

Canadian Pacific Response to the Federal Maritime Commission

Docket NO. 11-19

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

December 22, 2011

CANADIAN PACIFIC
DRIVING THE DIGITAL RAILWAY »

EXECUTIVE SUMMARY

U.S. and Canadian Economy:

- The U.S. and Canadian economies are highly integrated and are each other's largest trading partner. In 2010 the value of total trade between Canada and the U.S. was \$502.5 billion (CDN).

North American Transportation System:

- Highly integrated, competitive, market based system, that offers world class services to North American shippers.

Canadian Pacific (CP):

- CP employs more than 16,000 people, including more than 4,000 in the U.S.
- In 2010, earned \$4.9 billion in revenue, and moved 126 billion Revenue Ton Miles (RTM).
- CP is a private enterprise that operates on privately owned infrastructure both in Canada and the U.S.
- CP's activities, including the movement of freight and infrastructure and rolling stock investments, are funded through its own operations.

Canadian Ports:

- Canadian Port Authorities (CPAs) are managed by independent boards of directors and pay the Government of Canada an annual stipend based on port gross revenues. Any profits earned are retained by the Port Authority and may be reinvested where commercially prudent to support the growth and expansion of the Port.
- Between 2006-2009, Canadian ports have received \$115 million to improve port security.
- Port Authority tenants pay property taxes to municipalities and Port Authorities make payments-in-lieu of taxes to municipalities on lands that they occupy.
- Canadian ports also have added expenditures as federal agents which create costs for Port Authorities such as: access to information; dredging costs; environmental assessments; bilingualism and other federal requirements.
- Port related costs, such as dredging, are recovered through user fees applied to the port users.

U.S. Ports:

- The Army Corps of Engineers spend approximately \$800 million annually on dredging of ports and waterways. Funding is provided through the application of the Harbor Maintenance Tax (HMT).
- Since 2001, U.S. ports have received approximately \$1 billion from the U.S. federal government to improve port security.

- To date, U.S. ports have received more than \$277 million through the Federal Government-Transportation Investment Generating Economic Recovery (TIGER) programs.

Movement of Intermodal Containers:

- The movement of containers (import and export) is controlled by shippers. It is a highly competitive environment where transportation service providers, such as railways and port terminal operators are essentially price takers.
- U.S. ports handle 83% of the total TEUs through North America and have captured 74% of the North American growth in TEUs between 2000-2010.
- Canadian market share for import containers, twenty foot equivalent units (TEUs) into the U.S. is 2.5% (2010), down from 3.2% in 2000. U.S. market share for import containers into Canada is 6.1% (percentage of TEUs going through U.S. ports destined to Canada as a percentage of total TEUs entering Canada).
- Canadian market share for the export of containers from the U.S. is 2.7% down from 3.4% in 2000. U.S. market share for export containers from Canada is 10.8% (percentage of TEUs exported through U.S. ports from Canada as a percentage of total TEUs exported from Canada).
- In 2010, Canadian ports handled 748,877 laden TEUs that were U.S. origin or destined as compared to 353,850 laden TEUs handled by U.S. ports that were Canadian origin or destined. The difference, or the deficit, amounted to 395,027 in 2010. The deficit volume as percentage of total TEU volume handled at U.S. ports only amounts to 1.4%, down from 1.8% in 2000.

Harbor Maintenance Tax:

- The HMT, 0.125% of the cargo value, is applied to all imported cargo imported through U.S. ports and to the value of cargo moving between U.S. ports
- Approximately \$1.4 billion (USD) is generated annually through the HMT. HMT revenue is placed in the Harbor Maintenance Trust Fund which funds dredging activities undertaken by the Army Corps of Engineers.
- However the annual revenue generated through the HMT exceeds the funds allocated to dredging. The Harbor Maintenance Trust Fund has a surplus in excess of \$3.8 billion.
- Given the significant market share that U.S. ports have for the containerized freight originated from and destined to Canada, there is no evidence to suggest that the HMT is harming U.S. ports ability to compete with Canadian ports.

Key Points:

- Between 2000-2010, U.S. ports have increased their market share of laden TEUs originated from and destined to Canada.
- Between 2000-2010, Canadian ports have lost market share of laden TEUs originated from and destined to the U.S.

- Between 2000-2010, U.S. ports have captured 74% of the total growth of TEUs handled by North American ports.

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1.0 INTRODUCTION

Canadian Pacific (CP) would like to take this opportunity to respond the Federal Maritime Commission, Docket NO. 11-19, Notice of Inquiry, U.S. Inland Containerized Cargo Moving Through Canadian and Mexican Seaports.

1.1 ABOUT CANADIAN PACIFIC

For 130 years, CP has provided an important artery connecting Canada from east to west and into the United States. CP has always been a private enterprise, activities, including the movement of freight and infrastructure and rolling stock investments, are funded through its own operations.

A vital player in the North American economy, CP moves approximately 239 billion gross ton miles annually, the majority of which are bulk commodities such as coal, potash, grain, sulphur and intermodal containers. Specifically, the percentage of CP's 2010 commodity revenue was 43% bulk, 29% merchandise and 28% intermodal. In 2010, CP earned revenues of \$4.9 billion (CDN).

With its head office located in Calgary, Alberta, CP operations cover an expanse of 15,463 miles and passes through thousands of Canadian and U.S. communities. CP's U.S. operations are headquartered in Minneapolis, MN, and operates in 14 states. Approximately 16,000 employees, with over 4,000 located in the U.S., work to ensure that CP's operations continue to run smoothly and profitably, but most importantly, that those operations run safely.

Figure 1: Map of CP Network



The purpose of the submission is to provide an overview of the North American container transportation market and provide fact based responses to the questions contained in the Notice of Inquiry which accurately describes the competitive market for rail transportation services, including the services for the transportation of containers.

2.0 BACKGROUND

Table 1: North American Container (TEUs) Port Traffic, 2000-2010

	TEUs	2010	2000	TEU CAGR	AAGR GDP
	Total North America	50,782,956	34,654,136	3.90%	
	US East Coast	17,264,506	13,042,455	2.84%	
U.S.	US Gulf Coast	2,815,388	1,687,577	5.25%	
	US West Coast	22,203,507	15,658,231	3.55%	
	TOTAL US	42,283,401	30,388,263	3.36%	2.1%
	Mexico West Coast	2,475,818	477,045	17.90%	
Mexico	Mexico Gulf Coast	1,228,947	838,523	3.90%	
	TOTAL MEXICO	3,704,765	1,315,568	10.91%	2.5%
	Canada East Coast	1,937,115	1,720,285	1.19%	
Canada	Canada West Coast	2,857,675	1,230,020	8.80%	
	TOTAL CANADA	4,794,790	2,950,305	4.98%	2.4%

Source for U.S. and Mexican ports: Association of American Port Authorities

Source for Canadian Ports: Port Authorities

Source for GDP data: World Bank

CAGR: Compound Annual Growth Rate, 2000-2010

AAGR: Average Annual Growth Rate, 2000-2010

Table 1 provides an overview of the movement of containers, represented by TEUs (twenty foot equivalent units), through U.S., Canadian and Mexican ports, years 2000-2010. The following conclusions can be drawn from Table 1:

- Total North American TEUs increased by 16,128,820 between 2000-2010
- U.S. ports captured 11,895,138 or 74% of the TEU growth between 2000-2010; Canadian ports captured 1,844,485 or 11% of the TEU growth; and Mexican ports captured 2,389,197 or 15% of the TEU growth.
- Total container traffic at Mexican ports has grown at a compounded rate of 10.91% per year as compared to 4.98% for Canada and 3.36% for the U.S.;
- Mexican ports are the fastest growing.

