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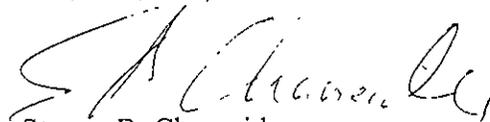
Karen V. Gregory, Secretary
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573-0001

Docket No. 11-19
U.S. Inland Containerized Cargo
Moving Through Canadian and Mexican Seaports

Madam Secretary:

Submitted herewith for filing are the comments of Canadian National Railway Company to the Commission's Notice of Inquiry in the above-captioned docket.

Very truly yours,



Steven B. Chameides

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FEDERAL MARITIME COMMISSION

DOCKET NO. 11 – 19

NOTICE OF INQUIRY

U.S. INLAND CONTAINERIZED CARGO MOVING THROUGH
CANADIAN AND MEXICAN SEAPORTS

COMMENTS OF CANADIAN NATIONAL RAILWAY COMPANY

Canadian National Railway Company and its operating railway subsidiaries (CN) submits these comments in response to the Federal Maritime Commission's Notice of Inquiry (Docket No. 11 – 19), *U.S. Inland Containerized Cargo Moving Through Canadian and Mexican Seaports* (76 Fed. Reg., 69271 - 72, Nov. 8, 2011). The Commission invited comments on several issues related to the choice of seaports for intermodal shipments of cargo bound for, or originating at, U.S. inland points. In particular, the Notice of Inquiry sought information regarding why Canadian ports might be favored by vessel-operating common carriers, ocean transportation intermediaries, and cargo owners as the transshipment point for cargoes destined for U.S. inland points.

As CN's comments demonstrate, there are a host of factors ocean carriers, distributors, and/or beneficial owners of cargo destined to inland U.S. points take into consideration when determining whether to transport traffic through a Canadian, rather than a U.S., gateway and, if a Canadian gateway is chosen, how then to route the inland move. By virtue of CN's close working relationships with its customers, including ocean carriers and those with cargo interests, and CN's continued efforts to promote cross-border traffic, CN has a unique perspective as to the interplay of those factors in the gateway selection process.

In particular, Canadian gateways have geographic advantages over U.S. ports that are manifested in shorter steaming times and faster turn-around for vessel common carriers. The coupling of favorable geography with highly efficient interchanges and rail links to U.S. inland points is, as detailed below, a key motivation for selection of a Canadian gateway.

In addition, CN considers relevant, and the comments below address, key aspects of the Canada/U.S. trading relationship and the importance of the smooth flow of legitimate cross-border commerce to the economies of both nations. The longstanding bilateral relationship both fosters, and is strengthened by, the interconnectivity that results from cross-border traffic. Moreover, inter-governmental cooperation and public/private initiatives have combined to create an effective and efficient security network for cargo arriving at U.S. inland points via Canadian seaports. Routing via a Canadian seaport thus in no way compromises vital security concerns important to all interests.

Background

CN is engaged in providing rail and related transportation services. CN's rail network comprises 20,500 route-miles and runs from the Atlantic to the Pacific Oceans across Canada and to the Gulf of Mexico in the United States. CN is the only railroad to offer rail connections to all three North American coasts. A map showing CN's North American rail network is attached as Exhibit 1.

As is evident from CN's route map, CN's rail network is particularly well aligned to serve cross-border traffic, particularly in the U.S. Midwest and other central U.S. regions. CN's revenue segments directly reflect the significance of cross-border trade: 28 percent of CN's 2010 revenues came from U.S./Canada trans-border traffic, 19 percent from U.S. domestic traffic, 22 percent from Canadian domestic traffic, and 31 percent from overseas traffic. Those

freight revenues were derived from seven commodity groups representing a diversified and balanced portfolio of goods transported between a wide range of origins and destinations.¹ CN's revenues in 2010 were about US\$8.1 billion, with a rail industry leading operating ratio of 63.6 percent for the year.

Once a Crown Corporation, CN was privatized in 1995 in the *CN Commercialization Act*. In the years since privatization, CN has become one of the most efficient Class I railroad systems in North America, creating value for its customers by providing quality and cost-effective service. As a publicly-traded company, CN also is focused on creating shareholder value by striving for sustainable financial performance through profitable growth, adequate free cash flow, and a solid return on investment.

