is even showing some signs of decline. It is critical that any and all appropriate measures are taken to improve the Port Metro Vancouver cruise terminal experience.

Another initiative of interest to Port Metro Vancouver is the Integrated Cargo Security Strategy to address risks through a harmonized approach to screening and clearing inbound cargo arriving from offshore. Notionally, the aim is to reduce the number of re-examinations of shipments that have already been assessed prior to crossing the Canada-U.S. border. This is known as the principle of "cleared once, accepted twice". To date, pilot testing has been completed but full implementation, which was expected in 2014, has yet to be realized. It is important implementation fully reflects the original stated intent of the strategy: cargo inspections are conducted in a coordinated way at the border of entry and, once cleared, can cross the Canada-U.S. border without any further inspection or other impediment.

8.2 Recommendation

8.2.1 Complete *Beyond the Border* initiatives to improve the flow of trade and cruise traffic.

Port Metro Vancouver calls on government to expedite the approval of pre-clearance legislation and implementation of the Integrated Cargo Security Strategy, and for the U.S. government to do the same.

Conclusion

In this submission, Port Metro Vancouver has focused on several areas to improve the efficiency, transparency, and stability of the supply chain.

Canada is a trading nation and its ability to trade is largely dictated by its ability to move goods in and out of the country through marine ports. Terminals, railways and other players in the supply chain are often operating at their current maximum capacity. Sometimes there is room to build more capacity, other times there is not.

It has become critical that the supply chain work more closely together to contribute to a nationally effective goods movement and operating framework. This begins with sharing high level, strategic information that will allow for capacity and infrastructure planning, as we have outlined in section 1. It continues with sharing of operational data that will allow for the creation of service level agreements designed to maximize efficiency, and it concludes with ensuring Canadian port authorities have what they need to operate effectively in an increasingly challenging marketplace.

The goal is to ensure all participants in the supply chain are using what we have to maximum utility and what must be built can be done expediently, strategically, sustainably, and with the support of local communities. Port Metro Vancouver is ready and willing to do all it can to contribute to such a scenario.

Port Metro Vancouver would like to again thank the Canada Transportation Act review panel and the secretariat for the opportunity to present our views.

Appendix A: Port rental practices

Port Metro Vancouver has spent considerable time developing its rental philosophy and practices; we are satisfied with them and offer no recommendations. We did want, however, to acknowledge concerns raised by stakeholders in the port during consultation.

Several terminal operators expressed a view that that Port Metro Vancouver's approach to setting rent favours revenue maximization over increased trade facilitation. Terminals agree port authorities should focus on acting as owner and landlord of terminal property, promoting the success of Canadian ports and planning for port industrial land use. However, some disagree as to how that land is valued.

The *Canada Marine Act* and letters patent establish the principles for charging rent on Port Metro Vancouver's property portfolio including the obligation to remain financially self-sufficient and the ability to charge market rent. Port Metro Vancouver's letters patent specifically require port authorities to charge full market rent on certain uses such as float homes, dry dock facilities, residential, and tourism-related activities. In contrast, fair market value need not be obtained for uses related to shipping, navigation, transportation of passengers and goods, handling and storage of goods, and municipal services and facilities, therefore affording Port Metro Vancouver discretion to determine the appropriate means of charging rent while remaining competitive in the global arena.

Port Metro Vancouver's real estate portfolio involves some 3,500 acres of land and 13,500 acres of water, excluding the navigational channel, over which almost 1,300 tenures are in place. Our management of federal lands is the main resource from which revenues are derived in order for us to maintain self-sufficiency, expand capacity and fulfill our mandate.

Port Metro Vancouver rental philosophy provides fair treatment

Port Metro Vancouver's general philosophy is the local real estate market should guide the amount of rent the port authority charges for the use of its lands. This serves as an objective, fair and equitable indicator of marketplace conditions, protects against competitive inequality between tenants, avoids subsidization of the private sector, and encourages more efficient use of limited land resources. The appropriateness of a market-based approach is evidenced by factors such as low rent receivables, low vacancy rates, good absorption of newly acquired lands, and continued private sector investment in new port facilities and infrastructure. While charging less than market rent may serve smaller port authorities trying to attract tenants, Port Metro Vancouver maintains that a fair, market-based approach is the most objective and workable solution for the region where multiple parties are chasing after limited industrial lands suitable for port operations. Notwithstanding, in certain cases Port Metro Vancouver may offer cost certainty through predetermined rent, concessions during construction of new port capacity, fixed/variable revenue arrangements and phased-in rental increases, as required.

The availability of industrial lands are vital to the economy and many of Port Metro Vancouver's growth strategies are predicated on a need to increase our industrial land base, including lands for supply chain-related uses. A challenge facing the industrial sector is pressure to use industrial lands for other uses with higher returns such as residential, office and retail. For businesses trying to create a competitive edge, re-zoning to higher and

better uses comes at the price of pushing out industrial users to locations that are less efficient and competitive. This also means Port Metro Vancouver must compete with speculative purchasers looking to re-zone industrial lands resulting in Port Metro Vancouver having to charge increased rent in order to ensure an appropriate return on investment. To offset these market pressures, Port Metro Vancouver advocates for the protection of industrial land to ensure that land with good proximity to transportation routes can be provided at affordable prices.