There appears to be a relationship between economic performance, merchandise trade growth and the movement of containers through ports. Containers are used to facilitate merchandise trade (both imports and exports) between countries. Further, the level of merchandise trade directly impacts the level of GDP growth of a given economy. As seen in Table 1, both the Canadian and Mexican economy outperformed, in terms of GDP growth, the U.S. economy during the 2000-2010 time period. The Mexican economy expanded at an annual average growth rate (AAGR) of 2.5%, Canada's GDP AAGR was 2.4% and the U.S. GDP AAGR was 2.1%.

Table 2, shows that Canada and Mexico both experienced stronger compound annual growth rates (CAGR) in merchandise imports than the U.S. during the 2000-2010 time period. Mexico had an CAGR of 5.47% for merchandise imports and Canada had a CAGR for merchandise imports of 5.09%. The U.S. CAGR for merchandise imports was 4.59% over the time period.

Stronger growth in GDP and in merchandise imports for Canada and Mexico has resulted in stronger growth in containerized freight as compared to the U.S. The Canadian economy has better withstood the global economic recession, which has been reflected in growing container volumes.

Table 2: Merchandise Trade (\$ billion USD), Canada, U.S. & Mexico, 2000-2010

Canada	2010	2000	CAGR
Import	402	244.8	5.09%
Export	388	276.6	3.44%
Total Trade	790	521	4.25%
US	2010	2000	
Import	1969	1257.6	4.59%
Export	1278	781.1	5.05%
Total Trade	3247	2039	4.76%
Mexico	2010	2000	
Import	311	182.6	5.47%
Export	298	166.4	6.00%
Total Trade	609	349	5.73%

Source: World Trade Organization

CAGR: Compound Annual Growth Rate, 2000-2010

3.0 ANALYSIS OF LADEN TEU DATA FOR U.S. AND CANADIAN PORTS¹

The following section, Tables 3-7, provides an overview of the market share of Canadian and U.S. ports for the import and export of laden containers, expressed as twenty foot equivalent units (TEUs).

Table 3: Canadian Market Share of U.S. Total Imported Laden TEUs (through U.S. and Canadian Ports), 2000-2010

	Total Laden TEUs Imports-All U.S. Ports	Total Laden U.S. Import TEUs from Canadian Ports	Total Laden Imported TEUs U.S.-(through U.S. ports and Canadian Ports)	Canadian Market Share of U.S. Total Imported Laden TEUs (through U.S. and Canadian Ports)
2010	16,798,015	425,264	17,223,279	2.5%
2009	14,700,175	313,585	15,013,760	2.1%
2008	17,289,871	382,986	17,672,857	2.2%
2007	18,677,002	321,716	18,998,718	1.7%
2006	18,781,985	354,803	19,136,788	1.9%
2005	17,547,041	379,904	17,926,945	2.1%
2004	15,982,644	388,349	16,370,993	2.4%
2003	14,210,907	407,020	14,617,927	2.8%
2002	13,043,845	397,644	13,441,489	3.0%
2001	11,428,046	355,752	11,783,798	3.0%
2000	11,253,099	366,432	11,619,531	3.2%

Source: Transport Canada with permission from PIERS

Table 3 demonstrates the market share of Canadian ports for laden imported TEUs into the U.S. through Canadian and U.S. ports. In 2010, the total imported laden TEUs entering the U.S., through U.S. and Canadian ports, was 17,223,279. Of the total, 425,264 entered the U.S. via Canadian ports, which represents a 2.5% market share of the total laden TEUs entering the U.S. through U.S. and Canadian ports. The decline in total laden imports to the U.S. through the 2007-2009 was primarily due to the downturn in economy activity during that period. U.S. GDP declined -2.7% in 2009.

It should be noted that in year 2000, Canadian port market share was 3.2% and averaged 2.4% over the 2000-2010 time period. Canadian ports have clearly lost market share over the last decade for the movement of containers into the U.S. market.

¹ Data Collection Methodology is provided in Appendix A

Table 4: U.S. Market Share of Canadian Total Imported Laden TEUs (through Canadian and U.S. Ports), 2000-2010

	Total Import Laden TEUs- All CDN Ports	Total Laden TEUs Imports Destined to Canada-All US Ports	Total Imported Laden TEUs Canada (through U.S. ports and Canada)	U.S. Market Share of Canadian Total Imported Laden TEUs (through Canadian and U.S. Ports)
2010	2,103,970	137,372	2,241,342	6.1%
2009	1,766,188	128,825	1,895,013	6.8%
2008	2,062,599	149,580	2,212,179	6.8%
2007	2,003,477	150,086	2,153,563	7.0%
2006	1,958,128	145,064	2,103,192	6.9%
2005	1,838,769	214,494	2,053,263	10.4%
2004	1,705,930	174,509	1,880,439	9.3%
2003	1,564,951	137,256	1,702,207	8.1%
2002	1,432,457	149,392	1,581,849	9.4%
2001	1,183,392	136,222	1,319,614	10.3%
2000	1,116,731	141,132	1,307,863	10.8%

Source: Transport Canada with permission from PIERS

Table 4 outlines the market share of U.S. ports for laden imported TEUs into Canada through Canadian and U.S. ports. In 2010, the total imported laden TEUs entering Canada through U.S. and Canadian ports was 2,241,342. Of this total 137,372 laden TEUs entered Canada via U.S. ports, which represents a 6.1% market share of the total laden TEUs entering Canada through Canadian and U.S. ports. The average market share over the 2000-2010 time period was 8.4%. The U.S. ports have a greater relative market share than Canadian ports for the importation of laden TEUs destined to their neighbouring country.

Table 5: Canadian Market Share of U.S. Total Exported Laden TEUs (through U.S. ports and Canadian Ports), 2000-2010

	Total Laden TEUs Exports- All U.S. Ports	Total U.S. Exports of Laden TEUs through Canadian Ports	Total U.S. Laden Exported TEUs (through U.S. ports and Canadian Ports)	Canadian Market Share of U.S. Total Exported Laden TEUs (through U.S. and Canadian Ports)
2010	11,822,037	323,613	12,145,650	2.7%
2009	10,911,730	276,973	11,188,703	2.5%
2008	11,917,304	363,548	12,280,852	3.0%
2007	11,333,525	341,184	11,674,709	2.9%
2006	9,684,772	315,028	9,999,800	3.2%
2005	9,251,400	316,071	9,567,471	3.3%
2004	8,654,981	294,133	8,949,114	3.3%
2003	8,066,961	279,949	8,346,910	3.4%
2002	7,432,290	272,024	7,704,314	3.5%
2001	7,385,675	264,339	7,650,014	3.5%
2000	7,608,073	264,965	7,873,038	3.4%

Source: Transport Canada with permission from PIERS

As seen in Table 5, the Canadian Market share of U.S. exported laden TEUs through U.S. and Canadian Ports stood at 2.7% in 2010. This is a decrease from 3.4% in year 2000. The average market share over the 2000-2010 time period was 3.1%. Canadian ports have lost market share, relative to U.S. ports, for the export of U.S. laden TEU exports.