While a Crown Corporation, CN's operations focused primarily on Canada. CN has since become a North American railway, through its acquisition of several railroads in the U.S. and Canada. These include the Illinois Central Railroad in 1999, which extended CN's network to the Gulf of Mexico; the Wisconsin Central Ltd. in 2001, which secured a missing link for CN's North American connections from Chicago to Duluth and westward to the West Coast of Canada; the Great Lakes Transportation companies in 2004, which permitted new efficiencies in train operations north of Duluth, MN/Superior, WI and improved traffic flows in CN's NAFTA corridor between Winnipeg and Chicago, as well as brought to CN several vessels that operate on the Great Lakes, transporting iron ore and other bulk commodities²; BC Rail in 2004, which

¹ CN's traffic portfolio is divided among Intermodal (19 percent in 2010), Grain and Fertilizers (17 percent), Petroleum and Chemicals (16 percent), Forest Products (14 percent), Metals and Minerals (10 percent), Coal (7 percent), Automotive (6 percent), and Other Revenues (11 percent).

² In compliance with the Jones Act, CN does not operate these vessels, but has entered into long-term time charters of the vessels from subsidiaries of Keystone Shipping Company, a U.S. citizen responsible for the operation and control of these vessels.

expanded CN's capacity in British Columbia; and the Elgin, Joliet and Eastern Railway Company (EJ&E) in 2009, which connected for the first time CN's five existing rail lines entering Chicago from all directions into one seamless system and, once fully integrated, will allow CN to move trains from the congested downtown Chicago area onto the EJ&E line circling the city. The expansion of CN's North American footprint has enabled it to provide seamless service to customers across all business segments.

CN has a network of intermodal terminals, from which CN offers dedicated high-cube double-stack service with on-dock access to the ports of Vancouver and Prince Rupert, British Columbia; Montreal, Quebec; Halifax, Nova Scotia; Saint John, New Brunswick; and New Orleans, Louisiana. CN also provides near-dock service to the port of Mobile, Alabama. To complement these terminals, CN has a comprehensive network of logistics parks located in or adjacent to its intermodal rail yards and closely integrated with those rail yards. CN customers have access to key distribution services in Chicago, Memphis, Toronto, and Montreal.

CN's operations center around its *Precision Railroading* model, under which CN runs regularly scheduled trains that leave at predetermined times. Each car and container has a specific trip plan that fits into the design of the train schedule. This focus on the box or carload, rather than on the train, has had a strong influence on the development and improvement of CN production processes that affect delivery, including network fluidity and speed, train productivity, and the use of yards and terminals. The *Precision Railroading* model enables better asset utilization, reduced inventory and capital requirements for customers, and has enhanced competitiveness for both CN and its customers. CN's *Precision Railroading* model has also allowed CN to deliver on its commitment of operational and service excellence. This permits

CN to meet ultimate customer requirements through a strong focus on the first and last miles, on end-to-end service, and on supply chain collaboration.

CN is pursuing a range of productivity initiatives, including the deployment of Distributed Power technology across its locomotive fleet and the development of a Fuel Management Excellence program to reduce fuel consumption. CN is making significant capital investments across its network³, including in the U.S. the reconstruction of Kirk Yard in Gary, Indiana and the consolidation of classification yards in Chicago.

Moreover, as part of CN's initiatives to improve service, a major effort to engage customers, ports, and other supply chain partners has led to a wide range of service and collaboration agreements. Such agreements are based on the development of key performance indicators that are shared and monitored on an ongoing basis across the supply chain and on the broadly recognized need for continuous improvement by all players.

CN is making specific efforts to improve service in the United States. For example, new rail connections are being built as part of CN's integration of the EJ&E to ensure reliable, seamless service across the central Chicago hub. Another example is CN's US\$3.4 million investment in a new intermodal terminal in Chippewa Falls, WI. This CN investment will enable importers to have a greater ability to receive direct service of import containers from both the East and West Coasts as well as offer exporters in this region access to container capacity generated from these new imports. Importers and exporters in the greater Minneapolis/St. Paul area will also benefit from this new facility, which is located 85 miles to the east.

³ CN invested US\$1.67 billion in 2011 to maintain a safe and fluid railway network, to grow the business efficiently, and to continue to provide customers with a high level of service. From 2006 – 2010, CN spent almost US\$7.9 billion on capital improvements.

In sum, CN has made and is making significant investments in Canada and the United States to strengthen its North American system, offering strongly competitive transportation alternatives in a highly competitive market. As a fully privatized company, CN's rates are neither subsidized nor set in any way other than in response to meet a competitive marketplace. CN seeks to price its services to reflect the many benefits associated with CN's global, end-to-end, high quality transportation network.⁴ The value provided by CN cross-border services, plus the inherent geographic efficiencies in using Canadian gateways discussed below, are the key factors motivating the choice of a Canadian seaport when routing cargo bound for or originating at U.S. inland points.