There are circumstances where we charge less than full market rent given our broader community, social, and sustainability goals. For instance, municipal and regional parks, potable water and sewer infrastructure are examples of uses that balance out industrial interests with the needs of local communities.

Further, Port Metro Vancouver categorizes the various types of tenures within our real estate portfolio recognizing that a "one size fits all" approach is neither possible nor appropriate given the complexity of this business.

We also point out that offering sub-market pricing to encourage investment implies lower potential revenue to the port authority, promotes inequality among key sectors and impacts the port's ability to grow and remain competitive.

Port Metro Vancouver is satisfied with its rental pricing philosophy and practices and therefore is not recommending any support for alternative approaches at this time.

Appendix B: Summary of stakeholder consultation

The following tables summarize the input received from key stakeholder groups during consultation.

Reciprocal availability of long-term planning data

Terminal Operator Perspective	Rail Company Perspective
<ul style="list-style-type: none"> ▪ Transparency can improve supply chain efficiency, but is not seen as a limiting factor compared to capacity constraints ▪ Data and information exchange must serve a purpose in supporting operations between shippers, transportation companies, and terminals ▪ There is concern regarding exchange of performance data with regulators without explicit purpose ▪ More effective and transparent permitting processes are needed 	<ul style="list-style-type: none"> ▪ Additional information provided by the shipper can support rail operations planning and improve overall supply chain efficiency ▪ Data exchange and information exchange requires trust ▪ To be effective, shippers must provide as much advanced notice as possible to coordinate rail operations ▪ There is concern regarding exchange of performance data with regulators, without explicit purpose
Shipper Perspective	Ocean Carrier Perspective
<ul style="list-style-type: none"> ▪ Additional information provided by the rail company can support shipper planning and improve overall supply chain efficiency ▪ Limited examples of shippers establishing transparent working relationships with rail companies ▪ Industry dynamics can create limits to transparency (e.g. long term production forecasting) ▪ Arbitrators should have access to more railway operations data 	<ul style="list-style-type: none"> ▪ Transparency can improve supply chain efficiency, but it is not seen as a limiting factor compared to capacity constraints ▪ Data and information exchange must serve a purpose in supporting operations between shippers, transportation companies, and terminals ▪ Under the transportation information provisions within the CTA, there is an opportunity to streamline cargo and conveyance reporting requirements

Operational data sharing

Terminal Operator Perspective	Rail Company Perspective
<ul style="list-style-type: none"> ▪ Some terminals have tried unsuccessfully to compensate railways for additional rail capacity ▪ Rail capacity is somewhat distributive; allocation of capacity for one industry may impact service levels for other industries ▪ Container terminal service levels have increased with expanded hours 	<ul style="list-style-type: none"> ▪ Railway capacity and performance is steadily increasing ▪ Railways have demonstrated ability to surge to (partially) meet demand volatility (e.g. 13-14 crop year) ▪ While some measures can be taken to increase short-term capacity, overall rail capacity allocation can often be distributive ▪ Data transparency should be shipment specific
Shipper Perspective	Ocean Carrier Perspective
<ul style="list-style-type: none"> ▪ Railways should not be able to contract out of the basic shipper protection provisions in the CTA ▪ Shipper protections (e.g. Section 113 to 116) requires more definition ▪ Shipper protection in the grain industry impacts other industries ▪ Final Offer Arbitration (FOA) is challenging for smaller shippers ▪ The Competitive Line Rate (CLR) provision is not working ▪ Data transparency is needed to understand existing rail service levels ▪ Shippers are frustrated compensating terminals for extended hours 	<ul style="list-style-type: none"> ▪ Shipper protections (e.g. Section 113 to 116) requires more definition ▪ Additional 'teeth' is requirement in managing terminal lease arrangements ▪ Service level agreements with shippers, railways, terminals and ports require mandatory performance transparency

Strategic infrastructure development

Terminal Operator Perspective	Rail Company Perspective
<ul style="list-style-type: none"> ▪ Rail infrastructure constraints (e.g. second narrows rail crossing) are a limiting factor for terminal operations and capacity ▪ Terminals support the work of the Gateway Transportation Collaboration Forum in planning for infrastructure development ▪ Even with approval of infrastructure projects, interim solutions are needed for the short and medium term ▪ More must be done to provide investors with confidence 	<ul style="list-style-type: none"> ▪ Most industries are not currently experiencing capacity constraints, however in the long-term infrastructure will be a limiting factor ▪ Rail companies support regional efforts (e.g. Gateway Transportation Collaboration Forum) to plan and execute major infrastructure projects ▪ Even with approval of infrastructure projects, interim solutions are needed for the short and medium term
Shipper Perspective	Ocean Carrier Perspective
<ul style="list-style-type: none"> ▪ Rail infrastructure investment should not be used a way to limit competitive choices ▪ Rail infrastructure constraints are a limited factor for meeting long-term trade demand ▪ Existing availability of rail capacity and utilization of assets is not clear ▪ More must be done to optimize use of existing infrastructure ▪ Some shippers would like running rights 	<ul style="list-style-type: none"> ▪ Rail infrastructure constraints are a limited factor for meeting long-term trade demand ▪ The 10 year, \$53 billion New Building Canada Plan is welcome, but falls well below investments made by major Asian trading partners ▪ Additional mechanisms providing certainty for investors in Canadian infrastructure development are essential

