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Chair

Mr. Mervin Tweed

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•(0905)

[English]

The Chair (Mr. Mervin Tweed (Brandon—Souris, CPC)): Thank you, and good morning, everyone. Welcome to the sixth meeting of the Standing Committee on Transport, Infrastructure and Communities. The orders of the day are consideration of Bill C-23, an act to amend the Canada Marine Act, the Canada Transportation Act, the Pilotage Act, and other acts in consequence.

Similar to the last bill that we did, we have to open it up by saying we're going to start with clause 1, which then allows our witnesses to present and for questions to be asked.

Joining us today from the Department of Transport are Mr. Emile Di Sanza, director general, marine policy; Valerie Devlin, acting senior strategic policy adviser, marine policy; and Janet Kavanagh, director of port policy, ports policy. As well, from Justice Canada, we have Ekaterina Ohandjanian, legal counsel.

Welcome. I'm sure you're familiar with the routine. We'll ask you to present, and then we'll ask our committee members, if they have question, to proceed.

Mr. Di Sanza, please begin.

Mr. Emile Di Sanza (Director General, Marine Policy, Department of Transport): Thank you very much, Mr. Chairman.

Good morning, honourable members of the committee.

I'm very pleased to make a presentation to this committee on the proposed amendments to the Canada Marine Act as contained in Bill C-23. This suite of amendments recognizes the underlying importance of marine transportation to the Canadian economy. This is reflected in the proposed changes, initially in the introductory provisions of the act; and indeed, throughout the various measures, the proposed amendments aim to promote the competitive viability and sustainability of Canada port authorities.

[Translation]

The national marine policy of 1995 emphasized the elimination of overcapacity, promoted cost recovery in marine transport, and mandated self-sufficiency for the port authorities. It also instituted a consistent governance structure for all major ports. The objectives of the national marine policy relative to ports have largely been met through the Canada Marine Act, the legislation that introduced a commercial approach to managing the national ports system and marine infrastructure.

Modern transportation infrastructure is important to a country's ability to be competitive in the global market. This ability depends

largely on port efficiency and access to the necessary port infrastructure. The national strategic and legislative frameworks governing the ports are reliable, but must be adjusted to respond to new pressures and demands. Greater flexibility is required in the financial tools available to the ports so that they may be competitive on international and domestic markets.

Marine transport and ports are key aspects of the gateways and trade corridor initiatives that have been announced.

On page 3 of the handout, we see that 19 port authorities are part of the national port system. Each region covered by the initiative on gateways and corridors includes a number of port authorities. The Asia-Pacific port and corridor, on the west coast, includes several CPAs, as do those in Ontario, Quebec, and the Atlantic.

The key consultations resulting in the draft amendment, were held in fall 2002 by the Canada Marine Act Review Panel. The panel went to 11 cities and 7 provinces, where it heard more than 75 presentations and received over 140 written submissions. These consultations were exhaustive. They were aimed at all levels of government, port administrations, marine transport companies, marine industry associations and associations representing other modes of transport, namely shipping, logistics companies and union organizations.

The result was the Report on the Review of the Canada Marine Act tabled in Parliament by the Minister of Transport in 2003. This report was subject to ample deliberation and served as a source of information for the department. Regular and ongoing consultations and follow-up with marine stakeholders have also contributed to the ongoing work at Transport Canada on policy development. A number of other events have also contributed to further discussion between stakeholders and parties interested in the marine sector.

•(0910)

[English]

The genesis and foundation of Bill C-23 can be found in the former Bill C-61, which was introduced in Parliament in June 2005. Many of the provisions in Bill C-23 indeed build on those of Bill C-61.

Based on representations and more recent stakeholder consultations, the following provisions are proposed: to allow port authorities access to federal contribution funding for infrastructure, environmental sustainability, and security; secondly, to introduce more flexible corporate financing options; thirdly, to improve port governance; fourthly, to complement existing regulations regarding possible amalgamations of port authorities; and finally, to introduce administrative monetary penalties as an alternative enforcement scheme for regulatory infractions on port lands and to streamline certain other enforcement provisions.

During the CMA review, many stakeholders voiced concerns regarding the low profile of the marine industry and requested that the Government of Canada recognize the importance of the marine transportation sector.

Accordingly, the amendment includes the addition of the following into the bill, at clause 3: the introduction would recognize the contribution of the marine sector to Canada's economic health; there would be a new objective confirming the government's commitment toward the success of the ports; and finally, there would be coordination and integration of transportation at ports through enhanced financial and operational flexibilities.

Slide 7 in the presentation deck that was circulated speaks to access to federal contribution funding. Changes in the economics of marine transportation have necessitated a re-examination of the general prohibition that currently exists in the act—that's section 25—against federal funding to Canada port authorities. While ports around the world are receiving increasing funding for capital, environmental initiatives, and security enhancements, Canadian ports are generally prohibited from accessing federal appropriations. The only exception in recent years was with respect to security enhancements at the Canadian port authorities.

Without these changes, Canadian ports will not be well positioned to compete with international ports. An amendment to the Canada Marine Act to make Canadian port authorities eligible to apply for federal contributions for capital costs of infrastructure, environmental sustainability, and security projects would set CPAs on an equal footing with other ports and other transportation sectors. You will find these at clauses 14 and 15.

The bill, however, does not propose the creation of a new funding program. Rather, it would allow Canada port authorities to apply to contribution programs that either currently exist or future contribution programs that may be developed. In all cases, of course, the port authority would have to present a very strong business case that fits the specific program criteria.

Allowing Canada port authorities access to funding for environmental sustainability projects would provide new tools for ports to address environmental concerns through the application of new technologies—for example, to improve emission controls at the ports.

I should point out that the Canada Marine Act is an economic legislative framework. Issues relating to such things as accidental oil spill, spills of noxious substances, releases of invasive species in ballast waters are not addressed in this act, but they are addressed through a number of other statutes and programs.

With respect to security, as of this month any contribution funding for the implementation of security enhancements is no longer available to Canadian port authorities. In order to ensure that Canadian port authorities continue to have access to potential security funding in the future, this amendment would be required.

● (0915)

With respect to financial instruments, page 9 in the deck deals with a modified borrowing regime. Presently Canada port authorities can seek an increase in their borrowing limit by making a request to the Minister of Transport for supplementary letters patent that increase the borrowing limits set out in their letters patent. An increase would require the recommendation of the minister, supported by independent financial assessment of the port authority's debt capacity and ability to remain financially self-sufficient. Approval is then required by the President of the Treasury Board, the Minister of Finance, and finally the Governor in Council.

We are proposing amendments to the act that would allow borrowing based on a code governing the power to borrow in combination with commensurate accountabilities on the part of the board. You will find these at clauses 5, 17, and 18.

Those ports earning revenues of over \$25 million a year for three consecutive years—and at this point that would involve Vancouver, Halifax, and Montreal—could, and I stress here “could”, if they chose to do so, implement a commercial borrowing regime that would be subject to a code governing borrowings. This code is detailed and can be found in the documents provided to committee members, part of the briefing binder.

A complementary policy initiative—and this is not reflected in the bill per se—would also provide for a more streamlined process for ports that request changes to existing borrowing limits within the current regime. This policy initiative would provide Canada port authorities with a clear indication of the steps involved and the precise information required for requesting borrowing limit increases. This in turn, we believe, could allow Canada port authorities to better plan their investments in a timely fashion.

Page 10 of your deck deals with governance issues. Other elements of Bill C-23 relate to strengthening the governance provisions of the Canada Marine Act, which would provide greater clarification regarding the terms of appointment for the board of directors. These changes are geared to providing long-term stability in the governance of Canada port authorities. Many of these will be found at clause 10.

