

ACCOUNTABLE TO CANADA'S ECONOMY



TIME TO ADDRESS PORT GOVERNANCE



It's Time to Fix Port Governance

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We are collectively facing what will undoubtedly be one of the most trying periods of a generation. From the point of view of many in the private sector, normalizing business "Post Covid" will be priority #1.

Governments around the world are scrambling to come up with an Economic Recovery agenda. Speaking to colleagues from a range of sectors, the answer may be quite straight forward. The same issues, hurdles and challenges that industry faced before the pandemic now loom larger than ever. For Canada's grain sector, making sure our trade corridors are operating as efficiently as possible is critical.

Port terminal operations are our major gateways to large grain customers in Asia, the Middle East and South America. Canada requires an accountable and demand-driven port oversight system to meet its trade opportunities and unlock further investment in our industry.

Port Authorities are statutory monopolies with sole decision making power over aspects of strategic importance to Canada's marine gateways and the economies that they serve. Monopolies can in some instances give rise to decisions that simply would not otherwise be made if a competitive marketplace existed. Governments normally adopt checks and balances to ensure that these tendencies are avoided and that users of the port have adequate recourse to appeal questionable decisions.

During the 2016-17 review of Canada's transportation systems, the review panel highlighted the fact that marine port governance needed a major overhaul. Proper checks and balances on marine port authority decisions simply do not exist today. This stands in stark contrast to the rail and air service supply chains who have access to regulatory appeal tools through the Canadian Transportation Agency.

"[T]here's inadequate governance when it comes to making sure that there is a recourse to a regulator where there is abuse of monopoly power, [...] frankly I wouldn't give them any more access to money until you clean that up."

-The Honourable David Emerson, Chair, Canada Transportation Act Review at a 2017 Senate Standing Committee on Transportation Hearing

With more than 80% of Canada's grain or grain products being shipped to a foreign market, competitive grain port operations underpin our ability to succeed. We simply cannot afford to allow decisions that make us uncompetitive remain unchecked. Dramatic

How it works

Private companies lease land to operate a port terminal asset - where ships are loaded with commodities like grain - within a Port Authority's territory. By their nature, each of the Port Authorities are statutory monopolies. In other words, they are granted the sole power by the federal government to administer port services and oversee real estate related issues. They are, essentially, elaborate landlords for the tenants who conduct the business of the country. Unlike in a competitive marketplace, we don't have a choice but to locate our terminal investments in certain ports. The location of our large end use customers (e.g., Asia Pacific region) and the location of railway track and mountain passes are determining factors.

rent increases, unreasonable fees, challenges with infrastructure spending, and overlapping regulations among other issues should not happen in today's system.

That is not to say every port authority is problematic; some are working in the best interests of their user tenants. However, for those port authorities currently leveraging monopoly power with little regard for their tenants' views, adequate recourse will not only give them pause, but ultimately allow a 3rd party regulator to scrutinize questionable decisions.

"Complete the Ports Modernization Review with an aim to update governance structures that promote investment in Canadian ports."

-November 2019, Prime Minister Justin Trudeau's Mandate Letter to Transport Minister Marc Garneau

The good news is that the Prime Minister gave prominence to this issue in the Minister of Transportation's November 2019 Mandate Letter. We couldn't agree more and stand ready to help provide insight and context to the new Minister as he considers a path forward on this important matter.

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