Table 6: U.S. Market Share of Canadian Total Exported Laden TEUs (through Canadian and U.S. Ports), 2000-2010

	Total Laden TEUs Exports- All Canadian Ports	Total Canadian of Laden TEUs through U.S. Ports	Total Canadian Laden Exported TEUs Canada (through Canadian Ports and U.S. ports and)	U.S. Market Share of Canadian Total Exported Laden TEUs (through Canadian and U.S. Ports)
2010	1,790,714	216,478	2,007,192	10.8%
2009	1,705,842	214,096	1,919,938	11.2%
2008	1,823,330	228,416	2,051,746	11.1%
2007	1,807,984	233,582	2,041,566	11.4%
2006	1,567,803	206,402	1,774,205	11.6%
2005	1,576,789	211,486	1,788,275	11.8%
2004	1,552,692	194,748	1,747,440	11.1%
2003	1,417,293	164,595	1,581,888	10.4%
2002	1,292,279	139,404	1,431,683	9.7%
2001	1,204,757	151,009	1,355,766	11.1%
2000	1,252,647	150,175	1,402,822	10.7%

Source: Transport Canada with permission from PIERS

U.S. ports maintain a significant market share of the total laden TEUs exported from Canada to global markets. In 2010, total laden TEUs exported from Canada totaled 2,007,192 and of this total 216,478 TEUs were exported through U.S. ports, which represents a 10.8% market share. The U.S. ports market share for Canadian exported laden TEUs has remained relatively stable, averaging 11%, between 2010-2000, the market share in year 2000 was 10.7%.

Table 7: U.S. Ports Laden TEU Deficit vis-à-vis Canadian Ports, 2000-2010

	Total US Originated & Destination Laden TEUs-All Canadian Ports	Total Laden Import & Export Canadian TEUs- All US ports	US Laden TEU Deficit (Canada and US)	Total Laden Import and Export TEUs-All U.S. Ports	U.S. Deficit as Percentage of Total Laden TEUs- All US Ports
2010	748,877	353,850	- 395,027	28,620,052	1.4%
2009	590,558	342,921	- 247,637	25,611,905	1.0%
2008	746,534	377,996	- 368,538	29,207,175	1.3%
2007	662,900	383,668	- 279,232	30,010,527	0.9%
2006	669,831	351,466	- 318,365	28,466,757	1.1%
2005	695,975	425,980	- 269,995	26,798,441	1.0%
2004	682,482	369,257	- 313,225	24,637,625	1.3%
2003	686,969	301,851	- 385,118	22,277,868	1.7%
2002	669,668	288,796	- 380,872	20,476,135	1.9%
2001	620,091	287,231	- 332,860	18,813,721	1.8%
2000	631,397	291,307	- 340,090	18,861,172	1.8%

Source: Transport Canada with permission from PIERS

The U.S. has a modest deficit vis-à-vis Canada for the movement of laden TEUs. In 2010, Canadian ports handled 748,877 laden TEUs that were U.S. origin or destined as compared to 353,850 laden TEUs handled by U.S. ports that were Canadian origin or destined. The difference, or the deficit, amounted to 395,027 in 2010. The deficit volume has remained relatively unchanged between the 2000-2010 period.

When considering the laden TEU deficit as a percentage of total laden containers handled at U.S. ports, it represents a very small percentage. In 2010 the U.S. laden TEU container deficit was 1.4% which is a decrease since year 2000 when the U.S. laden container deficit vis-à-vis Canada stood at 1.8% of total laden TEUs at U.S. ports.

Summary of Analysis:

The nature of the movements of containers through North American ports is evidence of the integrated nature of the North American economy. Canadian ports handle a small proportion of the overall North American containerized freight and containerized freight origin or destined to the U.S.

Overall, the North American transportation system is a well-functioning market based system that provides shippers with the choice of transportation service options that best serve their needs.

4.0 RESPONSE TO QUESTIONS CONTAINED IN THE NOTICE OF INQUIRY

1. Describe the differences, if any, in taxes, fees, laws, regulations, cargo handling, customs processes, related terminal/port procedure, infrastructure, or intermodal services between U.S. and Canadian or Mexican ports that may come into consideration when determining how to route cargo destined for U.S. inland points. Please be as specific as possible.

U.S. Port Taxes:

Table 8: Taxes/Fees Applied to U.S. Ports

Tax	Administering agency	Tax Rate	Fee maximum/minimum	Payer	Annual amount collected
Harbor Maintenance Tax (HMT)	Customs and Border Protection (CBP), Army Corps of Engineers	HMT- 0.125% of the value of imported cargo and cargo transported between U.S. ports	No minimum	Importers, domestic shippers and passenger vessel operators	Approximately \$1.4 billion (USD)
Merchandise Processing Fee	CBP	Formal entries 0.3464%* of declared value of cargo. Informal entries: generally \$2-\$9	Formal entries: minimum \$25, maximum \$485 per entry. Informal entries: none.	Importers	Approximately \$1.4 billion (USD)

Source: Association of American Port Authorities- Harbor Maintenance Tax
Customs and Border Protection (CBP)-Merchandise Processing Fee

*Note: The Merchandise Processing Fee increased from 0.21% to 0.3464% for formal entries effective October 1, 2011 through June 30, 2021.

The U.S. Harbor Maintenance Tax

The U.S. Harbor Maintenance Tax (HMT) was enacted by Congress in the Water Resources Development Act of 1986 (P.L. 99-662). The HMT is a tax on the value of cargo. In 1990, the tax was increased to 0.125 percent of the value of cargo. The tax is not paid by the vessel owner, nor the port, but rather, by the owner of the cargo. While the original tax applied to all imported and exported cargo transported by ship (with a few exceptions), in 1998 the Supreme Court struck down the taxation of export cargo as unconstitutional.

Thus, today, the Harbor Maintenance Tax is assessed on cargo transported between U.S. ports, and cargo imported to U.S. ports from other countries, but not on exports.

The purpose of the HMT is to generate revenue from port users for port maintenance conducted by the U.S. Army Corps of Engineers. Specifically, the Army Corps of Engineers maintains federal shipping channels by conducting periodic dredging. Such dredging is necessary to remove sand and silt that naturally accumulate in shipping channels. In fiscal year 2011, the Army Civil Works program includes \$4 billion in general funding, \$764 million from the HMT as well as \$120 million from other sources.

Harbor Maintenance Tax receipts are placed in the Harbor Maintenance Trust Fund, which serves as a source of revenue for the Army Corps of Engineers' dredging budget (see Table 8). However, there is no direct link between the inflow of tax revenue to the U.S. federal government and the outflow of dredging funds. Tax collections are determined by the volume of trade, which has grown over the last two decades. Expenditures are determined by the Congressional budget and appropriations process. With tax collections growing and budgetary pressures constraining spending, the Harbor Maintenance Trust Fund has accumulated an excess balance of more than \$3.8 billion (as of Fiscal Year 2007). Since 2003, HMT collections have significantly exceeded funds appropriated for harbor maintenance, resulting in a large and growing surplus in the trust fund. This may be inconsistent with users' expectations of the fee's purpose as laid out in statute and the principles of effective user fee design. Specifically, the authorizing legislation generally designates the use of HMT collections for harbor maintenance activities. Furthermore, according to stakeholders, this misalignment between fee collections and expenditures undermines the credibility of the HMT. According to CBP data and Treasury reports, in 2001 HMT collections exceeded expenditures by about \$44 million, and by 2007 that gap had grown to over \$506 million. It is noteworthy that another \$1.4 billion is charged under a merchandise processing fee.