Specifically, these amendments would provide for an additional term of reappointment of board members, thereby increasing the maximum tenure for a director from six to nine years, in effect three terms of three years each. In addition, incumbent directors would be able to remain in office until renewed or a new appointment is made, up to a maximum, of course, of the nine years. This would increase overall continuity and stability of the board and ensure that boards are able to continue to function.

These amendments do not, however, change the composition of the board, nor the criteria to become a board member. The majority of board members will also continue to be nominated by the users of the port and appointed by the Governor in Council. Municipal, provincial, and federal governments would continue to appoint a nominee to the board.

Page 11 of the deck speaks to amalgamation. New and emerging trends in the economics of marine transportation have provided an opportunity to explore options that could make Canada port authorities possibly more efficient, competitive, or able to respond more quickly to emerging opportunities and growing business volumes. Of particular interest are integrated port operations, such as amalgamations of port authorities.

An integrated port authority may be a possible and viable option for certain CPAs that are in regional proximity, so as to address competitive pressures in a manner that maximizes business opportunities. This is addressed in various clauses, principally clauses 5, 9, and 16.

With respect to regulations and enforcement, current legislation contains an array of alternatives to court actions. These alternatives are intended to address instances of non-compliance with respect to regulatory offences, and we're not talking here about criminal offences for which criminal prosecutions would obviously continue to apply. But in the case of regulatory violations, alternative enforcement mechanisms such as an administrative monetary penalty regime would offer a more efficient, more cost-effective way for both the enforcement officers and users to respond to enforcement issues while utilizing a recognized independent review and appeal mechanism.

● (0920)

I turn now to the complementary policy initiatives that support the proposed amendments.

I spoke earlier about a key policy initiative as it relates to streamlining the process for borrowing limits. We've developed guidelines to streamline and simplify the current process. These guidelines are contained in your briefing binder. These guidelines would provide Canada port authorities with a clear indication of the steps involved and the precise information required prior to requesting a borrowing limit increase. We believe, by virtue of clearer, more precise guidelines in this respect, that some of the issues associated with seeking borrowing limit increases in the past would be precluded.

Finally, there is a second key policy initiative that relates to land management flexibility. Transportation sectors are increasingly facing pressures related to land holdings. Some key ports are facing encroachment from developers or facing capacity limitations, which are adding pressures on the preservation of critical port lands or transportation corridors, particularly in, but not strictly limited to, the urban areas.

It's important to find the right mechanism to maintain ports as economic generators for national, regional, and local economies. Equally important, we need to find ways to encourage ports to invest in and manage land holdings for the long term. Such effective short-term use of properties under port management by way of leasing or

licensing to third parties would be desirable. This would assist Canada port authorities in generating revenues on those lands until such time as the port was ready to develop the property for port purposes. This would be done principally through supplementary letters patent, which would be issued for each Canada port authority.

It should be noted that the legislative change related to land management—and that is in clause 23 of Bill C-23, which proposes amendments to subsection 45(3.2) of the Marine Act—is being made simply to bring clarity and transparency to the existing provisions. The rest, with respect to this policy initiative, would be done by virtue of the letters patent.

It is important to note that all permitted activities would need to be compatible with port operations and must take into account the land use plans of adjacent communities. A number of strict conditions will need to be met before these lands can be leased for interim uses, and these conditions will be required to be included in the leases between the port authority and the third party. This is outlined in an issue paper, which we've provided in the briefing binder that was circulated to committee members.

Thank you very much, Mr. Chairman. My colleagues and I would be pleased to respond to any questions that committee members may have.

The Chair: Thank you, Mr. Di Sanza.

Mr. Bell.

Mr. Don Bell (North Vancouver, Lib.): Thank you, Mr. Chairman.

Welcome.

I have a few questions that relate to, first of all, the references you made to the changes in the access to federal contribution funding. I see that terminology used, and you say the port authorities will have access to contribution program funding, and then you mention the three things: infrastructure, environmental sustainability, and security. It takes away the existing access to federal grant programs and replaces it with these three. I'm wondering who they will be competing against for these funds. Or are there going to be specific funds earmarked for port authorities?

Part of the background for that question is that on the west coast—I can speak with some experience—we have a natural advantage of a sea route anywhere from one to one and a half days from Asia; for example, from Shanghai. We can take advantage of that, particularly with the new port at Prince Rupert and with Vancouver port. And then with the appropriate rail connections we can get goods into the midwest, into Chicago for example, and parts of Canada, central Canada, up to two days faster than it can coming from other routes. The U.S. has been responding over the last few years in anticipation of some of this by updating their ports. They're not sitting back idly while we're moving ahead. And there was competition coming from Central America and South America in terms of international trade.

On the package of the funding that's available, I think the restructuring is good in terms of allowing the ports to have additional borrowing capacity. I guess I'm concerned that if they are going to get this, are they going to be then competing with municipalities? Are they going to be competing with other bodies for these funds? Is there going to be the proper emphasis required from the federal government on this?

The other question I have that flows out of that is in terms of the use of their lands. I know that, for example, again, on the north shore, my riding of North Vancouver, the port authority had the opportunity to acquire land as it became available. I'm thinking of what later became an auto mall right on the waterfront. If they had had the capacity to purchase that land in advance of their needs, but within their anticipated needs, they could have then leased that out for some other use for a period of time, but purchased it well in advance, and that wasn't possible.

I'm wondering if you can comment on that.

• (0925)

Mr. Emile Di Sanza: Sure, I would be quite pleased to.

I guess there are a couple of elements in your question, and I'll deal with them systematically.

First of all, with respect to access to contribution funding for these capital projects—and we have singled out specific areas, no doubt—we would expect port authorities to work in conjunction with other parties—provinces, municipalities, third parties, terminal operators, railways, logistics providers. There could be a number of different parties that would come together in terms of a particular project. Even now, of course, port authorities do work closely with private parties in terms of development projects. The advantage they would have, of course, under this new regime is that they would be eligible for contribution funding, which they are not now.

So the first point is that we would expect them to go forward, on a partnership basis, with a multitude of other interests.

Who would they be competing against? Presumably they would be competing against other transportation projects. There may be several even within the confines of a port authority that may be up for consideration. For example, the gateways and borders contribution funding would have to be on a merit-based approach. I mentioned earlier that a very strong business case would have to be outlined. It would need the support, obviously, of other interests, in some cases the province.

Would they be competing necessarily with municipalities? Not necessarily, if they're operating in conjunction with some of the municipalities. As I understand it, as well, some of the infrastructure programs that have been announced would be principally targeted to provinces and municipalities, and they would not necessarily involve port authorities.

So on the one hand, it's a partnership approach; on the other hand, they are looking at very specific programs, such as gateways and borders, that would be primarily tailored to port authorities and their partners in that respect.

With respect to the question of the land—

Mr. Don Bell: Before you leave that question, do you expect, then, that there will be some additional funds allocated or shifted from the previous sources, so that in fact we won't see them now having to compete with an existing pie that they didn't having to compete with before?

Do you understand what I'm saying?

• (0930)

Mr. Emile Di Sanza: That ports will not...?

Mr. Don Bell: Yes.

Mr. Emile Di Sanza: Well, now they're not competing for any funds whatsoever. Some of their partners may be eligible for some of those funds, but port authorities are not, and that has been a real impediment. It's an issue that has been raised with regard to their competitive ability relative to other ports in North America, something that is being addressed.

