

TO: CITY MANAGER

2002 October 15

FROM: DIRECTOR FINANCE

File: M10

SUBJECT: CANADA MARINE ACT REVIEW

PURPOSE: To provide the basis for input to the legislated review of the Canada Marine Act

RECOMMENDATION(S):

1. THAT this report be received for the consideration of Council
2. THAT a copy of this report be sent to the Canada Marine Act Review Secretariat, Transport Canada, Place de Ville, Tower 'C' (25th Floor), 330 Sparks Street, Ottawa, Ontario, K1A 0N5

BACKGROUND

The Canada Marine Act (CMA) received Royal Assent on 1998 June 11, by virtue of section 144 of the CMA the Minister of Transport is required to complete a review of the provisions and operation of the Act during its fifth year. The review must, therefore, be complete by June 2003 and written submissions are being accepted by the Review Panel up to 2002 November 01.

As further background staff have met with representatives of GVRD Planning, the marine industry, Vancouver Port Authority, Provincial and Federal government and other staff from port municipalities, as members of the Ports Competitiveness Review Committee, examining issues that impact on the ability of Canadian west coast ports to compete fairly with their U.S. counterparts.

This report is intended to provide the basis for Burnaby's submission to the Canada Marine Act review.

REPORT

The Vancouver Port Authority is a thriving, growing, competitive industry that provides a critical contribution to the economy of British Columbia and Canada. Its history of growth, investment and future prospects are worthy of the envy of any heavy industry. However, American west coast ports enjoy a significant competitive advantage over Canadian ports by virtue of their ability to finance Capital improvements, much more favourable agreements and fee arrangements with the port authorities, and the involvement of their senior levels of government in transportation infrastructure, regulations and direct investment. These competitive advantages have the potential, over time, to erode the industry's ability to fairly compete and could ultimately affect the viability of some Canadian industries.

The involvement of the Canadian Federal government and the legislation governing the port authorities (CMA) could do much to provide a more equitable “playing field” upon which port industries and the Port Authority could compete fairly with our American neighbours.

THE ISSUES

1. Annual Stipend

The CMA considers Port Authorities to be independent (although highly restricted) commercial entities. The theory imbedded in the CMA is that in lieu of dividend payments to “shareholders” an annual stipend based on gross revenues be paid to the federal government.

The annual stipend paid by the Vancouver Port Authority to the federal government is about \$4 million (4.7% of gross revenue -2000). The requirement to pay the stipend lowers available funding to finance port infrastructure, increases the competitive challenge and negatively impacts on the ability to lower rents and charges to port industries.

Recommendation:

The contribution of the ports to the Canadian economy should be considered adequate compensation to the federal government for their investment in port infrastructure and the requirement to pay an annual stipend to the federal government should therefore be eliminated.

2. Funding Capital Investment

Capital investments in U.S. ports are supported by federal tax exempt financing. This results in lower costs for infrastructure improvements that are, ultimately, paid for through operating revenues.

The Canadian government does not provide any special provisions, subsidies or government assisted mechanisms to lower financing costs. This coupled with the expectation that capital requirements be met mainly through operating surpluses without the ability to pledge assets for loan security, creates a significant competitive dis-advantage with U.S. ports and results in increased cost and charges to port industries, negatively impacting their ability to compete fairly.

Recommendation:

The CMA should be amended to allow port authorities access to federal funding through direct investment by the federal government, a broader range of capital grants specifically for port improvements and federally guaranteed loans to the port authorities.

3. Real Property

Currently the ability to buy and sell port related property is controlled by the federal government, the benefits from which are not enjoyed by the port authorities. This has the effect of requiring port authorities to hold property that is not useful for port operations. If the proceeds from the disposal of redundant port land remained with the port authorities the funds could be used to finance improvements or purchase property to decrease the gap in the competitive advantages of U.S. ports.

Recommendation:

Review the treatment of real property in relation to the port authorities and make amendments that promote the efficient use of land resources and provide incentives to buy and sell property that advance the financial well being of ports.

4. Payments in Lieu of Taxes

Payments in lieu of taxes have been paid on federal properties for the past fifty years. In 1999 the Municipal Grants Act was amended with the intent to improve fairness and equity in the payment of the grants; including the understanding that grants be paid on the same basis and rates as other tax payers.

In fact, the Vancouver Port Authority pays a fraction of the Payments in Lieu of Taxes that would be owing if paid on the same basis as all other taxpayers. The assessed values of the properties, based on B.C. Assessment's market valuation, are manipulated to lower the amounts of Payments in Lieu of Taxes with little or no justification or back-up and without adequate access to an independent dispute mechanism.

The Port Corporation and port industries maintain that the payments and property taxes have a significant impact on their competitiveness when, in fact, they are a relatively small component of the competitiveness issue, well behind the cost of labour, rent charged by the Port Authority, and the cost of financing (largely dictated by the CMA).

Recommendation:

Given that the major benefits of port operations and industry accrue to the province and Canada as a whole, and that it is becoming well accepted that municipalities in Canada, are under supported financially by their senior governments. The CMA should be amended to compel port authorities to pay Payments in Lieu of Taxes based on the same criteria as other local taxpayers.

The CMA or other federal act should also be amended to provide a more accessible, independent and binding dispute resolution process for the Payments in Lieu of Taxes by port authorities

This report is provided for the consideration of Council



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DIRECTOR FINANCE

