

SUBMISSION
OF
BRITISH COLUMBIA MARITIME EMPLOYERS ASSOCIATION
TO
THE CANADA TRANSPORTATION ACT REVIEW

INTRODUCTION

The British Columbia Maritime Employers Association (the "Association") is an unaccredited employers association currently consisting of seventy-seven member companies engaged in ship operations, ship agency, stevedoring, dock operations and bulk loading operations at Canadian West Coast Ports (see attached membership list).

The Association's primary activities involve providing labour relations advice and services to the community it serves. The Association handles day-to-day labour relations matters, collective agreement administration, discipline of the workforce, grievance administration, arbitration, human rights, employment equity and related matters.

In addition, the Association provides advice and assistance in the areas of Health and Safety and Claims Management and is also responsible for industry Longshore Training. The Association is involved in the establishment and maintenance of various Industry Benefit Plans including Health and Welfare, Pension and the Employee Assistance Program. The Association owns and operates the Vancouver Despatch Facility and is responsible for the despatch of longshore labour to all member facilities in the Port of Vancouver and Squamish/Woodfibre areas. The Association jointly participates with the International Longshore and Warehouse Union in the operation of the Despatch centres in the outports of Stewart, Prince Rupert, New Westminster and Chemainus.

The Association represents members' interests with respect to regulatory matters in the areas of labour relations, pension, health and safety, human rights, employment equity, worker compensation, and legislative reform of a general nature.

The Association is responsible for collective agreement negotiations on behalf of its members. All labour relations activities of our member companies are conducted pursuant to the "*Canada Labour Code*".

COMMENTS AND RECOMMENDATIONS

We believe that it is essential for your review of the "Canada Transportation Act" to consider the implications on transportation and competitiveness resulting from recent amendments to the "*Canada Labour Code*" Part I.

Particular attention should be directed to sections of the Canada Transportation Act which deal with "Conflicts" (4.(1)) and National Transportation Policy "Declaration" (5.)

It is our understanding that the Act has supremacy over other Acts of Parliament with respect to transportation matters. Additionally, the principles contained in the Declaration on National Transportation Policy are intended to ensure that all shippers and all regions of the country are treated fairly and are permitted to compete freely.

We believe that the recently enacted amendment to the "*Canada Labour Code*",

specifically Section 87.7(1) is contrary to the stated Declaration.

SECTION 87.7(1) Services to Grain Vessels

This provision affords unprecedented preferential treatment to one export cargo (i.e. Grain) over all other export cargoes handled at West Coast Canadian Ports. This provision is discriminatory to all other export cargoes in that it requires the longshoring industry to provide employees to tie up, let go and load grain vessels in the unfortunate event of a labour dispute between ourselves and the International Longshore and Warehouse Union – Canada. In addition to being discriminatory to all other exporters, this selective provision provides absolutely no consideration to importers of goods.

As an industry, we cannot understand how the Government can, in good conscience, propose special treatment for one segment of the export market while ignoring the negative consequences to all other segments of the export and import trade in the event of a labour dispute at West Coast Ports. This legislation has the effect of denying equal treatment to all users of port facilities whether importers or exporters for what appears to be political motivation alone.

What are the implications of this discriminatory provision to the rest of the

Canadian economy and all those Canadians who earn their livelihoods in all those other industries? We believe that the negative impact on the Canadian economy resulting from a labour dispute at West Coast Ports is serious and not just confined to the movement of grain. Canada is not a one commodity exporting Country. We depend on the export of many different commodities; with substantial employment in each of those industries dependent upon a reliable and efficient transportation system in today's globally competitive environment. The Canadian Government simply cannot justify an interruption in the flow of all other commodities while the export of grain is allowed to continue.

Our industry proposed alternatives to strikes and lockouts in the Port Sector for all commodities, not just grain. The Government however rejected our proposal regarding the prohibition of strikes and lockouts. We fail to understand how the Government can justify legislation that selectively provides protection for only one segment of the economy.

Legislation, if it is to be effective, must be balanced. A provision which requires employers to continue to employ individuals to service one sector of their business while the remainder of their customers are left to incur the effects of a labour dispute, does not constitute balanced and fair legislation. What incentive would customers have to support an employer's attempt to improve terms and conditions in

a collective agreement which lower the cost of services, if another customer who will benefit from such changes, suffers no inconvenience? Further, the employers who provide grain services would be subsidizing their employees by being required to provide them with work opportunity, although at a reduced level. In the longshoring industry, which operates on a daily despatch system, it would be very easy for the union to rotate individuals through the system thereby reducing the economic impact of a labour dispute for all employees, thus creating the probability of an extended dispute.