As to the point you raise as to whether funds are going to be reallocated, I can't really answer that, but I'd willing to seek information from those who are responsible—

Mr. Don Bell: If I can just clarify, one of my concerns is that in the U.S. there are bills, there are funding sources deliberately targeted for ports. There have been what I think are called T-bills, in which the money is specifically available because the U.S. government recognizes that ports are part of the economic backbone, that they are generators. So there's money targeted for them specifically.

That relates to the whole issue of municipal taxation of ports. As a former mayor, I can tell you, that was the argument raised many times.

Mr. Emile Di Sanza: Indeed, you're absolutely correct, it's an issue that we've considered very carefully and seriously over the years, because it has been raised by various interests, not just the port authorities but those that use the ports and those that benefit from the cargo that is either imported or exported from the ports.

We've taken a close look at the regimes in the U.S. Whereas in Canada we have a consistent regime, clearly defined in the Canada Marine Act, clearly laid out in the letters patent for each port authority, what we have found in looking at the regime in the U.S. is that there are many different models. Some of the ports are run by the county, others are run by the state, others are independent, others have a different relationship with the federal government, and a port authority in the U.S. doesn't necessarily just deal with port operations. For example, as regards one that is very well known, the Port Authority of New York and New Jersey, I believe that only 5% of their total operations relates to ports. The rest is a multitude of other elements. Clearly, they do receive funding, in some instances, but does it go for port operations or does it go for a multitude of other related operations that the port authority may be involved in? That has to be looked at on a case-by-case basis.

What we're doing here, though, within a very clearly defined policy objective, is to put Canadian port authorities on an equal footing with other ports in North America and around the world and to ensure that they can work more effectively with their private partners or with the public authorities—the province and municipalities—to allow them to receive federal appropriations, something that they can't do now.

The Chair: Monsieur Laframboise.

[*Translation*]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Mr. Di Sanza, part of your presentation made me laugh. Your speech was written by staff at the minister's office; that is clear to everyone. If we talk about Canada's ports in relation to other ports in the world, in terms of equality, I would say that the ports along the St. Lawrence through the Great Lakes are what trouble me. There are inequalities within Canada.

Marine traffic is increasing by 600% in the world, but on the St. Lawrence, between 1980 and today, it has gone down. It has gone from 130 million to 105 million tonnes. On the St. Lawrence Seaway, traffic has gone from 70 million to 50 million tonnes. There is a reason there has been less traffic in the St. Lawrence-Great Lakes corridor. You are probably well aware of the major issues involved. Icebreaking fees and a number of other factors apply to this corridor that do not apply elsewhere.

Off the cuff, I am more or less in favour of this bill, but I would like to know which ports will benefit. As far as I know, the Port of Montreal does not have much debt. Accordingly, increasing the borrowing rate will have no impact on that port in particular. Currently, which Canadian port truly needs this bill?

Mr. Emile Di Sanza: If we are talking about the St. Lawrence Seaway and the Great Lakes—in some cases, goods that move through the St. Lawrence in fact move through the Great Lakes, as you know—the market has different dimensions.

I will begin by answering your question on which ports might benefit.

There are two components to this bill. One is on the level of borrowing. As you were saying, the Port of Montreal does not have any need in that area. That is a choice its administrators can make if they want.

However, as far as access to the contribution program is concerned, the ports of Montreal, Saguenay, Sept-Îles, Trois-Rivières and Quebec City could all benefit from it or have access to it. They do not have this type of thing right now.

Secondly, Transport Canada, in cooperation with our U.S. counterparts, has just issued a report on the results of economic, environmental and infrastructure studies of the St. Lawrence Seaway in its entirety, where bulk is being transported already, and of the markets on the Great Lakes. The report provides an overview of potential new markets on the Great Lakes and along the seaway.

One thing that is very important in this policy initiative is short sea shipping, or short distance marine transport.

Mr. Mario Laframboise: You mean cabotage?

Mr. Emile Di Sanza: Some use the term “cabotage”, but it has different connotations. Let us talk instead about short sea shipping.

There are people assessing the potential of the Great Lakes, where there is a huge market for container transport, for example.

St. Lawrence seaway officials, together with various ports in Quebec and Ontario, are assessing the possibility of perhaps one day transporting containers. There is also potential for bulk markets. There has been growth in some products and a decline in others.

• (0935)

Mr. Mario Laframboise: Except that these are all investments that are not included in the bill. The government could invest in this in a development policy for the incredible St. Lawrence-Great Lakes corridor. The Mississippi has seen an increase, while we have had a reduction. The St. Lawrence-Great Lakes corridor has not been properly cared for. It is not serious. It is not your fault. It is the government's responsibility.

As far as the short-term gain this bill will provide, you said there may be some investment that can be made. Everyone would be eligible for the infrastructure program.

In terms of borrowing, which port needs this bill as soon as possible?

Mr. Emile Di Sanza: That depends on the board. There are some ports that have some flexibility in their borrowing limit. Others have almost reached their limit. However, only the three largest ports would have more freedom on the international trade market. The others are nonetheless subject to the system that currently exists under law.

The only change is that clearer guidelines have been set if ever a port wants to increase its borrowing limit.

Mr. Mario Laframboise: Which port has almost reached its limit and needs this bill?

Mr. Emile Di Sanza: We could find out and get back to you.

In fact, you can find this information in the notes in your folder. But we can find the information and let you know, if you like.

Mr. Mario Laframboise: Great.

Mr. Emile Di Sanza: The last point you raised, if I may, is on the St. Lawrence Seaway. As you know, the federal government still owns the infrastructure. In 10 years, almost \$300 million—\$295 million, I believe—has been invested to maintain that infrastructure, under another program. But the seaway is nonetheless the federal government's responsibility.

Mr. Mario Laframboise: That is exactly it. This is why I am saying that in terms of competitiveness, the costs—aside from icebreaking fees, which also must be paid elsewhere—that is something else we will have to examine.

I want us to be competitive in the world, but perhaps we should be competitive within Canada. When the costs of one infrastructure are higher than another's, in one way or another, we become less competitive. And if we start programs to develop the others, our competitiveness will decrease even further if, from the start, it is more expensive to transport goods on the St. Lawrence and the Great Lakes.

Mr. Emile Di Sanza: A large part of the recently released study on the Seaway and the Great Lakes had to do with potential new markets on the St. Lawrence Seaway.

● (0940)

Mr. Mario Laframboise: I hope so, because this bill will not put that in place.

Mr. Emile Di Sanza: No, not this bill, but it is certainly related. [English]

The Chair: Mr. Masse.

Mr. Brian Masse (Windsor West, NDP): Thank you, Mr. Chair. Thank you for your presentation.

The first question I have is, what is your department's estimate of the actual infrastructure and other financial needs of the ports right now?

Mr. Emile Di Sanza: I'll approach it by virtue of what the ports indicate their capital investment plans are over the next five years. We can verify this, but the last time we did a compilation, I do believe it was close to \$1 billion. I will confirm the exact amount, because it will depend on when we received some of their reports.

I think that gives an indication of the magnitude of some of the capital investments the ports had contemplated within a regime that did not allow them access to infrastructure funding of any sort. Now, there may be some instances where some of the ports—maybe some of the larger ports, but not necessarily only the larger ports—could have expansion plans in conjunction with private partners that might impact on those amounts.

We don't have any specific numbers as to the kinds of projects ports may specifically have as a result of this.

Mr. Brian Masse: I guess one of the concerns I have is that this bill doesn't have any funding with it. In fact, you substantiated those concerns when you talked about the gateway funds. Obviously this is going to water down the accessibility of those funds for someone else, if you remove something out of there for this here. It's going to create some considerable conflict, I think. There is already a strenuous need to honour gateway funds regardless of entertaining the addition of 19 different organizations in there.