The Canada/U.S. Trading Relationship and Bilateral Gateway Choice

Canada and the United States are each other's most important allies and enjoy a strong economic partnership. Bilateral trade and investment exceeded \$1.1 trillion in 2010, and Canada is the largest export destination for 36 U.S. states.⁵ Moreover, U.S. trade with Canada supports more than eight million jobs in the U.S.⁶

The longstanding economic relationship between the U.S. and Canada was strengthened as a result of two important trade agreements: (1) the 1989 Canada – U.S. Free Trade Agreement (FTA), which eliminated tariffs and reduced many non-tariff barriers; and (2) the 1994 North

⁴ A December 2011 analysis by Barclay's Capital, *Rail Cost Benchmarking: The CP Opportunity*, noted that, in the past decade, CN remained the most profitable North American rail carrier. It found that CN's revenue performance was generally in line with the other railroads, and that CN's profitability is due to greater network, labor, and asset efficiency. (at page 7)

⁵ Fact Sheet: U.S.-Canada Beyond the Border and Regulatory Cooperation Council Initiatives, December 7, 2011. (www.whitehouse.gov)

⁶ Laura M Baughman and Joseph Francois, U.S.-Canada Trade and U.S. State-Level Production and Employment: 2008, p. 1.

(http://www.canada.international.gc.ca/washington/assets/pdfs/Jobs_Study_2008_FINAL-en.pdf.)

American Free Trade Agreement (NAFTA) between the United States, Canada, and Mexico, which created one of the world's largest free trade areas and has contributed to economic growth in the NAFTA countries.

Most recently, on December 7, 2011, President Obama and Prime Minister Harper announced the Beyond the Border Action Plan, which is aimed at further strengthening this bilateral relationship. The Action Plan provides the details of the new partnership between the United States and Canada built upon a perimeter approach to security and competitiveness. The Action Plan sets out joint priorities within four areas of cooperation: addressing threats early; trade facilitation, economic growth, and jobs; cross-border law enforcement; and critical infrastructure and cyber security.⁷

A core component of the U.S./Canada bilateral trading relationship is cross-border gateway traffic via *both* U.S. and Canadian ports. Although the Commission's inquiry focuses on U.S.-destined traffic entering North America via Canadian seaports the current reality is that the share of total *Canada-destined container imports* entering North America via *U.S. seaports* is much greater than the share of U.S.-destined cargo that enters North America via Canadian seaports.⁸ This pattern of bilateral cross-border traffic reflects the reality of commercially driven shipping decisions and gateway choices made routinely by shippers, carriers, importers and exporters.

This same pattern applies with respect to (1) export flows, and (2) movement of bulk and other non-containerized imports. CN's internal estimates show that:

- over three million tons of Canadian potash are exported to Asia through Oregon;

⁷ *United States – Canada Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness, Action Plan*, December 2011, p. 1.

⁸ See Official Comments of the Government of Canada, FMC Docket No. 11 – 19, December 22, 2011.

- over 750,000 tons of Canadian metal exports and imports (primarily steel products and aluminum) transit through the U.S.;
- over 500,000 tons of Canadian forest products (primarily wood pulp) are exported via U.S. East Coast ports; and
- over 500,000 tons of petroleum and chemical imports into Canada (primarily methanol) enter North America via U.S. ports.

Gateway choice for ocean carriers and their customers is instrumental to the success of the Canada/U.S. relationship, and to the success of the many businesses engaged in international trade and commerce.

Gateway and Transshipment Efficiencies at Canadian Seaports

CN transports import and export container traffic on behalf of ocean-carrier companies and by businesses that produce or distribute the cargo to be transported. Over the past two years, CN has established collaboration agreements with all major ports and intermodal terminal operators throughout Canada, driving new efficiencies in end-to-end supply chains. These agreements seek to minimize dwell times and increase velocity in and out of the ports. CN has developed mechanisms to measure and evaluate each stakeholder's performance against established transit times, dwell times, and other benchmarks, and the agreements establish clear and defined performance standards for CN and terminal operator partners.

Specifically, CN has reached the following agreements with West Coast ports in Canada.

- *Port Metro Vancouver (PMV)* – CN has supply-chain collaboration agreements with PMV and with TSI Terminal Systems Inc. (TSI), the largest container terminal operator in Canada. These agreements, signed in July 2010, are designed to release containers more quickly and enhance service to mutual customers. CN and DP World, operator of

the Centerm Terminal in Vancouver, also signed a comprehensive agreement in September 2010 to further boost supply-chain speed.