There are several reasons why growth in collections has outpaced growth in expenditures. Total collections grew 101 percent from \$704 million to \$1.416 billion from 2001 to 2007. This is because receipts grow with both volume and value of shipments. Annual harbor maintenance project expenditures, which are subject to annual appropriation, grew more slowly—from \$660 million in 2001 to \$910 million in 2007 (38 percent). Traffic on the great lakes is exempted from the HMT.²

Merchandise Processing Fee

Formal and informal entries into the U.S. are subject to a Merchandise Processing Fee (MPF). 19 USC 1401 requires the importer of record to pay the fee to Customs and

² U.S. Government Accountability Office "Federal User Fees: Substantive Reviews Needed to Align Port-Related Fees with the Programs They Support", February 2008.

Border Protection (CBP) at the time of presenting the entry summary. Formal entries are required for imports of commercial goods valued at \$2,000 or more, with the exception of certain commercial imports valued at \$250.00 (i.e. textiles).

Effective October 1, 2011, the MPF for formal entries is an ad valorem fee of 0.3464%. The fee is based on the value of the merchandise being imported, not including duty, freight, and insurance charges. The maximum amount of the fee shall not exceed \$485 and shall not be less than \$25. For example, if .3464% of the amount of your merchandise is greater than the maximum amount of \$485, the importer is only required to pay the maximum amount of \$485.00.

For entries filed on or after October 1, 2011, until the CBP system changes take effect with the 0.3464% rate, CBP will bill the importer for the increase in MPF. CBP will disregard differences of less than \$20.

MPF for informal entries is assessed on goods that are transported to the U.S. via air, ship and international mail. MPF for informal entries is a set fee and ranges from \$5.00 to \$9.00 per shipment.³

MPF is charged on non-originating goods. Canadian goods exported with a NAFTA certificate are not subject to MPF.

U.S. Port Funding

Table 9: U.S. Port Funding

Purpose of Funding	Source of Funds	Funding Amount or Source
Dredging	US Army Corps of Engineers	Approximately \$800 million (USD)
Project Financing	Municipal Bond Issue	Varies
Property Tax Revenue	Municipalities	Varies
Direct Infrastructure Funding	Federal Government	American Recovery and Reinvestment Act 2009
Security	Federal Government	\$1 billion since 2001
Stimulus Funding	Federal Government- Transportation Investment Generating Economic Recovery (TIGER) programs for U.S. ports	-\$120.4 million (TIGER 1) -\$95 million (TIGER II) -\$62 million (Tiger III)

Source: Association of American Port Authorities

³ U.S. Customs and Border Protection, https://help.cbp.gov/app/answers/detail/a_id/334/~/_/user-fee---merchandise-processing-fees

Dredging

U.S. ports have their dredging paid for by the US Army Corps of Engineers through funds collected by the HMT, while Canadian ports have to pay for their dredging. CP does recognize that U.S. West Coast ports are generally deep water and therefore do not require the level of dredging of other ports.

Project Financing

U.S. ports can issue municipal bonds to secure capital for major port projects. For example, bond issues helped fund large projects like the Alameda corridor in LA/Long Beach. The Alameda Corridor project, at a cost of \$2.4 billion, is a dedicated trainway that follows a reconstructed Alameda Street (California 47 expressway). Over 200 at-grade railroad crossings were eliminated as a result. These improvements are designed to increase trade volume from 90 million tons to 190 million tons by 2020. Funding for the Alameda Corridor is varied. In 1997, the city councils and harbor commissions of Los Angeles and Long Beach approved spending \$4 billion over the next 25 years for port and transportation projects, including \$2 billion for the Alameda Corridor. The U.S. Transportation Dept. also approved a \$400-million loan that is contingent on Congressional appropriations and will come in three installments.

Property Tax Revenue

Some U.S. ports receive a significant portion of their annual operating funds from the local municipalities in which they operate, including special property tax levies. For example, the Port of Seattle receives \$75 million per year through a King County tax.

Direct Funding

The U.S. Government has funded large highway and rail projects under a number of federal Acts to facilitate the flow of freight to and from U.S. ports, most recently the America Recovery and Reinvestment Act 2009 with funds for America's Marine Highways.

Security Funding

U.S. ports continue to receive funding, through the Port Security Grant Program, for port security amounting to close to \$1 billion since 9/11.⁴

⁴ Source: Association of American Port Authorities

Stimulus Funding

The Stimulus Funding has designated ports as eligible for receiving grants for port projects. Under the Transportation Investment Generating Economic Recovery (TIGER) programs U.S ports received funding for seven port-related programs totaling \$120.4 million (TIGER I) and another \$95 million for an addition seven projects under TIGER II. On December 15, 2011, \$62 million of funding was announced to fund four port related infrastructure projects.⁵

Canadian Ports

Table 10: Canadian Port Taxes, 2010

Tax	Administering agency	Tax Rate	Fee maximum/minimum	Payer	Annual amount collected
Gross revenue charge	Government of Canada (general revenue)	Varies depending on level of gross revenue	none	Port Authority	\$13 million (CDN) in 2010
Payments in Lieu of Taxes	Government of Canada (general revenue)	Varies by municipal jurisdiction	none	Port Authority	Varies- approximately be \$16 million (CDN) in 2010

Source: Transport Canada, "2010 Transportation in Canada, Addendum", table M8, pg A108-Gross Revenue Charge

Source: Canada Port Authorities 2010 Annual Reports

The Canada Marine Act

The Canada Marine Act (CMA) (1998) implemented the federal government's National Marine Policy, which was announced in December 1995, and called for the modernization of the marine management and regulatory regime by introducing commercial principles and business discipline to achieve greater efficiency in the marine transportation sector. Therefore, since 1998 Ports have operated on their own stream of revenues generated by user fees.

It is very clear that Canadian ports are independent, commercially-viable and self-sufficient private enterprises separate that operate on Crown Lands. They have a mandate to engage in specific activities to facilitate and expand the movement of cargo and passengers. They are governed by an independent Board of Directors and have full control over all Port decisions. They undertake the planning, development, marketing

⁵ Association of American Port Authorities, <http://www.aapa-ports.org/Press/PRdetail.cfm?itemnumber=18331>

and management of the commercial port facilities within their footprint. They are also responsible for ensuring competitive, efficient and timely responses to customer needs and business opportunities in support of expanding international trade.

The Canada Port Authorities (CPAs) pay the Federal Government a stipend on gross revenues on an annual basis. Any profits earned are retained by the Authority and may be reinvested in the building of new infrastructure, terminals and capacities, where commercially prudent to support the growth and expansion of the Port. Annual levies to the federal government are based on gross revenues. For example, annual levies paid by the Port of Metro Vancouver (PVM) is approximately \$5.5 million.

Contributions are also made to municipalities for port lands at a rate close or equal to full property taxes (approximately \$7.2 million annually for both Rupert and Vancouver in 2010).

Canadian ports also have added expenditures as federal agents which create costs for Port Authorities such as: access to information; dredging costs; environmental assessments; bilingualism and other federal requirements. In addition, limits are placed on CPAs to engage in non-marine activities reducing the potential for the CPAs to generate additional cash flow to pay for other marine activities including facility development.

The Minister of Transport completed a review of the CMA in June 2003, as required by the Act. The purpose of the review was to examine the issues that have arisen related to the implementation of the CMA, with particular emphasis on the provisions of the Act.