I noticed on your policy initiative on borrowing limit flexibility that Vancouver, for example, under the current system, if I have this right, can borrow up to half a billion dollars right now. As an example, what would their capacity increase to under the new model?

Mr. Emile Di Sanza: Once again, it would depend on what their board of directors determined. There may be no change whatsoever. They may decide they wish to stay within the current regime and their current borrowing limit, if that limit is sufficient; or they may choose to go to the more commercially based approach being

contemplated here, if they require some additional funds for their capital expansion or environmental enhancements—and they would borrow those.

In response to your previous question, ports will finance their operations by virtue of either borrowing.... In the case of this, they may be eligible to apply, as other parties might be, for projects. Some of these projects might not be related specifically to port operations. They may consist of access to the ports; they may be environmental enhancements that could be required; in other instances, they may relate to security, if a security funding program becomes available.

Mr. Brian Masse: Has the department done an analysis, though? Under this current system, if you add this up—and I did—you're probably close to \$800 million in terms of the borrowing capacity of our port structures right now.

Have you done a model as to what their capacity for borrowing would be at the end of the day if they did move towards this?

Mr. Emile Di Sanza: Sir, the port authorities are, if you will, commercially autonomous. It's their board of directors that determines what their capital plans are.

We do track the sorts of things that go on. We do hear from port authorities, from time to time, what their projects are. In some cases, they do come to see the department to seek increases in their borrowing limits because they do have specific projects they're contemplating, for which part of the financing might come from borrowing limits, but part of the financing could also come from private terminal operators. In some instances, what a port will do is set up—

Mr. Brian Masse: I understand all of that, and I'm going to move on to another question, because I don't want to waste my time on this. I just wanted to know whether your department had done an analysis of your new proposal and what the logic was for that percentage increase. Quite frankly, you're not answering my question.

I do want to move on to something else with my time, though. With regard to the commercial designation of those properties they're going to be able to use for flexibility, will they fall under the municipal act of the municipalities when they're going for rezoning or new usage of property on that site?

● (0945)

Mr. Emile Di Sanza: Ms. Kavanagh, could you respond to that question?

Ms. Janet Kavanagh (Director of Port Policy, Ports Policy, Department of Transport): The land flexibility issue is to provide ports with a planning tool and allow them to generate revenues from property for the long term. The bill doesn't change anything that is currently in play with respect to municipal zoning or provincial laws.

Mr. Brian Masse: They will not fall under the municipal act.

Ms. Janet Kavanagh: They would not fall under municipal or provincial zoning or requirements with respect to federal real property, as is the case now and as is the case for all federal entities.

Mr. Brian Masse: What is your classification of commercial properties? What does that include? Under the municipal act there are several different classifications of what is determined commercial. What is your definition, which will apply under the act, of commercial usages on port lands?

Ms. Janet Kavanagh: I believe we would look at those standard definitions as to what is there, and really the limit of that is non-residential.

Mr. Brian Masse: You are saying there are no classification standards for commercial property. You do not have a definition that you use for what is categorized as commercial property.

Mr. Emile Di Sanza: You will see it contained in one of the issue papers.

Mr. Brian Masse: I have it right here and I don't see it. It just says the use is classified as commercial, non-residential, but the commercial categorization is quite broad and municipalities often divide that up into different types of commercial classifications. What I am looking for is your specific definition of commercial, whether it encompasses everything or other things.

Mr. Emile Di Sanza: What we would have to look at there is the kinds of applications that port authorities would be making in that regard. They are subject to and they would have to have due regard for the land use plans of adjoining municipalities and—

Mr. Brian Masse: According to this, they're not accountable to that because they're not under the municipal act. In your plans you have working associations, which are non-binding. I know that.

Does your commercial categorization include any industrial? That is often the case in some municipal plans as well, the commercial/industrial. Is industrial included in your commercial categorization?

Mr. Emile Di Sanza: Once again, we're not changing the fundamentals of the act or the letters patent. If we look at some of the letters patent, that will give us an indication of the kind of semi-industrial or commercially related, value-added type of operations some of the ports have deemed to be complementary to their operations. Letters patent do vary. When they were set up in the late 1990s, if we look, for example, at the ones for Fraser River, they stipulate certain types of secondary industrial activity, if you will. We can take some indication from that of the sorts of things that might be applicable, but the intent here was to put some fairly strict parameters around the uses that could be made of these lands.

In many cases they already have the ability to make use of those lands. In some instances what was not clear was that it would be for temporary use, so there would be a fairly lengthy process for them to come in, have changes to the letters patent for something that might only be in place for a limited period of time, because their original intent would have been to keep those lands for long-term purposes, for port purposes.

Mr. Brian Masse: What concerns me is that we're introducing a more assertive policy, which might be fine for land use management on their property.... And Mr. Chair, I did ask questions similar to this during the briefing I got with the department and I may have got an answer. It could be in my office this morning, but I have yet to see it. I would like to see it and I would like to see tabled to this committee the specific rules and your definitions of commercial property and of the land use you categorize under there.

As well, you mention your policy change in your paper here, bilateral mechanisms for working with community associations and municipal governments. Maybe the department could provide us with specific cases of those. That would be helpful to understand.

Thank you, Mr. Chairman.

• (0950)

The Chair: Thank you.

Mr. Watson.

Mr. Jeff Watson (Essex, CPC): Thank you, Mr. Chair.

Thank you to our panel here this morning.

I want to start with the foundation for the bill before us. A review was done a few years back. You've also mentioned in your presentations that a report was tabled since that review. There have been recent consultations with stakeholders. Can you elaborate on some of the detail of those more recent consultations that have occurred?

Can you also define for me, or give me a sense of who the stakeholders are we are talking about? Is this industry, the government, or the community groups? Does that include labour and those types of things? Give us some of that foundation first before launching into questions.

Mr. Emile Di Sanza: The review that took place in 2002-03 was, as I indicated earlier, quite broad. It touched on a variety of areas. It touched on access to federal contribution funding, security, governance structures, and so on.

We've had the benefit since 2003, when that report was laid out, of being able to participate in such venues as conferences on short sea shipping, where ports indicated that if they were eligible for infrastructure funding, there could be opportunities to enhance the use of waterways in such a way as to provide for more sustainable transportation systems. There have been several workshops around the country with interested parties, including stakeholders, ports, terminal operators, shippers, importers, exporters, and a variety of other interests that have bearing on the ports themselves.

We have a very close rapport as well with the Association of Canadian Port Authorities. We participate in their governance seminars, where they invite board members once a year to come in and look at best practices in governance structures. They have various other technical workshops dealing with operations of the ports themselves.

As well, we meet on a regular basis, of course, with various other associations representing various interests in the marine sector.

Mr. Jeff Watson: Our government has announced, in successive budgets, funding for the Asia Pacific gateway, of about \$1 billion, I think. For borders and gateways, the funding is \$2.1 billion, for example.

Do the changes in Bill C-23 with respect to accessing federal money contemplate access to these funds, or are those funds already accessible to ports? In other words, are these changes necessary in order to access that money, or are these changes needed to access future funds that may be announced?

Mr. Emile Di Sanza: These changes that are being proposed would be necessary to access any of those funds that could be eligible for port operations.

Mr. Jeff Watson: In terms of the changes in the process for borrowing, I think right now—if I understand this correctly—an increase in the borrowing limit requires a recommendation by the minister. There has to be an independent financial assessment of that. Treasury Board has to sign off, as does the Minister of Finance, and finally cabinet.