- *Port of Prince Rupert* – CN, the Prince Rupert Port Authority, and Maher Terminals signed an agreement in September 2010, setting specific targets and measures for continuous improvement in gateway performance.

These agreements with Canadian West Coast ports, combined with CN's 100-hour train service from the West Coast to Chicago, make CN's service offerings to the U.S. Midwest competitive with that from the U.S. West Coast ports.

Similarly, CN has reached the following agreements with East Coast ports in Canada.

- *Port of Montreal* – CN has collaborated with the Montreal Port Authority and the two companies that operate the port's three container terminals – Montreal Gateway Terminals Partnership and Termont Montreal – to create service agreements signed in February 2011 that establish key performance indicators to improve the fluidity of the gateway.
- *Port of Quebec* – CN, the Quebec Port Authority, and International-Matex Tank Terminals entered into a service arrangement in August 2010 that has reduced transit times for shipments destined to Toronto. The port and terminal operator have agreed to more consistent release times for shipments and CN has adjusted schedules to expedite the movement of traffic over its network between Quebec City and Toronto.
- *Port of Halifax* – CN and the Halifax Port Authority, Cerescorp Company Limited and Halterm Container Terminal Limited implemented an agreement in April 2010 to better measure and align each party's performance in the Halifax Gateway supply chain. This

agreement serves to augment the Halifax port's role as a gateway of choice on the East Coast to Ontario, Quebec, and potentially the U.S. Midwest markets.

These agreements with all major ports and terminal operators in Canada are creating faster and more reliable supply chains. They are generating positive responses from international shipping lines and their customers. They allow CN and its supply-chain partners to offer competitive alternatives from which to choose

CN has also worked with customers to maximize source loading of ocean carrier boxes. CN helps ocean carriers by reducing the inland empty movement for their assets. For ocean carriers, export opportunities alleviate the cost of shipping empty containers back to Asia and improve round-trip economics. For CN, maximizing source loading serves to release capacity for certain types of railcars and increase CN's business overall. Specifically, via CN's Domestic Repositioning Program (DRP), CN works with ocean carriers and shippers to encourage the use of overseas containers for backhaul moves of domestic or export traffic. The more effective use of these one-way boxes in the DRP program provides low-cost capacity to domestic and export shippers and reduces inland costs for ocean carriers. Through the DRP program, CN has increased its role in international import boxes, as it helps to improve ocean carriers' round-trip economics.

Other Geographic and Economic Advantages of Canadian Seaports

Canadian seaports have other advantages that make them attractive options for ocean carriers and CN's customers. To illustrate this point, greater detail on the Ports of Vancouver, Prince Rupert, Halifax, and Montreal is provided below.

Port of Vancouver. Port Metro Vancouver is Canada's largest and busiest port and is the fourth largest tonnage port in North America. The port has 28 major marine cargo terminals and

three Class I railroads (CN, CP, and BNSF Railway) provide service. Besides being the most diversified port in North America, its deep-sea terminals that offer virtually no draft restrictions make it particularly attractive to ocean carriers.

Service through Port Metro Vancouver via CN yields the following intermodal transit times to major North American cities:

- Toronto – 106 hours
- Montreal – 119 hours
- Detroit – 123 hours
- Chicago – 101 hours
- Memphis – 131 hours

Port of Prince Rupert. The Port of Prince Rupert is the closest port to Asia by up to 58 hours of sailing time compared to any other North American West Coast port. This translates into the ability for ocean carriers to add approximately one round-trip voyage per year per ship, boosting their utilization of costly fixed assets with no increase in crew costs. Prince Rupert also provides the deepest harbor in North America, is an ice-free harbor with no congestion, and is one of the safest West Coast port in terms of navigational risk factors. In addition to the high-capacity Port of Prince Rupert Container Terminal, which commenced operations in October 2007, there are two modern bulk handling terminals at the Port – Ridley Terminals and Rupert Grain – for handling grain, coal, sulphur, and iron ore.

Service through the Port of Prince Rupert on CN yields the following intermodal transit times to major North American cities:

- Chicago – 100 hours
- Memphis – 137 hours

- Detroit – 129 hours
- Montreal – 130 hours
- Toronto – 115 hours

These rail transit times, combined with shortened sailing time, yield a total transportation timetable for U.S. inland cargoes that compares favorably to routings through U.S. seaport gateways.