Amendments to the Act were passed in 2008. The amendments included:

- Access to Contribution Funding - Canada Port Authorities are permitted to apply for contribution funding related to infrastructure, environmental sustainability and the implementation of security measures. This has been used very modestly since coming into law. (note: Port of Metro Vancouver received of \$21 million and the Port of Montreal received \$17 million in stimulus funding in 2009/10)
- Borrowing Limits - A tiered approach is being implemented that will permit larger CPAs - those with \$25 million in operating revenues for three consecutive years - to move to a commercially based borrowing regime. Certain CPAs will be subject to a code that governs borrowings (in their Letters Patent) rather than a fixed borrowing limit, as well as enhanced accountability requirements. Other changes included the ability to amalgamate and enforcement tools (administrative monetary penalties).

Gross Revenue Charge

Nineteen Canada Port Authorities (CPAs) were established between 1999 and 2000 at ports that were formally Harbour Commissions or Local Port Corporations. The legal framework governing the management and operation of the CPAs was set out in the Canada Marine Act (CMA), the Management Regulations and the Letters Patent. One of the conditions required the CPAs to pay an annual stipend to Transport Canada (TC) based on their reported gross revenue. The total Gross Revenue Charges (GRC), paid to the Department was \$13 million (CND) during the 2009-10 fiscal year⁶.

Payment in Lieu of Taxes (PILT)

The Government of Canada, through its federal departments and Crown corporations and agencies, owns a large inventory of property, including Canadian ports. Most federal properties benefit from the services provided by Canadian municipalities. The Government of Canada supports the principle that, as a property owner, even though it is exempt from taxation, it should share the cost of local government equitably with other property owners in the community.

The Payments in Lieu of Taxes Program is administered by Public Works and Government Services Canada. Every year more than \$460 million is distributed to approximately 1,300 taxing authorities where property owned by federal departments is situated⁷. Canadian ports made PILT payments, of approximately \$16 million in 2010, directly to municipalities.

⁶ Transport Canada, <http://www.tc.gc.ca/eng/corporate-services/aas-audit-200-416.htm>

⁷ Department of Public Works and Government Services, <http://www.tpsgc-pwgsc.gc.ca/biens-property/peri-pilt/index-eng.html>

Canadian Port Funding:

Table 11: Canadian Port Funding

Purpose of Funding	Source of Funds	Funding Amount
Asia-Pacific Gateway and Corridor Initiative	Federal Government for public infrastructure and Private Sector for private infrastructure	Federal Government contribution of \$1.4 billion (CDN) for public infrastructure (roads and bridges)
Port of Metro Vancouver	Federal Government	\$21 million through the Infrastructure Stimulus Fund ⁸
Port of Montreal	Federal Government	\$17 million through the Infrastructure Stimulus Fund ⁹
Port of Prince Rupert	Federal Government	\$30 million to assist in the development of a container terminal
Marine Security Contribution Program	Federal Government	Three year (2006-2009) \$115 million

Sources: Transport Canada and Infrastructure Canada

The Asia-Pacific Gateway and Corridor Initiative

The Asia-Pacific Gateway and Corridor Initiative was announced in 2006. Total federal government investment has been \$1.4 billion. It is an integrated set of investments and policy measures focused on trade with the Asia-Pacific Region. Its mission is to establish Canada's Asia-Pacific Gateway and Corridor as the best transportation network facilitating global supply chains between North America and Asia.

The leveraging of public funds through public-private partnerships (P3s) approximately \$3.5 billion worth of projects have been announced, including federal contributions of \$1.4 billion. Several key infrastructure public projects have already been completed, such as the Simon Fraser Bridge in Prince George, the twinning of the Trans-Canada Highway through Banff National Park, the opening of the Pitt River Bridge to traffic in the Lower Mainland of British Columbia, as well as projects that are underway including the North and South Fraser perimeter roads as well as the Roberts Bank rail corridor grade separations.

⁸ The Port Metro Vancouver projects received a joint investment of over \$41 million. The Government of Canada committed \$21 million under the Infrastructure Stimulus Fund with Port Metro Vancouver matching this commitment. Work included upgrades to roadways, port buildings as well as docks at the port.

⁹ Funds are dedicated to increase terminal capacity and improve berth access at the Port of Montreal

The funding envelope for this initiative has been fully allocated. It is very important to note the public funding has been used to fund public infrastructure as noted above.

Gateway Infrastructure Fee

On January 1, 2011 the Port of Metro Vancouver (PVM) implemented a Gateway Infrastructure Fee. The fee is intended to recover 90% of the investments and costs associated with the Gateway Infrastructure Program which is planned to develop seventeen infrastructure projects in three trade areas: Roberts Bank Rail Corridor, North Shore Trade Area and South Shore Trade Area.

The Gateway Infrastructure Fee is payable in respect to laden containers, by the owner or charter of the vessel and in respect of non-containerized cargo, by the owner of cargo, at the rates set out in Table 12.

Table 12: Gateway Infrastructure Fee Schedule

Gateway Infrastructure Fee-Containerized Cargo (per TEU)				
Fee Schedule	2011	2012	2013	2014
South Shore Trade Area	\$0.50	\$0.50	\$1.00	\$1.00
Robert's Bank Rail Corridor	\$0.30	\$0.30	\$0.60	\$0.60
Gateway Infrastructure Fee-Non-Containerized Cargo (per metric tonne)				
Fee Schedule	2011	2012	2013	2014
North Shore Trade Area	\$0.05	\$0.05	\$0.10	\$0.10
South Shore Trade Area	\$0.05	\$0.05	\$0.10	\$0.10
Robert's Bank Rail Corridor	\$0.03	\$0.03	\$0.06	\$0.06

Source: Port of Metro Vancouver

Funding into the Port of Prince Rupert

In 2005, the Government of Canada announced its intention to invest \$30 million to help create a container terminal at the Port of Prince Rupert. The Province of British Columbia matched the federal contribution. The federal and provincial contribution has been primarily dedicated to port access transportation infrastructure.

CN invested \$30 million in the project. Of the \$30 million total, \$15 million was for the intermodal yard at the port, \$10 million on terminal trackage, and \$5 million on infrastructure improvements to CN's B.C. North line so that it can accommodate double-stack container cars.

Maher Terminals invested \$60 million for the acquisition and installation of three large container cranes at the terminal, together with supporting container handling equipment and technology.

The Port of Prince Rupert completed bank financing for its \$25 million contribution to the container terminal development. The total cost of the project was \$175 million which created a total annual capacity of 500,000 TEUs at the port.

Marine Security Contribution Program

The Marine Security Contribution Program began as a three-year, \$115 million program to help improve marine security at Canada's ports and marine facilities. In June 2006, the Government announced that the program would: expand to include domestic ferry operators and last two years longer for facilities other than Canada Port Authorities and marine facilities. Under the program, ports and marine facilities could apply for funds to help them pay for improvements that met or exceeded their Transport Canada approved Security Plans and which began on or after April 1, 2004.

2. Provide your opinion and supporting data regarding the reasons vessel-operating common carriers serving the U.S., Canada and Mexico may prefer to make Mexican or Canadian ports their first North American ports of call.

The market for the movement of trans ocean freight and specifically containers is highly competitive, with many firms offering a similar service. There has been a substantial increase in the capacity of container ships which increased 550 per cent between 1990-2010 (26 million dead weight tons (dwt) to 169 million dwt). As of 2010, the world container ship fleet stood was 4,677 vessels with a combined total carrying capacity of 12.8 million TEUs.¹⁰

Within the competitive market, ocean going carriers undertake arbitrage activities whereby they take advantage of price differential of moving containers through different ports and their associated transportation supply chains. This practice of arbitrage (i.e. effective arbitrage), undertaken by ocean going carriers, forces a convergence of existing price differentials of moving containers through various ports and transportation supply chains, which ultimately leads to a market that is perfectly competitive. In the case of port terminal railways and North American Class I railways they are essentially price takers for the movement of inbound containers.