The downside to this is that it takes a long time to get approval for an increase in the borrowing limit. The upside is that there is a certain amount of check and balance to it.

On the new changes that are being proposed or contemplated in Bill C-23, how many and which ports would be affected by the new borrowing code? That's my first question.

Mr. Emile Di Sanza: The new borrowing code would apply to those ports that have, for three consecutive years, revenues of at least \$25 million. At this time, that represents Vancouver, Montreal, and Halifax.

Over time, presumably other ports could attain that level, and if they so wish, at that time they could opt for a more commercially based way of borrowing. Of course, they would be subject to specific reporting requirements, certification requirements, and various due diligence, as we've outlined clearly in the code of borrowing contained in the briefing binders.

Those are the kinds of checks and balances and the enhanced accountabilities that would apply to the board of directors who would have to make those decisions.

• (0955)

Mr. Jeff Watson: I was reading through the proposed borrowing code, and I saw that the obligations for reporting shift to various officers of the boards. I want to probe the safeguard here a little bit more.

Are there sanctions if these various officers don't in fact meet their obligations? Do they face any sanctions?

The question I want to get to is that if they default on any of their obligations, and there's any liability to be assumed, who picks up the liability? What is the safeguard ultimately that means government doesn't have to step in and assume the liability?

Ms. Janet Kavanagh: As you correctly noted, much of the responsibility with respect to the monitoring and certification that the port is in compliance with the code rests with the board. Should they deliberately not respect that, or mislead in any way, or not notify the ministers required, or somehow by their lack of monitoring or implementation of that responsibility.... It really could be considered a breach of their fiduciary responsibility, and that's quite a serious issue for board members and directors.

Mr. Jeff Watson: Maybe I can crystallize Brian's earlier question, because I want to come back to it. You've said the ports themselves have contemplated \$1 billion worth of capital plans over the next five years. The proposed amendments here contemplate access to public dollars for that purpose. I think the question he was trying to get to, and maybe I'm wrong on this one, is whether that \$1 billion

that's contemplated over the next five years can be privately raised through increased borrowing limits.

Obviously you know what the projection is. We know what the anticipated changes are. Do they not have the capacity to privately raise that \$1 billion over the next five years, or do they need access to public dollars?

Mr. Emile Di Sanza: Indeed, there are various ways they could get financing for their capital projects, through their borrowing capability, through private interests that would invest. As proposed in this bill, they would also be eligible, as other transportation entities are, for contribution programs.

Mr. Jeff Watson: I know which ways they can raise them, the question is, can it be privately raised, that \$1 billion, that particular amount?

Mr. Emile Di Sanza: Certainly they've been doing that. Now, whether it would be the full \$1 billion.... I think once again we'd have to look on a case-by-case basis, and it would have to be up to the port authority to demonstrate how they would look at that financing.

The Chair: Thank you.

Before I go to Mr. Maloney, I have one question. How did you settle on \$25 million?

Mr. Emile Di Sanza: We undertook a fairly rigorous study. The executive summary of that study is contained in the briefing binder. We hired outside experts to look at a variety of different models that exist to assess what it would represent to port authorities, in the revenue range they are in, to go to a full stream commercial regime versus to remain with the regime currently in place, which, with the streamlined process, would be clearly laid out in terms of how it would operate.

What they strongly recommended was that this would be an appropriate threshold, because operating on the global commercial market requires a certain degree of financial rigour, if you will. It helps to have a certain level of operations to be able to access those funds. They would be diversified enough to be able to operate on that basis.

So a number of different models were looked at in that respect, and it was a very thorough exercise before we arrived at that point.

The Chair: Thank you.

Mr. Maloney.

Mr. John Maloney (Welland, Lib.): Dr. Fry has to go to another committee, so I'm going to defer my five minutes to her and then I'll pick up the next round, please.

The Chair: Ms. Fry.

• (1000)

Hon. Hedy Fry (Vancouver Centre, Lib.): Thank you very much.

I have two very quick questions.

One has to do with the borrowing capacity and the changes in the act. I still don't get the sense that we see ports as economic generators and that competitiveness is the major issue here. I think timeliness is going to have to be the question I need to ask about on this borrowing capacity. The question then is, how do you deal with the issue of timeliness if you have to go through hoops? That's the first question.

The second question is with regard to the issuing of bonds. You know that certain ports—and I know that in my part of the world, the Port of Seattle, etc.—are able to issue tax exempt bonds. That's a quick way to generate money. That's a quick way to get ports to be able to compete and do their infrastructure as quickly as possible. Is there an ability for ports to be able to do that? Will that be allowable under this new bill? That is the second question I need to ask with regard to borrowing.

Another question I have has to do with the ability to lease or use port lands for commercial purposes, etc. I don't see any criteria written down, and I think there are many concerns here. Are there going to be requirements in order to lease or use port lands for purposes other than the port? Are there going to be requirements for environmental studies and for being able to communicate and have public hearings with the local residents and local city in that area to see whether or not it meets the requirements for that city?

I'll give you an example. The Port of Vancouver at the moment has a controversial issue. I support the port doing some of the things it's doing, but there was one issue about a soccer stadium being built in a very sensitive part of the port where there are some lands that are conservation lands for certain species. The people of Vancouver feel they have never been asked about the ability to use that port land for some use they feel is detrimental to the environment, to the city, etc., in that particular area.

I need to ask about what your criteria are for the ability to use port lands other than for ports. Secondly, I really would like to hear about the timeliness issue with regard to borrowing and on issuing tax exempt bonds, which I think is key to competitiveness for ports.

Thanks.

Mr. Emile Di Sanza: You have several points there.

The point you raised on tax-exempt bonds I think would fall under the purview of the Finance policies. I'll ask my legal counsel to amplify on that.

Ms. Ekaterina Ohandjanian (Legal Counsel, Justice Canada): Thank you.

It's the government's position that there is no impediment currently to port authorities issuing bonds, much like their counterparts in the U.S. The question of the bonds being tax exempt is an issue that relates to the provisions of the Income Tax Act, I would think, and is not addressed in this legislation. It's not a tax-related legislation, but it does enable, for corporate financing purposes, the port to issue bonds. That is provided for in the letters patent of each port authority.

I don't know if Emile wants to speak to the issue of the timeliness, but touching on the issue of the leasing or licensing of port lands and the regime and restrictions pertaining to that activity, again, the

substance of that is described in the letters patent for each port authority. It's not in the act itself, but there is a cross-reference to the letters patent, which provide the substance.

Hon. Hedy Fry: I know, but I wanted to say that I didn't get that information very clearly at all here, because this is a huge issue.

I have a quick question on the tax-exempt status. Surely when one decides on pieces of legislation they're not stand-alone and they're not in a silo. If the ability to have tax-exempt bonds should be discussed with Revenue Canada, shouldn't that have been discussed earlier on in some kind of horizontality?

Mr. Emile Di Sanza: That issue was discussed on a broad base when the national marine policy legislation went through in the late 1990s. It has been raised periodically in observations in some instances, particularly by port authorities. When the review was taking place, they were looking at the differences between port authorities in Canada and port authorities in the U.S., and a major preoccupation was access to security funding. Shortly after that review, a program was put in place to provide security funding for ports.

The other point I made earlier was on a comparison between how the governance structure applies to Canadian ports and to ports in the U.S. They have different governing structures depending on the ports in question. One observation that has been made in studies we've seen is that overall, Canadian ports are well managed, well run, and have their debt loads very much under control. In many instances other ports have to issue bonds or borrow heavily simply to maintain their debts in good standing. The Canada Marine Act of the late 1990s has demonstrated a certain financial discipline on the part of the Canada port authorities.