Port of Halifax. Similar to Prince Rupert, by virtue of geography the Port of Halifax is 1,500 nautical miles closer to India via the Suez Canal than any other North American West Coast port, and one full ocean sailing day closer to Southeast Asia than any other North American East Coast container port. Halifax also is the geographically closest major North American port to Europe, in close proximity to the Great Circle route, one full sailing day faster to Europe than other North American East Coast container ports. In addition, Halifax has sufficient capacity that ocean vessels do not experience berthing delays.

The Port of Halifax and CN rail give customers highly efficient ship-to-rail connection between ports in India, Southeast Asia, Europe, the Caribbean, and key North American consumer markets. CN's congestion-free main line enables CN to assure customers of the fastest, most efficient, competitively-priced on-time service possible, and cargo entering the Port of Halifax connects directly to CN's main line at the dock.

Service through the Port of Halifax onto CN yields the following intermodal transit times to major North American cities:

- Montreal – 33 hours
- Toronto – 46 hours
- Detroit – 89 hours

- Chicago – 74 hours
- Memphis – 94 hours

Port of Montreal. The Port of Montreal is located on the St. Lawrence River nearly 995 miles inland from the Atlantic Ocean and offers the shortest land route between major European and Mediterranean ports and major markets in Central Canada, the U.S. Midwest, and the U.S. Northeast. It is geographically the closest North American East Coast port to Chicago. Montreal thus is one of the busiest inland ports in the world and has become a key transfer point for trans-Atlantic cargo.

The Montreal Port Authority operates its own rail network at the port, with more than 60 miles of track serving nearly every berth. The port's railway network is linked directly to the yards of both CN and Canadian Pacific Railway, both of which have dockside rail access eliminating the need for intermediate transshipment. The port's facilities are also located close to a network of highways leading to major cities throughout North America.

Service through the Port of Montreal on CN yields the following intermodal transit times to major North American cities:

- Toronto – 19 hours
- Vancouver – 106 hours
- Detroit – 30 hours
- Chicago – 39 hours
- Memphis – 60 hours

It is also important to note that Canadian seaports are autonomous operating entities, operating at arm's length from the Canadian federal government. The major Canadian ports, known as Canada Port Authorities (CPAs), by law are required to be financially self-sufficient.

as they do not receive funding from the federal government to cover operating costs – including dredging expenses – or deficits.⁹ CPAs also remit a gross revenue charge to the federal government each year and make annual payments to their local municipalities.

The Government of Canada has been focused on enhancing its competitiveness in the global trading arena. A major example is Canada's Asia-Pacific Gateway and Corridor Initiative, which is an integrated set of investment and policy measures with several aims, including reducing congestion and improving the flow of traffic and enhancing the efficiency and safety of the transportation system.

Contrary to assertions by some that the Canadian government's port investment policies are unfair, the funding provided by Canada's Asia-Pacific Gateway Corridor Initiative and other initiatives for strategic infrastructure projects (*i.e.*, principal road and rail connections to ports, key border crossings, and at major Canadian seaports) is actually quite similar to funding provided by the U.S. government to U.S. ports and to improve roads and rail lines that connect with the ports. For example, such funding has been made through the American Recovery and Reinvestment Act and Transportation Investment Generating Economic Recovery (TIGER) grants. Prior to that, the U.S. government provided major financial support to various freight rail corridor programs that dramatically enhanced the competitive position of U.S. Midwestern inland ports, a key example of which was the program to permit double-stack configured intermodal rail traffic from the U.S. Midwest to be routed through the Appalachians to Norfolk, Virginia.

⁹ CPAs were established in the *Canada Marine Act*, S.C., 1998, c. 10. Since 2008, CPAs have been eligible to receive federal payments for the capital costs of infrastructure, environmental sustainability, and security.

Canadian Seaport and Canada/U.S. Border Security

The use of Canadian ports as gateways to North America has also been enhanced by close cooperation between the United States and Canada on border security issues. Safety and security are, of course, cornerstones of CN's operations. With a significant portion of CN's revenues generated by bilateral cross-border traffic, ensuring the smooth, yet secure, flow of commerce between Canada and the United States is critical to CN and its success in meeting customers' needs for timely and efficient delivery.

To those ends, CN has a longstanding working relationship with U.S. and Canadian Customs authorities on efforts to enhance cross-border security. Those efforts have increased substantially in the years since September 2001, with the governments of the United States and Canada actively engaged on a broad range of border security initiatives, embodied in the Smart Border Declaration and in subsequent programs. CN has been an active partner in U.S. and Canadian initiatives intended to enhance security, while ensuring the smooth flow of cross-border cargo.