Shipping lines have a great deal of flexibility in terms of ports they call upon. In the case of the Port of Tacoma, it experienced a 5.8% decline in container volumes in 2010. The

¹⁰ UNCTAD, Review of Maritime Transport, 2010, pages 30 & 31.

decline in container volumes was largely due to the decision by Maersk to drop Tacoma as a port of call in favour of the Port of Seattle.¹¹

Other common characteristics of this competitive market include; standardization of equipment (e.g. ships and containers); serving similar markets (e.g. Asia/North American Trade); and operating similar routes.

Below are some of the key factors that influence the decisions of vessel operators to service particular ports:

A. Local Market

The size of the local market is an important decision factor for ocean going vessels to call upon a particular port. Typically, large local markets offer a range of services such as distribution centers, logistics service providers, specialized local labour, etc. Further, local markets provide important services that are attractive to ocean going carriers such as cargo sorting and container stuffing. Most importantly, large local markets generate export cargo for the ports.

B. Competitive Alternatives for Transportation Services

Ports that are served by competing modes of transportation as well as by transportation service providers within specific modes improve the overall competitiveness of a port and thus increase the attractiveness of the port for ocean going vessels.

Canada's two largest ports, the Port of Montreal and the Port of Metro Vancouver are each served by two or more Class I freight railways. In the case of the Port of Metro Vancouver, they are served by three Class I freight railways (CP, CN and BNSF) and the Port of Montreal is served by both CP and CN. Further, both the Port of Montreal and the Port of Metro Vancouver have numerous competing terminal operators. In addition, each of Canada's major ports are serviced by numerous trucking firms. As such, there is variety of competitive options available for transportation services.

C. Export Potential

Ports that have cargo for export improve the overall competitiveness of the port to international shipping lines as there is a business opportunity to move outgoing cargo, essentially balancing the inflow and outflow of cargo. The Port of Metro Vancouver moves the largest volume of exported cargo of all Canadian ports¹². The availability of

¹¹ Puget Sound Business Journal, April 1, 2011

¹² In 2010, 80 million metric tonnes of cargo was export to foreign markets through PMV as compared to 13 million tonnes of foreign import cargo. The Port of Montreal, Canada's second largest port, exported 11 million metric tonnes of cargo in 2010 and imported 15 million metric tonnes of cargo.

containers provides a cost effective transportation option for Canadian exports. Various exporters are using containers to export commodities such as pulse crops, forestry products, and grains.

D. Port Capacity

Port capacity is a function of a number of factors including the availability of berths at a port; terminal loading/unloading productivity; terminal storage capacity; and the ability of transportation service providers to move goods to and from the port.

As has been well documented, during the 2000-2007 period, U.S. west coast ports achieved record volumes of imported TEUs, primarily from Asia, and port capacity to handle these TEUs at these ports was limited. Further, the existing freight transportation system faced challenges in accommodating the surge in demand. This resulted in shippers seeking alternative routing to access the U.S. market. Given the market based competitive nature of the North American transportation system, the Port of Metro Vancouver and the Port of Prince Rupert actively marketed themselves as competitive options for ocean going carriers to move their goods through to access the U.S. market. However, the percentage of TEUs that moves through Canadian ports to the U.S. is not significant, less than 1.7%, compared to total number of TEUs that move through U.S. ports.¹³

E. Port Services

The types of services available at a port are important factors that ocean going vessels consider when deciding which ports to call upon. Major Canadian ports offer a range of world class services including cargo handling and storage, transload facilities, security services, emergency response, vessel repair and maintenance, lift services, and fueling. The services offered by major Canadian ports are comparable to the services provided at U.S. ports.

F. Shipping Distances

Table 13: Shipping Distances

Shipping Origin and Destination	Distance (nautical miles)
Shanghai-Prince Rupert	4,642
Shanghai-Vancouver	5,092
Shanghai-Seattle	5,101
Shanghai-Los Angeles	5,810

Source: Pacific Global Association

¹³ Data provided in Table7 “U.S. Ports Laden TUE Deficit vis-à-vis Canadian Ports, 2000-2010”

Shipping distances between ports of call can influence the routing option decisions for ocean going vessels. The Table above provides the shipping distance between a selection of Canadian and U.S. west coast ports to the Shanghai, China. The ports of Prince Rupert and the Port of Metro Vancouver are geographically closer to Shanghai than the Port of Los Angeles. This gives ports at Prince Rupert and Vancouver an inherent geographical advantage over U.S. west coast ports. This advantage results in less shipping time to access the North American market from Asia, which may be attractive to ocean going vessels facilitating Asian/North American trade.

3. Describe why ocean transportation intermediaries or importers may prefer to route their customers' inland U.S.-destined cargo via a Mexican or Canadian port.

The Canadian transportation system, in particular the rail system, provides seamless service from a Canadian port to major U.S. markets. Factors that influence a shipper's decision to import cargo through Canadian ports include:

A. Time to Markets:

As stated in Table 13, Canada's west coast ports are located in closer proximity to most Asian markets than U.S. west coast ports. The Port of Metro Vancouver is serviced by Canadian Class I railways CP and CN and by the U.S. Class I railway BNSF, all of which have networks that service major U.S. markets. In the case of BNSF, they primarily ship U.S. originated coal through the Port of Metro Vancouver.

B. Supply Chain Efficiency

Ports and railways are important components of freight supply chains. The more efficient the supply chain, the greater ability for ports and railways have to capture additional business. In an effort to capture additional business in the competitive market for the movement of containerized cargo, Canadian railways and ports have recognized that they must work in a cooperative manner to improve supply chain efficiency.

CP has entered into a series of collaboration agreements with all major terminal operators at the Canadian ports that they serve. The Port Authorities, that manage the ports, have facilitated the negotiations between the port terminal operators and the railways. The primary tenants of these agreements include setting measurable performance targets for the terminal operators and the railways; increased accountability by both parties (information sharing); establishing monitoring and measuring programs; and developing mitigation plans for challenging periods, such as winter operations.

In the case of Port of Metro Vancouver, CP have entered into collaboration agreements with terminal operators and have collectively set a target to reduce container dwell time at the port to the North American standard of three days. To date, there has been a significant decrease in the average dwell time at the Port of Metro Vancouver. In January of 2010, the average dwell time was 3.7 days and as of November 2011 the average dwell time is 2.5 days a reduction of more than 30 per cent.

C. Supply Chain Diversification

Shippers that import cargo may test the use of various supply chains (e.g. ports and rail systems) in order to test the performance of each supply chain and various options available to them if a particular supply chain is disrupted. Supply chain disruptions can be caused by a number of factors including inclement weather which can limit cargo loading/unloading; labour disruptions (strikes and lockouts); and congestion or lack of capacity.