• (1005)

Hon. Hedy Fry: The ports won't agree with you. They would like to issue tax-exempt bonds.

The Chair: Mr. Carrier.

[*Translation*]

Mr. Robert Carrier (Alfred-Pellan, BQ): Thank you, Mr. Chair.

I also wanted to talk about the fact that port authorities will be able to lease land they acquire, but do not necessary need right away. This was mentioned in your presentation.

I scanned clause 38 proposed in the bill, which amends subsection 71(1) of the act and has to do with leases and licences. This clause says it is possible to lease federal real property, but that it must be approved by the Governor in Council if it is for a period of 20 years or longer.

Could you confirm whether this clause, which is on page 17, deals with the lease you are describing in the bill, and if there are other clauses dealing with it? This is just for the possibility of a lease that is for a period of 20 years or longer.

Mr. Emile Di Sanza: Clause 38, which amends subsection 71(1), changes only the text. It is a question of the texts matching.

Mr. Robert Carrier: Does it have to do with leasing land that belongs to port authorities?

Mr. Emile Di Sanza: But—

Mr. Robert Carrier: In your presentation, you said, “All CPAs would be given the opportunity to lease or license land holdings to third parties—”. This is a question my colleague asked as well. Is this really the case?

Mr. Emile Di Sanza: No, not at all. This section has to do with public ports and not port authorities.

Mr. Robert Carrier: So this is about other clauses, and I suppose you cannot necessarily tell me which ones.

Mr. Emile Di Sanza: This would be the case for a policy initiative. The different elements are described in a document in your binder. The only change to the act is to subsection 45(3.2), concerning the use of lands. It simply says that in the case of a port authority, the land could be for temporary use. It was a matter of clearly indicating the purpose.

Some port authorities have a strategy for this. They will use the land temporarily. However, in other cases, the use would be more or less permanent. As several committee members have already said, some port authorities lost the chance to acquire land because it was more sustainable to use the land for strictly private commercial interests. So it is simply to show port authorities that there are other possibilities, that they will be able to use the land temporarily in an appropriate manner, then in the long term, keep the land for the use of the port. The only change to the act is in clause 23 of the bill, to the proposed subsection 45(3.2), which is on page 11, I believe.

●(1010)

Mr. Robert Carrier: We must have a good understanding of the meaning.

In any case, it is certainly not explicit in the bill, and that brings up a lot of questions. It could lead to a lot of misuse by port authorities.

Mr. Emile Di Sanza: In the binder there is another document that explains things in greater detail. It talks about long-term use of land. I can give you the reference later on.

Mr. Robert Carrier: I would appreciate that.

So this is about a regulation that would stem from the act?

Mr. Emile Di Sanza: It is a policy initiative that would be reflected in the letters patent of the port authorities. The letters patent are like their mandates. They explain what type of land is managed by the ports, the activities that can take place on the land as well as any other information dealing with the use and conduct of the ports.

[English]

The Chair: Thank you.

Mr. Ship-ley.

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): Thank you, Mr. Chairman. Sometime I do get called “Ship”, but it has nothing to do with the Marine Act, I can assure you.

Welcome to the panel.

I want to clarify a point made by my colleague. It's a concern that marine transportation doesn't nearly capture the significance it deserves. I think that's the whole purpose of these amendments, because under purpose, in clause 4, it says:

In recognition of the significance of marine transportation to Canada and its contribution to the Canadian economy, the purpose of the act is to

(a) implement marine policies that provide Canada with the marine infrastructure that it needs and that offer effective support for the achievement of national, regional and local

That clearly speaks for itself in terms of the significance that this government is putting on the Marine Act.

Can you help me with the big picture, generally? We're the support for that. We're going through the amendments on this bill. Do we have the support of all the port authorities and the shippers? This is about a whole package.

Mr. Emile Di Sanza: The proposed changes, particularly to the introduction or purpose section, clearly reflect the feedback that was received by the panel dealing with the Canada Marine Act when they conducted their review. There was very broad-based input to that effect.

We've also had the benefit of a number of years since that review took place. One of the areas that have come to the forefront is an interest in short-sea shipping—which as a service has existed for many years—as a concept for integrating the marine sector with other modes of transport. There would be the possibility of more efficient use of waterways, and that could have a positive impact on environmental sustainability, reduction of congestion, a more efficient type of operation, more efficient use of port installations, and so on. These are all elements that have come into play in our interactions with the port authorities and other interests. It's not just the ports; the users of the ports have outlined such areas. I think we can clearly see that by virtue of the interest demonstrated in various conferences dealing with the marine sector and short sea shipping.

As far as where various parties stand on the proposed bill, I believe the Association of Canadian Port Authorities released their first assessment of the bill last week. The bill was only introduced very recently. We haven't had the benefit of hearing from too many interested parties, but we do understand there is a lot of interest out there. From what we have heard anecdotally, it's favourable.

●(1015)

Mr. Bev Shipley: In terms of the time, there hasn't been the access to the extended funding that other transportation modes have had. Part of what's happening now in this bill is to give access to ports to have funding opportunities, I guess, that other modes of transportation would have. I agree that these can only be derived by any sort of business approach by having a strong and supportive business plan that would be accompanying it.

Have the port authorities given us any indication of the costs to them of not having these opportunities for funding in front of them? Have they indicated anything like that to you?

Mr. Emile Di Sanza: I'll answer in terms of what we have heard. We have heard from port authorities, but we have heard also from other marine interests in terms of the fact that various projects related to the marine sector and related to port operations or installations are maybe not advanced as rapidly or not as viably in terms of partnership arrangements because of the lack of available funds for capital infrastructure.

As I've said, we've also had the benefit of consultations over a couple of years. Since the time that the review panel recommended access to federal funding for capital infrastructure projects, obviously environmental sustainability issues have also come to the forefront. We've also had the experience with the security funding program that has been in place. We addressed all that as part of a coherent and cohesive package relating to the areas that would be targeted for infrastructure funding.

So we have heard from the ports and we have heard from interested parties in the marine sector. Have they given us specific projects? In some instances, they've outlined some projects related—I'll use the term "short-sea shipping" again—that could potentially be realizable with investments from various parties. It's not just from the federal government. It could be from private parties as well that would come to play, or it could be as well from other levels of government that would be eligible for various funding.

The Chair: Mr. Maloney.

Mr. John Maloney: Earlier questioning dealt with what happens if a port authority ran into financial difficulties. The response, as I heard it, was, well, they've breached their fiduciary duties and they could be at personal risk. But you didn't elaborate. What would happen if a port authority had the best of intentions, made economic capital investments, circumstances changed, and things went sour? What happens in that situation when a port authority defaults on its financial obligations and it's not a breach of fiduciary duty?

Mr. Emile Di Sanza: I'll ask our director for ports policy to respond to that.

Ms. Janet Kavanagh: On that one, we've tried to build in sufficient checks and balances that they don't get to a default position. There are timely disclosure requirements with respect to their financial situation. There is always the possibility, I suppose, that a board would act in a very fraudulent manner, but we certainly don't anticipate that happening. With timely disclosure and with the minister being made aware of the information, the minister then can take steps to deal with that. The minister can ask for special examinations with respect to financial matters at any time. Really, the minister as well has the ability to change letters patent in consultation with the port authority and with the boards. So with the timeliness, with the disclosure of information, the minister has the ability to act before we get to that final point.