Prior to the elimination of the *Western Grain Transportation Act*, it was mandatory for subsidized grain to be exported via a Canadian Port. This could have provided some justification for special treatment in previous years but that is no longer the case. Subsidies are no longer paid, thus grain, like any other commodity, can be exported via any port.

The fact that labour disputes are permitted in other sectors such as Grainworkers, PSAC and Railways makes no sense. If the intent is to eliminate disruptions to the flow of grain, then why are the amendments confined to Longshoring? This selective prohibition will prove to be disruptive to labour relations at West Coast Ports since it will result in selective disruptions in the bargaining relationship between ourselves and the ILWU-Canada.

We have reviewed the history of labour disputes that have impacted West Coast Ports since 1986 and observe the following:

- 1986 A six (6) day labour dispute between the BCMEA and the ILWU Canadian Area. Key issue was the elimination of the infamous container clause. The Parties were legislated back to work.
- 1994 A thirteen (13) day labour dispute between the BCMEA and the ILWU Canadian Area. Key issues were economic. The Parties were legislated back to work.
- 1992 A two (2) day labour dispute between the WFEA and ILWU Local 514. Key issue was economic. The Parties settled this dispute.
- 1995 A four (4) day labour dispute between the WFEA and ILWU Local 514. Key issues were terms and conditions of work. The Parties were legislated back to work.
- 1998 An eight (8) day labour dispute between the BCMEA and ILWU-Canada. Key issues were terms and conditions of work and

economics. The Parties settled this dispute.

There have been five (5) disputes totalling thirty-three (33) days of disruption; three (3) of which required legislative intervention.

However, during the same period of time, the following labour disputes have disrupted the flow of grain:

1987 A one (1) day general strike by the BC Federation of Labour.

1987 A five (5) day labour dispute between the Railways and their Unions. The Parties were legislated back to work.

1987/88 A forty-two (42) day dispute between Prince Rupert Grain and the Grainworkers Union. The Parties were legislated back to work.

1991 A seven (7) day dispute between the BCTEOA and the Grainworkers Union. The Parties were legislated back to work.

1991 A sixteen (16) day dispute between Department of Transport and PSAC. The Parties were legislated back to work.

1995 A twenty (20) day dispute between the Railways and their Unions.
The Parties were legislated back to work.

It has been suggested that Grain has been the primary reason why the Government has been required to intervene in labour disputes at West Coast Ports. The above history clearly demonstrates that Government has intervened in far more disputes than just those between Port Employers and their Unions. Was the movement of grain the issue for intervention in those other disputes and if so, why are the parties involved in those disputes not prohibited from disrupting the movement of grain in the future?

It was also suggested that this change would result in the Parties resolving their disputes in future since neither the BCMEA nor ILWU could rely on grain for Government intervention. This of course was not the case since a labour dispute took place in 1999.

With the ever-increasing need for improved efficiency and competitiveness in the entire transportation system, what assurances are there that we will not see disputes if needed changes are not jointly agreed upon? The Rail, Air and Marine sectors are all facing the need for modernization and productivity improvements in the new

deregulated environment. Failure to meet these challenges will, in our view, place the Canadian transportation system in jeopardy.

In conclusion, we urge you to recommend elimination of this discriminatory proposal that has the effect of establishing preferential classes of export cargo. It places import cargo at disadvantage which can and will negatively impact many retail operators across the country. We suggest that this is ill-conceived legislation and as such, rather than serving to improve labour relations and the interests of all Canadians it could have the opposite effect.

If Government is truly concerned about disputes at West Coast Ports we encourage you to revisit the proposals put forward by our industry. They would have the effect of eliminating such disputes, without discrimination in the movement of commodities, by allowing for resolution of issues by means of final position binding arbitration, mediation/arbitration or any combination of those mechanisms depending on the issue(s) in dispute. Failing the Government's interest in pursuing that course of action, all commodities must be treated equitably.

Thank you for your consideration of our submissions on these matters which are of great importance to our industry.