Shippers that have various transportation options available to them increase their leverage in dealing with transportation service providers (e.g. port terminal operators and railways). For example, Canpotex, owned by Agrium Inc., The Mosaic Company, and Potash Corporation of Saskatchewan Inc., is the world's largest exporter of potash and uses various supply chains to access the world market for potash. The majority of Canpotex product moves in unit trains, from the mine sites in Saskatchewan, West through Vancouver, British Columbia and Portland, Oregon. It should be noted that potash exports through Portland increased 200 per cent within the 2009-2010 time period.¹⁴ Canpotex also ships potash East through Thunder Bay (the St. Lawrence Seaway), and has access to load ports on the Atlantic Coast and the Gulf of Mexico. Canpotex currently has access to 10 mines, a number of rail lines, storage facilities, and several load port alternatives. In addition, BHP Billiton, the world's largest mining company, is planning to develop a terminal facility at the Port of Vancouver USA for the export potash from its Jansen Project in Saskatchewan when that project goes into production.¹⁵

D. Security

With regard to security, Canadian ports have invested in infrastructure and developed processes to improve the overall security. Today, Canada's ports are now among the most secure in the world. Marine-facility operators in Canada comply 100 percent with the International Maritime Organization's strict security code, the International Ship and Port-facility Security Code (ISPS). This Code was further enhanced with Transport

¹⁴ Oregon Business, January 4, 2011, www.oregonbusiness.com/contributed-blogs/4628-an-export-to-build-on

¹⁵ Port of Vancouver USA, <http://www.portvanusa.com/news-room/news-releases/terminal-5-selected-preferred-site-future-potash-export-facility>

Canada's new Marine Transport Security Act (MTSA) that imposed even higher standards of security for Canada's maritime industry. Canada's ports also work closely with Transport Canada, the Customs and Border Services Agency (CBSA), and U.S. Customs and Border Protection (CBP) - and other governmental agencies - to ensure that all aspects of international trade is safe and secure.

Cargo moving through a Canadian port destined to the U.S. must first be processed and inspected by CBSA at the port terminal prior to the good being moved by another transportation mode. In the case of rail, virtually all cargo that enters the U.S. from Canada is scanned through the Vehicles and Cargo Inspection System (VACIS) at the port of entry. The system can penetrate railcars, tankers, grain cars, and boxcars, using a low-level gamma ray radiation source, while generating a radiographic image for each car. As such, cargo entering the U.S. via a Canadian port is inspected twice, once by CBSA and secondly by CBP. The redundancy associated with this processes increases the overall level of security but also increases the time and cost of moving cargo through a Canadian port to U.S. markets.

In an effort to build upon past initiatives, on December 7, 2011 President Obama and Prime Minister Harper announced the *Perimeter Security and Economic Competitiveness Action Plan*, that contains a number of initiatives to strengthen the shared security of Canada and the U.S. and enable improvements to the free flow of legitimate goods and people across the Canada-U.S. border. One critical element of the plan includes the development of "...a harmonized approach to screening inbound cargo arriving from offshore that will result in increased security and the expedited movement of secure cargo across the Canada-U.S. border, under the principle of cleared once, accepted twice".¹⁶ It is anticipated that the coordinated implementation of the Action Plan will benefit Canadian and U.S. economies and strengthen continental security.

CP has a long established tradition and expertise in security. Further, CP has permanent, well-trained and supervised police forces. In addition, CP has formal partnerships and liaise closely with public police and security forces.

CP has implemented the following additional security measures:

- Perimeter and access controls for rail yards,
- Bridges, tunnels, rail traffic control centers,
- IT security enhancements,
- Use of biometric technology at intermodal in-gate terminals.

There have also been major increases in security related to port-gateway and border freight movements within Canada and the U.S.. These include a cross-border program that and enhances traffic flows, and an automated manifest verification system.

¹⁶ "Perimeter Security and Economic Competitiveness Action Plan", http://www.borderactionplan-plandactionfrontalier.gc.ca/psec-scep/assets/pdfs/bap_report-paf_rapport-eng-dec2011.pdf

CP works closely with the Canadian and U.S. governments to ensure that security measures are consistently applied, that relevant security information is shared with security officials, and that border trade disruption is minimized.

CP has implemented border facilitation and security programs. Examples include:

Customs-Trade Partnership Against Terrorism (C-TPAT)

In April 2002, the U. S. Customs and Border Protection (CBP) introduced the C-TPAT program to heighten the security of trade channels from acts of terrorism. The voluntary program is intended to strengthen the overall supply chain and border security, and enhance conveyance and physical plant security, access controls, manifest accuracy, personnel security, education and training awareness. CP is a participant in the C-TPAT program.

In 2004, the membership represented over 40% of all the imports by dollar value into this country and over 96% of all the United States bound maritime container carrier traffic. By 2009, C-TPAT had 8,166 business partners, including 3,822 importers, 2,270 carriers (rail, sea and air), 1,400 service providers (customs brokers, ocean transportation intermediaries, marine terminal operators and air freight consolidators), and 674 foreign manufacturers.

Partners in Protection (PIP)

Partners in Protection (PIP) is a voluntary Canada Border Services Agency (CBSA) program that aims to enhance border and trade chain security, combat organized crime and terrorism and help detect and prevent contraband smuggling through the cooperation of private industry.

Through their partnership with the CBSA, PIP members, including CP, contribute to the security of the supply chain and the facilitation of legitimate trade. As PIP members, companies agree to implement and adhere to high security standards while the CBSA commits to assess security measures, provide information sessions on security issues and offer other benefits.

Railway Association of Canada & Transport Canada Memorandum of Understanding

On November 15, 2007 Transport Canada and the Railway Association of Canada signed an updated MOU on security, replacing the previous one, which had been in place since 1997.

Under the MOU, railways have committed to prepare and submit a security plan based on a risk assessment to the Minister of Transport, Infrastructure and Communities (the Minister). To ensure a secure environment in which railways can operate, security plans are regularly reviewed by transportation security inspectors and modifications are requested where appropriate, or updated by the operator where necessary (i.e. at least once a year). In addition to the reviews conducted by transportation security inspectors, the MOU also requires the railways to carry out a systematic review of their plans at least every three years. The next systemic review of the security plans will be completed this year.

In addition to security plans, the MOU also requires operators to report security incidents, maintain records, conduct exercises and drills, and to provide security training and briefing to their staff. Under the MOU, select railway representatives are given security designations to handle security intelligence information shared by the department.

4. **Describe and, if possible, quantify the advantages and disadvantages a beneficial cargo owner may face when considering whether to route inland U.S.-destined cargo via a Mexican or Canadian port. Specifically, what role, if any, does the assessment of the Harbor Maintenance Tax (HMT) have on that determination? What are the other considerations? If there is a cost advantage due to lower total transportation costs (ocean, truck, rail), please quantify those differences and describe the source of any such cost differentials.**

Tax Burden Comparison between Canadian and US Class I Railways

Table 14: Tax Burden Comparison between Canadian and US Class I Railways, 2009

Tax Burden 2009		
Tax Burden (%)	Canada Class I Railway	U.S. Class I Railway
Income Taxes	3.06%	4.39%
Payroll Taxes	1.32%	1.51%
Commodity Taxes (Federal and State fuel taxes)	2.40%	0.91%
Property Taxes	1.34%	1.02%
Total Tax Burden	8.12%	7.83%

Source: PricewaterhouseCoopers, March 2011.
Data in percent of revenues

Canadian and U.S. Class I railways operate on a fairly level playing field with regard to their overall tax treatment. In 2009, Canadian Class I railways had a total tax burden of 8.12% of revenues as compared to 7.83% for U.S. Class I railways. Table 14 outlines the tax burden, expressed as the percentage of taxes paid on total revenues, for major tax categories. Canadian Class I railways pay relatively less income taxes than U.S. railways,

this is primarily due to the lower corporate tax rates in Canada. In 2009, the Canada federal corporate tax was 19%, it is currently 16.5%. The U.S. federal corporate tax rate currently stands at 35%.

However, U.S. Class I railways are subjected to much less tax burden on locomotive diesel fuel. The U.S. federal government eliminated the federal excise tax on locomotive diesel on January 1, 2007. The Canadian excise tax on locomotive diesel is currently \$0.04/liter.