• (1020)

Mr. John Maloney: The uses that a port authority can do are in their letters patent, but I thought this bill also expanded the uses possible. Or am I incorrect in that, and if so are there term limits? If I was an authority, could I license for 99 years or for 50 years? Are there restrictions on licences or lease terms?

Ms. Janet Kavanagh: The bill really doesn't address leasing terms for Canada port authorities. You usually find those in their letters patent. You always find that in their letters patent.

If you are leasing for port activities, currently lease terms are generally around 60 years. If you're looking at activities in support of port operations, that's a shorter lease term; it varies, but it's typically around 40 years at the moment.

Port authorities can ask for the minister to approve a 99-year lease. There's a discretionary aspect there. That has never been put into

place, I believe, but we can check on that. One of the things we're doing with the complementary policy initiative as well is trying to make these lease terms uniform across the Canada port authorities. The port leases for some port authorities might be 55 or 60 years; for those activities in support of operations, it could be 35 years instead of 40. We're really just trying to customize them across the board.

Mr. John Maloney: Residential uses are specifically excluded. That makes sense if the whole idea of a port authority is to nurture a port.

Ms. Janet Kavanagh: Also it's to reinforce the idea that this is a temporary use; whatever purpose you put that land to, it has to be returned to a state that will allow the port to use it for port operations.

Mr. John Maloney: Yes, it's so it can be used as a port, as an economic generator. If we look at ports such as Vancouver or Toronto, residential usage has been nurtured right up to the boundaries of the ports. It's high-priced real estate and generates a lot of revenue.

Is it possible that residential uses as an economic generator could be looked at in certain obviously very restricted situations? If the municipality can zone right up to your boundaries with this type of usage, depending on the land area, is it contemplated that long-term leases could be envisaged as an economic generator for residential use?

Ms. Janet Kavanagh: Well, at this time we've explicitly not provided for residential use. This is the policy position of the government and of this proposal.

Mr. John Maloney: On amalgamations, the B.C. Lower Mainland has been amalgamated. Are you in a position to comment on whether additional amalgamations in other areas of the country may be considered? If so, what would the criteria be, and would this possibility increase the borrowing limits that a board could look at?

Mr. Emile Di Sanza: In response to your question, no other amalgamations are specifically targeted here. All we're doing is based on the experience we've had with the Lower Mainland amalgamation; we've had to work within the confines of an act that didn't specifically recognize the prospects for an amalgamation, so we've had to introduce regulations.

The proposed amendments complement the regulation we introduced in May that provided for obligatory consultations in the case of amalgamations. We've also adjusted the governance structure with regard to the board of directors and with regard to the period of transition for the various amalgamating port authorities in terms of fees and other matters related to their operations. This is in place in case ports decide in the future that they wish to avail themselves of that potential option.

The Chair: Mr. Fast is next.

Mr. Ed Fast (Abbotsford, CPC): Thank you, Mr. Chair.

I'd like to follow up on some of the discussion regarding the funding that's going to become available if these amendments are passed.

As I heard Mr. Masse make his comments, I believe he was gently lamenting the fact that there's no money attached to this particular bill, but my colleagues to the right here have made it very clear that there's actually a tonne of money attached indirectly, because we have the \$2.1 billion gateways and border crossings fund, which is on top of the \$1 billion Asia Pacific gateway and corridor initiative. This legislation is critical for allowing moneys to flow from the federal government to ports across this country. Is that not correct?

• (1025)

Mr. Emile Di Sanza: That's correct, sir.

This is an economic policy legislative framework. It outlines the rules under which the port authorities operate. Right now there is a specific prohibition, and the intent here, by virtue of the proposed amendment, is to remove that prohibition.

Mr. Ed Fast: I believe clause 4 of this bill specifically repeats—actually on two occasions—the critical issue of competitiveness of our ports and of our economy, to make sure that we're competing successfully against many of the other ports around the world.

I'd like to hear from any of the four of you about the competitive context within which this bill is playing out. In other words, I'm assuming our major competition is to the south of us, from ports in the United States. Where are we already seeing competitive pressures coming from, specifically what ports? Are you able to tell us that?

Mr. Emile Di Sanza: On the west coast, there are obvious pressures coming from U.S. ports south of the Vancouver ports, south of Prince Rupert. Now, fortunately, the assessment has been made that there are competitive advantages in terms of the amount of time it takes for a shipping line to arrive at North America from Asia. It's important, obviously, that ports be able to capitalize on that sort of thing.

The access to infrastructure investment would only serve to ensure the competitive viability of ports. As I mentioned earlier, clearly our ports are well run, financially stable ports, but they are also competing with ports, whether they are on the west coast or elsewhere, that receive government funding in a number of different areas. We're trying to put them on a level playing field.

We also need to look forward. The Panama Canal is expanding to allow larger ships. What does that mean in terms of a change in shipping patterns? Could that possibly affect the east coast? Are

there trade opportunities opening as a result of possible trade routes in from India via the Suez Canal that could potentially have considerable benefits to east coast ports, whether it be Halifax or other ports in Atlantic Canada, or Montreal, for that matter? Are there opportunities as well in terms of a different kind of access into the major market in North America, the one around the Great Lakes, via the Seaway?

Those are all things that are in play at this time, but obviously both the port authorities and various observers, including Transport Canada, are looking very clearly at what kind of shifts are occurring in trade patterns. Obviously when the national marine policy was being developed in the mid-1990s, the role of Asia—and of China particularly—on the world market scene was nowhere near what it is today and what is being projected, not only for Asia but also for other evolving economies.

Mr. Ed Fast: Is it safe to say that the ports support this legislation?

Mr. Emile Di Sanza: From the discussions we've had to date—and I made reference to a press release that the Association of Canadian Port Authorities released last week—I think generally they feel that this is very much in the right direction and, presumably, would support that. I would imagine that you will be hearing from a number of port authorities—presumably the Association of Canadian Port Authorities, but also other interested parties who make use of the ports.

A voice: Shippers.

Mr. Emile Di Sanza: Exactly, shippers, importers and exporters, and a variety of other interests, and the shipping lines—the vessel operators—would use them.

The Chair: Thank you.

Thank you, Mr. Fast.

We are close to the time. I'm going to just open the floor up—Mr. Jean has not asked any questions yet—and then I'll give each opposition a couple of minutes.

Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you very much, Mr. Chair.

Mr. Di Sanza, I just want to talk very briefly. I don't have a lot of time. My understanding is that you are, in essence, one of the leading experts in this particular field. You are the secretary who was involved in the review, who actually got us to this point. Is that correct?

• (1030)

Mr. Emile Di Sanza: I wasn't specifically the secretary to the review, but that review was conducted under the auspices of the office for which I'm the director general.

Mr. Brian Jean: All right, so you are considered one of the leading experts in Canada. Would that be fair to say, in your humble opinion?

Mr. Emile Di Sanza: I wouldn't say it, but....

Mr. Brian Jean: Others do.

Mr. Emile Di Sanza: I think we do try our best to make sure we know what's going on in the marine sector.

Mr. Brian Jean: I appreciate your humility, sir.

I have two questions. The first is in relation to two particular ports on the St. Lawrence.

There are five ports on the St. Lawrence, but I'm referring particularly to Quebec City and Montreal. I notice that they have had actually, in operating revenues, the greatest increase over the last three years, since 2003. In fact, Montreal has had a 20% increase in operating revenues, and Quebec City has had a 30% increase in revenues. I would like your professional and expert opinion on the actual results of this legislation, and the other legislation that has accompanied it, in relation to jobs and economic growth in those areas.

Mr. Emile Di Sanza: Indeed, I think each port authority typically goes through a fairly rigorous exercise to look at what kind of spinoff effects there are in the local regional economies.