Canada's seaports have likewise been active participants in U.S./Canada security initiatives.¹⁰ U.S.-destined containers arriving at Canadian ocean ports are subject to the requirements of the Container Security Initiative (CSI) of U.S. Customs and Border Protection (CBP) of foreign port of lading, risk assessment of advance cargo manifest data prior to vessel

¹⁰ The February 4, 2011 declaration by President Obama and Prime Minister Harper on *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness*, recognized the strong economic relationship between the United States and Canada as well as the two countries' goal of pursuing a perimeter approach to security in ways that support economic competitiveness, job creation, and prosperity. The Beyond the Border Action Plan, announced by President Obama and Prime Minister Harper on December 7, 2011, includes developing an Integrated Cargo Security Strategy (ICSS), built on previous agreements and existing programs, which will reduce duplication and move security activities away from the Canada/U.S. border. The ICSS is aimed at identifying and resolving security and contraband concerns as early as possible in the supply chain or at the North American perimeter.

loading, and 100 percent radiation scanning and inspection at Canadian ports of arrival. Additionally, containers arriving at the Port of Prince Rupert benefit from inherent security that is afforded by the local geography and topography. The Port of Prince Rupert's remote location in rugged landscape provides a natural defense to intrusion, thereby mitigating associated risk. The U.S.-destined containers transit through some of Canada's most remote geographic areas, facilitating en-route shipment integrity.

Details of relevant key elements to security at Canadian seaports and rail movements are provided below. This summary will help provide the Commission with an appreciation of the considerable level of effort necessary to meet rigorous U.S. and Canadian security requirements, and how CN, Canadian ports, and U.S. and Canadian government agencies have worked collectively to meet those requirements while simultaneously ensuring the smooth, efficient transit of cargo.

Rail Overview. Container traffic originating overseas is subject to a comparable level of security and scrutiny at Canadian ocean ports as at U.S. ocean ports. The containers that then transit Canada by rail to U.S. destinations are subsequently subject to an additional layer of security before those containers enter the United States. Through agreements between CBP and Customs agencies in other countries, including the Canada Border Services Agency (CBSA) in Canada, a multi-tiered security process has evolved which pushes security risks further away from U.S. borders.

Both of the Canadian Class I railroads (CN and CP) participate in CBP's Customs - Trade Partnership Against Terrorism (C-TPAT) program, and CBSA's comparable Partners in Protection (PIP) program. CN was the first Class I railroad in North America to receive C-TPAT accreditation, and CN has made continued investments to ensure that the security of its

operations meets the C-TPAT criteria. In the early fall of 2011, CN's scheduled C-TPAT/PIP recertification, which included joint site visits by CBP and CBSA, was conducted at Prince Rupert, BC. CN partners with the terminal operator in Prince Rupert, Maher Terminals, which is also C-TPAT and PIP certified. CN likewise partners with its other port partners in Canada and the United States on security matters.

Intermodal container trains operate in double stack configuration for maximum efficiency and security. Containers are assigned to specific locations on intermodal rail cars through an automated process between rail carriers and ocean terminal operators. All rail cars and locomotives in North America are equipped with Radio Frequency Identification (RFID) tags that are read by scanners at rail station locations across the North American rail network. This process provides real time shipment tracking information that is also available to the Customs agencies. Similar to the air mode, rail carriers employ Rail Traffic Controllers who electronically monitor and control train movement throughout their respective rail systems and the RFID tracking technology is key to ensuring a safe and secure operation.

Train Crews. Train crew members are certified for the rail corridors in which they operate and are trained to operate safely and securely, which includes inspecting their trains at all crew change points and at interim station locations. As part of the rail C-TPAT commitment, CN crew members will report any risk or security issues that they identify to CN Police who will then take the required action to address any anomaly with the shipment or train, including interaction with other law enforcement and government agencies.

CN Police. CN, like other Class I railroads in North America, has its own fully certified police force. In addition to covering all aspects of rail safety and security, CN Police is an important participant in rail border security. CN Police is actively engaged in the Integrated

Border Enforcement Team (IBET) program which is a multi faceted law enforcement initiative that is composed of CBP, U.S. Immigration and Customs Enforcement, the U.S. Coast Guard, and CBSA. The IBET program also involves CN working closely with local, state, provincial and federal law enforcement agencies on both sides of the border. Through the IBET program and through direct interaction with local CBP and CBSA port directors, CN Police is able to significantly assist in mitigating any rail border security issues that may arise.