Industrial land supply

Terminal Operator Perspective	Rail Company Perspective
<ul style="list-style-type: none"> ▪ Port industrial land is limited and may impede capacity in the long run ▪ Utilization of on-dock facilities is not optimal given supply challenges; off-dock facilities may ease the burden on port facilities ▪ Municipalities and the port authority have different land use objectives ▪ Subsidizing port land acquisition may indirectly benefit competitors ▪ Terminals are transit facilities, not storage facilities 	<ul style="list-style-type: none"> ▪ Port industrial land is limited and may impede capacity in the long run ▪ Off-dock facilities create additional switching costs/complexity for rail companies; but may facilitate trucking ▪ There are often conflicting interests between rail utilization and terminal utilization ▪ Integration with municipalities is essential, and cities often have different objectives for industrial land use
Shipper Perspective	Ocean Carrier Perspective
<ul style="list-style-type: none"> ▪ Expected demand growth may output capacity within existing land ▪ Capacity expansion is required to maintain confidence global in Canadian exporters ▪ Industrial land should be allocated in manner reflecting market forces and the trade interests of Canadian shippers ▪ Terminals are transit facilities, not storage facilities; off-dock facilities may ease the burden on port facilities 	<ul style="list-style-type: none"> ▪ Port industrial land is limited and may impede capacity in the long run ▪ Off-dock facilities creates additional switching costs/complexity for rail companies; but may facilitate trucking ▪ There are often conflicting interests between rail utilization and terminal utilization ▪ Integration with municipalities is essential, and cities often have different objectives for industrial land use

Canada Marine Act and other legislation

Terminal Operator Perspective	Rail Company Perspective
<ul style="list-style-type: none"> ▪ <i>Canada Marine Act</i> provides clear governance compared to other models ▪ Port authorities should focus on acting as owner and landlord of terminal property; promoting the success of Canadian ports; and planning for port industrial land use ▪ Some terminals expressed that the current port model favors lease and rent maximization over increased trade facilitation 	<ul style="list-style-type: none"> ▪ The existing port model in Canada is working well, port authorities are not seen as a limiting factor ▪ Port Metro Vancouver is an important actor in support of infrastructure development and improved service levels, but is one of many actors ▪ Port authorities should focus on acting as owner and landlord of terminal property; promoting the success of Canadian ports; and planning for port industrial land use
Shipper Perspective	Ocean Carrier Perspective
<ul style="list-style-type: none"> ▪ Port authorities' role in promoting the success of Canadian ports is critical, as shippers have increasing transportation options ▪ Port Metro Vancouver's mandate should include, as a priority, the planning and management of capacity growth, acting in collaboration with regional partners ▪ Short sea shipping is under-explored, and would require Port Metro Vancouver coordination with partners 	<ul style="list-style-type: none"> ▪ Reliability, service, cost effectiveness and reputation are the keys to doing business; Port Metro Vancouver is one of many actors in achieve this objective ▪ Additional mechanisms providing certainty for investors are essential ▪ Overlapping authorities must improve coordination ▪ There is limited harmonization of border security requirements

Communities and sustainability

Terminal Operator Perspective	Rail Company Perspective
<ul style="list-style-type: none"> ▪ Port Metro Vancouver and regional municipalities often have conflicting interests for the use of port lands ▪ Proactive community relations may mitigate future problems (e.g. stakeholder consultations for coal shipment) ▪ More must be done to clarify and accelerate terminal permitting processes, while maintaining measures to ensure safety ▪ Canada is suffering “economic detachment disorder” 	<ul style="list-style-type: none"> ▪ Integration with municipalities in expanding infrastructure is essential (e.g. requirement for notice of new construction on rail facilities) ▪ Canadian confidence in rail transportation is low, more must be done to communicate safety measures ▪ Proactive community relations may mitigate future problems (e.g. municipal rail traffic)
Shipper Perspective	Ocean Carrier Perspective
<ul style="list-style-type: none"> ▪ Port Metro Vancouver and regional municipalities often have conflicting interests for the use of port lands ▪ Community relations improvements are difficult to legislate; requires proactive, multi-party engagement ▪ Some shippers have expressed the need to clarify and accelerate permitting processes, while maintaining measures to ensure safety ▪ Canada is suffering “economic detachment disorder” 	<ul style="list-style-type: none"> ▪ Public support for infrastructure expansion is necessary to provide investors with confidence ▪ Canada Border Services Agency has expanded bureaucracy on the marine industry with no identifiable improvement in security or safety ▪ There is limited harmonization of border security requirements with the United States, although recent efforts have been welcomed ▪ Multiple authorities must coordinate to ensure safety