The port authorities do issue annual reports that outline their contribution to the economies. They outline the trends, obviously, in terms of shipping patterns and so on. Clearly Montreal has grown in terms of its handling of containers. For the port of Quebec City, most of that probably would have been from the cruise ships and bulk operations that take place there.

We also undertook with various associations in the industry, several years ago, an analysis of the contribution of the marine sector to the Canadian economy. It broke out by regions, provinces, and that sort of thing a high-level look at the impact of the marine sector on the economy. The analysis clearly demonstrated that it has a significant impact.

As I mentioned, each port does their own more detailed analysis in terms of jobs, their contribution to taxes, and their contribution to the local economy in terms of spinoff effects.

Mr. Brian Jean: So you would suggest that there would be an increase in economic activity in these particular ports, given this new legislation, obviously on a long-term basis—

Mr. Emile Di Sanza: There are provisions being proposed here... particularly access to contribution funding, which, I would assume, ports would factor into their long-term plans as one possible option.

As you know, the Ontario-Quebec continental gateway and trade corridor initiative was announced by the federal Minister of Transport and his provincial colleagues from Quebec and Ontario last July. There are very detailed studies going on in terms of identifying priorities and targeted areas to do the same thing for that region that I guess is being done on the Asia Pacific. There's also a similar exercise going on in Atlantic Canada.

Mr. Brian Jean: That's great news on an economic basis for the communities along the St. Lawrence.

I'd like to refer you to the second of three pages on the second-last policy initiative, land management flexibility. You referred to it earlier, and Mr. Masse had asked some questions on it.

For those people who are interested, it's under the second-last blue tab.

It talks about enabling the CPAs to lease or licence such land on a temporary basis. What hit me the most was the indication in the last paragraph, on the second page, that land use plans "must" account for the relevant social, economic, and environmental matters and zoning bylaws that apply to neighbouring lands.

Obviously these ports have an incredible impact on the local communities. This policy change, I was very happy to see, deals with social, economic, and environmental matters.

I'm wondering if you could talk very briefly about that.

Ms. Janet Kavanagh: On that point, it really reflects and enhances what is already there with respect to many Canada port authorities. Canada port authorities must have a land use plan. That land use plan must take into account surrounding uses of land. That land use plan has to be made public. Canada port authorities must have an annual meeting, a public meeting where a sufficient number of the board is there to answer questions.

It really is a further reinforcement of those concepts. The same concepts that are in place now would apply to this temporary use. It's very much a reinforcement of those ideas and very much in keeping with the provisions.

• (1035)

Mr. Brian Jean: This is good news for those communities that are concerned with....

The Chair: Thank you.

Mr. Bell, you have a couple of minutes. Then we'll go to Mr. Carrier.

Mr. Don Bell: Further to that line of questioning, the issue in many of the larger urban areas, and I'm thinking of North Vancouver and the Vancouver area, is that although the ports were there initially, the community has moved in around them. It's the very nature of the evolution of cities. And I guess the question is in terms of not only the compatible land uses for adjacent properties but the issue of payment of property taxes. Is there any intention through this—I don't see it anywhere—to change the question of the payment of grants in lieu of taxes?

The second is, if lands are used for non-port purposes—in other words, you're going to allow them to lease them out commercially—there's the issue of whether they pay taxes or grants, and of competitive fairness with occupiers of adjacent municipal land. Would a big-box store or an office complex have an advantage then by virtue of the land? I don't think that's the intention of this.

I have a final question on the reference that residential use is not contemplated at this time. As a former municipal politician, I can tell you that the concern when it comes to residential development is the significant impact it has on municipal services. I'm thinking of schools, I'm thinking of roadways, traffic flows, and things of that nature, more so than even the commercial traffic.

Mr. Emile Di Sanza: I'll answer briefly. Taxes are payable by the leasees on any port lands at commercial rates. So there's no competitive benefit, if you will, for them in that regard.

I don't know if Ms. Kavanagh would like to comment.

Ms. Janet Kavanagh: This is why one of the conditions is that it must always be leased to third parties. Those third parties, when they enter into use of that property, pay the same tax rates as any other commercial entity in the city.

The Chair: Monsieur Carrier.

[Translation]

Mr. Robert Carrier: I would like to ask a question about the port authority amalgamations provided for in the bill.

Do you know whether there have been a number of amalgamation requests? Do you know whether there are a number of possibilities for amalgamation? If this happens, have you developed criteria for approving amalgamations, or will you automatically approve requests for amalgamation?

Mr. Emile Di Sanza: As I said earlier, nothing is really targeted in the bill. It is based on the amalgamation of the three ports in southern British Columbia. At that point, it was clear that some provisions were needed in the act to make amalgamation easier when boards of directors had indicated their intent, when consultations had been conducted with interested parties, particularly the users, and when the project had been evaluated. With Vancouver, it was the boards of directors in particular that conducted the evaluation.

In the future, if port authorities show a desire to amalgamate, they will perhaps be able to look at Vancouver's experience to see what steps to follow and what challenges they may encounter. Furthermore, some provisions in the bill, although there are few, could make the transition easier, if necessary.

• (1040)

Mr. Robert Carrier: Thank you.

[English]

The Chair: Mr. Masse.

Mr. Brian Masse: Thank you, Mr. Chair.

I have a very specific question. If the Toronto Port Authority, for example, has a dispute with the municipality on the use of lands, to what specific body under this bill do they take that dispute?

Ms. Janet Kavanagh: It would depend on the nature of the dispute. For instance, if it's with respect to the payment in lieu of

taxes, there is a dispute resolution body that both parties can go to. This is at Public Works.

Mr. Brian Masse: Say, for example, it's the use of a property. If they want to use it for some type of commercial purpose, the municipality objects, and they're both set in their positions, what body do they take that dispute to?

Ms. Janet Kavanagh: There is no body under the Canada Marine Act. Whether there are other avenues open to them within the municipal context, I'm not sure.

Mr. Brian Masse: There aren't, and that's the whole point. It's in the courts, and that's the problem with this bill.

Secondly, why in this bill was the issue of security not addressed? There hasn't been very much. This is what's driving a lot of the port development in the United States, especially with cargo inspection and so forth. Why did this bill not look at some standards and procedures for cargo inspection and so forth?

There was the reversal of the former port police and so forth. Now we have everything from security guards to municipal police officers working on contracts. Why did this bill not provide some provisions for standards set for those things?

Mr. Emile Di Sanza: There is another piece of legislation, the Marine Transportation Security Act, that deals more specifically with security considerations.

Of course, when it comes to clearance of cargo, I guess that falls even somewhat further to the revenue and customs authority.

Ms. Ekaterina Ohandjanian: If I may supplement, it actually does, in the sense that we have an amendment in Bill C-23 that recognizes for the first time the link between the Marine Transportation Security Act, which is the proper legislative scheme for security-related provisions or regime, and the Canada Marine Act. So for the first time we've linked the two together. We can anticipate that if there's the will to provide substance and further security-related mandate on the part of the port authorities, that would be done through the Marine Transportation Security Act, but because of the link, it now recognizes that it's doable.

Mr. Brian Masse: Is it possible to do that in this bill?

Ms. Ekaterina Ohandjanian: The link is still to the Marine Transportation Security Act. It's recognizing that this act has the subject matter expertise relating to security.

Mr. Brian Masse: Thank you very much.

The Chair: Thank you.

We do have a subcommittee meeting following this, so I would thank our guests. I suspect you'll be back with the minister when he comes before the committee. I appreciate your input today. Thank you.

I'm going to adjourn this meeting.

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