Multi-Tiered Security and Inspection. The multi-tiered security that is inherent to the in-transit movement of international containers through Canada has components overseas, in Canada and the United States. CBP, through its CSI program, pre-screens marine containers at 58 foreign ports of origin prior to the containers being loaded onto vessels for U.S. destinations. Through collaborative efforts with the Canadian government, the CSI and the Joint Targeting Initiative (JTI) programs, CBP can further request CBSA to inspect U.S.-destined containers at the Canadian ocean port of arrival.

When container vessels are en route from foreign ports to Canadian ocean ports, CBSA will target containers for inspection based upon advance electronic manifest data. This includes containers that are destined to the U.S., given that the same security concerns exist in Canada as in the United States. CBSA has an advance automated manifest program, parallel to that of the U.S., whereby manifest data must be transmitted by the ocean carrier to CBSA 24 hours prior to loading the container onto the vessel overseas. For U.S.-destined containers, CBSA shares all manifest data with CBP for pre-arrival review.

Marine containers arriving at Canadian ocean ports are subject to 100 percent radiation screening. Any anomalies detected in the radiation screening process are immediately addressed by CBSA, including for containers destined to the U.S. In addition, CBP will perform non-

intrusive inspections using mobile Vehicle and Cargo Inspection System (VACIS) type apparatus at levels consistent with CBP operations at U.S. ocean ports. Physical inspection of containerized cargo is also carried out at levels consistent with CBP ocean port operations.

Prior to trains arriving at the U.S. border, rail carriers must transmit electronic manifest data for each shipment aboard the train in time frames consistent with the U.S. Trade Act of 2002. The rail manifest data, which are derived from bill of lading data the rail carrier receives from its ocean carrier partner, are compared against the shared CBSA manifest data. Further, 100 percent of all rail shipments crossing the border into the U.S. on CN and Canadian Pacific Railway trains are VACIS scanned.¹¹ In fact, rail is the only mode subject to 100 percent VACIS screening. The advance manifest data received by CBP are compared to the VACIS images of each container that crosses the border into the U.S. and any resulting discrepancies or anomalies are addressed at the border.¹²

Border Infrastructure. CN has invested heavily in partnering with CBP on border security initiatives, including the development of significant border infrastructure to support the CBP container inspection process. The infrastructure, which includes inspection buildings, dedicated inspection tracks, and intermodal equipment, allows for fast, efficient, and safe access to containerized cargo by CBP officers. At the Ranier, MN port of arrival, for example, through which CN handles its highest volume of trans-border intermodal container movements, CN has

¹¹ CN crosses the U.S./Canada border at seven crossing locations, with a total of roughly 45 trains per day operating northbound and southbound across the border. The largest operation is at its Port Huron, MI/Sarnia, ON crossing, at which CN operates nine trains per day in each direction, with CN's crossing at Ranier, MN its second largest operation, with eight trains crossing the border daily in each direction.

¹² CN also complies with the requirements of the Bioterrorism Preparedness and Response Act of 2002, which requires advance notification to the Food and Drug Administration of food that is imported or offered for import into the United States. CN also is subject to U.S. Department of Agriculture agricultural inspections of cargo imported into the United States.

recently invested over \$6 million to develop and implement a new container lift operation. This new operation facilitates CBP inspections and greatly reduces container dwell time while improving overall border gateway throughput. Containers targeted by CBP for inspection are removed from intermodal trains without disrupting train operation. This is the only rail intermodal customs inspection process of its kind in North America. In addition, CN has personnel at its border crossing locations on a 24/7 basis to assist CBP in the inspection process.

Conclusions

As detailed in the foregoing comments, cross-border gateway traffic is of vital importance to businesses in both Canada and the U.S., and cargo movements in both directions are a longstanding and prevalent reality. Furthermore, the transportation market for international container traffic is highly competitive, and the variables underlying the choices to move that traffic through a U.S., Canadian, or Mexican gateway are numerous, complex, and constantly changing.¹³

CN's experience with ocean carriers and cargo interests consistently shows that high-quality, competitive, and the often single-line service CN provides to U.S. destinations, combined with the risk mitigation (with respect to factors such as weather, labor disputes, or other port service disruptions) that utilizing multiple gateways offers, far outweigh the impact, if any, of the U.S. Harbor Maintenance Tax in the gateway selection process. The choice of Canadian gateways for U.S. inland cargo, as with the choice of U.S. gateways for Canadian

¹³ A recent example of the continuous exploration to improve international intermodal service is the current effort to create the Great Lakes Global Freight Gateway in Detroit, MI as a major inland port by establishing a rail link with the Port of Halifax. Halifax and the Port of Newport News, VA are the only two East Coast ports with water sufficiently deep to handle the "Ultra Post-Panamax" container vessels that will commence service in 2014. (*Bridge Magazine*, December 15, 2011.)