5. Please quantify the effect, if any, the change in cargo routing has had on employment in the United States.

No comment from CP

6. Describe what volume or other incentives, bonuses or discounts, if any, are offered by ports, common carriers, terminal operators, or other entities for cargo moved through Canadian or Mexican ports and where these may be available to the shipping public.

It is general practice for CP to have the terms and conditions of service for a shipper contained in a confidential contract as opposed to the offering of a tariff. The cost to the shipper for the movement of cargo by CP is dependent upon volume and level of service.

7. Describe the advantages and/or disadvantages current transportation services via Canadian or Mexican ports may offer to U.S. exporters.

The North American transportation system is highly competitive and firms compete to move freight within their systems. CP has an extensive network within Canada and the U.S. and provides service to Canadian and U.S. ports. As such, they have the ability to move freight through ports that provide the best service option for their customer.

One inherent advantage that Canadian West Coast ports have is that they are located physically closer to Asian markets as compared to U.S. and Mexican west coast ports. Specifically, the Port of Prince Rupert is situated approximately 1,000 miles closer, or 68 hours of sailing time, to Shanghai than the Port of Los Angeles. However, a disadvantage of the Canadian ports is that they may be located further from U.S. points of origins as compared to U.S. ports.

All of Canada's major ports are designed to accommodate a range of cargo types, including merchandise, containers, automotive, bulk, break bulk, etc. The volume of freight originating in the U.S. that is exported through a Canadian port is relatively small as compared to the total volume of exports which move through U.S. ports. In 2009, the volume of rail marine exports for goods originating in the U.S. which moved through

Canadian ports was 2,527.7 thousand metric tonnes¹⁷. Further, the volume has remained relatively unchanged since 2003. To put this volume into context, the Port of Long Beach alone exported 35,844.1 thousand metric tonnes in 2009.¹⁸

However, Canadian ports are of increasing importance to U.S. shippers for the movement of U.S. cargo to offshore markets. Examples of U.S. originated cargo exported through Canadian ports include:

- In January 2011, Arch Coal, an American coal company that is a major player in Powder River Basin mining, announced that it had reached an agreement to export 2.5 million tons of coal annually through the Port of Prince Rupert.¹⁹
- Westshore Terminal, Port of Metro Vancouver, is the largest coal export facility in North America. The terminal ships over 21 million tons of coal annually, including 1.9 million tons of U.S. coal in 2009—a record volume of U.S. coal shipped through Westshore—which originated mainly in the U.S. Powder River Basin.²⁰ U.S. Class I railway BNSF delivers the majority of the coal that is shipped from Westshore.²¹

8. State your view on actions that the U.S. Government can take to improve competitiveness of U.S. ports. Of those actions, what are the most important or pressing?

No comment from CP

5.0 CONCLUDING REMARKS

The North American transportation system is an integrated competitive market based system which provides shippers the ability to choose from a wide range of transportation service options. U.S. ports are the dominate players for the facilitation for North American trade as they move over 83% of the total containers entering or leaving North America. Further, U.S. ports have captured 74% of the growth of containerized freight between 2000-2010.

In regard to Canadian ports, they compete directly and on a level playing field with U.S. ports for the movement of containerized freight. Further, they provide U.S. shippers

¹⁷ Transport Canada, “Transportation in Canada, Addendum 2010”, Table RA24.

¹⁸ Port of Long Beach, <http://www.polb.com/civica/filebank/blobdload.asp?BlobID=6985>

¹⁹ Arch Coal, Inc. “Arch Coal Announces Agreement With Canada’s Ridley Terminal For Pacific Coast Exports,” January 18, 2011, <http://news.archcoal.com/phoenix.zhtml?c=107109&p=irol-newsArticle&ID=1517028&highlight>.

²⁰ Westshore Terminals, “Milestones,” <http://www.westshore.com/milestones.html>.

²¹ Westshore Terminals, “The Railways,” <http://www.westshore.com/railways.html>.

with a competitive option for the export of bulk commodities, namely coal. However, the relative market share of Canadian ports for the movement of containers origin or destined to the U.S. is marginal, accounting for only 2.6% of total containerized freight imported to and exported from the U.S.

CP is aware that the annual revenues collected through the Harbor Maintenance Tax (HMT) exceeds the annual funding amount allocated to port dredging which has resulted in a substantial surplus in the Harbor Maintenance Trust Fund. Further, CP acknowledges the concerns that west coast U.S. ports have with the application of the HMT and the allocation of the dredging funds, namely to east coast ports.

CP does not agree with any assertion that the application of HMT, in itself, places U.S. ports at competitive disadvantage to Canadian ports, there is simply no evidence to make that claim.

Appendix A: Data Collection Methodology

North American container port data

The data is a combination mainly of the Association of American Port Authorities (AAPA) and official Canada Port Authorities statistics. The AAPA possesses the only and most comprehensive historical dataset (1990-2010) available publicly on all U.S., Canadian and Mexican ports. Please refer to the AAPA website (Statistics section) for the full list of ports included. Mexican port data was validated against official statistics published by the Mexican Secretaria de Comunicaciones y Transportes. Canada Port Authorities report their year-end numbers directly to AAPA. All data in slides 5 to 7 are total port throughput including empty and full TEUs (twenty foot equivalent units).

Canadian port market share data

All data on Canadian port market shares are official numbers collected from Canada Port Authorities. The ports include Halifax, Montreal, Metro Vancouver and Prince Rupert, generating the overwhelming majority of (port-related) transborder movements. Other CPAs were excluded from the calculation because their container traffic is either entirely domestic or is not transborder. The data collected was standardized using laden TEUs as unit – deemed the most relevant unit (revenue-generating unit) – but also to match PIERS data on U.S. port market shares. The volumes depicted include all modes: rail, truck and some short-sea shipping services to U.S. markets. Market share data for Prince Rupert in 2007 not available. Availability of detailed breakdowns of Fraser River container traffic prior to Port Metro Vancouver amalgamation in 2008 are limited (2000-2006 US laden import and export volumes include estimates of such traffic handled in the Fraser River).

U.S. port market share data: PIERS

Data on Canadian cargo transiting through U.S. ports was obtained from PIERS for the period 2000-2010. PIERS has been in the business of collecting trade information for over fifty years . PIERS collects data from customs manifests and bills of lading: 70,000 bills of lading collected every day, new data loaded weekly from U.S. Customs, covers ports in U.S., Mexico, Latin America and Asia. PIERS uses two fields of data to determine Canadian cargo transiting through U.S. ports:

- (1) ORG_DEST_CITY and ORG_DEST_ST – this field captures the “origin” of cargo on exports and “destination” on imports. An ocean carrier issues a bill of lading and when the carrier takes possession of the cargo at an inland or “origin” point PIERS captures that data in this field.
- (2) This field is supplemented by a STATE field – this field captures the State (Or Canadian Province) where the Shipper (exports) or Consignee (imports) has a physical location and is on the manifest or bill of lading.

For greater completeness and accuracy, Transport Canada included BOTH fields where Origin/Destination OR State = Canada. PIERS data only captures foreign containerized trade; it does not capture domestic movements (e.g. domestic transshipments) and transload movements. Based on this approach, carrier haulage is well covered (from the cargo origin/destination fields on the B/L), but merchant haulage is only partially captured. In the case where cargo origin or destination is not Canada on the B/L, it is captured by assuming that if the shipper/consignee address is listed as being in Canada, the cargo is taken to be destined to/originating from Canada.