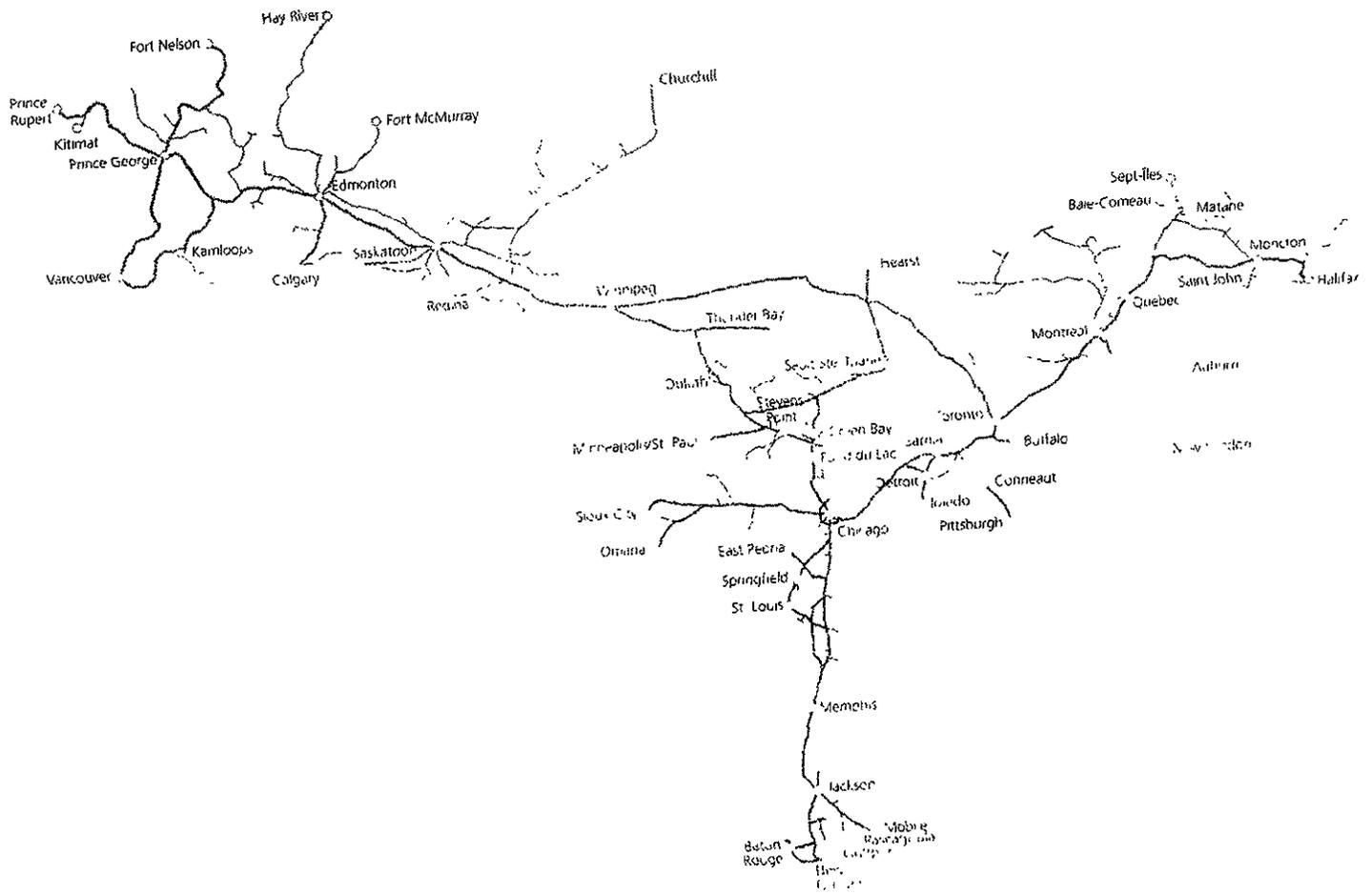
inland cargo, are the natural results of sound business decisions by the entities involved in the global marketplace.

Respectfully submitted,

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CN system map



- CN lines
- Secondary feeder and connecting short lines
- Short line partners

