



CANADA

PRIVY COUNCIL - CONSEIL PRIVÉ

P.C. 2005-1365

August 4, 2005

Whereas the Governor in Council is of the opinion that an extraordinary disruption to the effective continued operation of the national transportation system, other than a labour disruption, continues to exist;

Whereas the Governor in Council, pursuant to section 47 of the *Canada Transportation Act*, may take any steps that the Governor in Council considers essential to stabilize the national transportation system;

Whereas an amendment to Order in Council P.C. 2005-1356, made on July 29, 2005, is required in order to provide specific directives to the Vancouver Port Authority and the Fraser River Port Authority;

And whereas the Governor in Council is of the opinion that a failure to make an Order modifying Order in Council P.C. 2005-1356 made on July 29, 2005 under section 47 of the *Canada Transportation Act* at this time would be contrary to the interests of users and operators of the national transportation system and that there are no other provisions in that Act or in any other Act of Parliament that are sufficient and appropriate to remedy the situation and counter the anticipated damage that would be caused by the ongoing extraordinary disruption of the national transportation system;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Transport and the Minister of Industry in his capacity as the minister responsible for the Competition Bureau, pursuant to section 47 of the *Canada Transportation Act*, hereby makes the annexed *Order Amending the Order Authorizing Negotiations for the Settlement of the Dispute Causing the Extraordinary Disruption of the National Transportation System in Relation to Container Movements into and out of Certain Ports in British Columbia*.

10000-834  
(SOR/DORS)

ORDER AMENDING THE ORDER AUTHORIZING NEGOTIATIONS FOR THE  
SETTLEMENT OF THE DISPUTE CAUSING THE EXTRAORDINARY  
DISRUPTION OF THE NATIONAL TRANSPORTATION SYSTEM IN  
RELATION TO CONTAINER MOVEMENTS INTO AND OUT OF CERTAIN  
PORTS IN BRITISH COLUMBIA

AMENDMENTS

1. The definition "ports" in section 1 of the *Order Authorizing Negotiations for the Settlement of the Dispute Causing the Extraordinary Disruption of the National Transportation System in Relation to Container Movements into and out of Certain Ports in British Columbia*<sup>1</sup> is replaced by the following:

"ports" means, as the context requires:

- (a) the following port facilities, namely,
  - (i) the Port of Vancouver,
  - (ii) the Port of North Fraser, and
  - (iii) the Port of Fraser River; or
- (b) the following port authorities, namely,
  - (i) the Vancouver Port Authority,
  - (ii) the North Fraser Port Authority, and
  - (iii) the Fraser River Port Authority. (*ports*)

2. The Order is amended by adding the following after section 3:

APPLICATION TO PORT OF VANCOUVER

3.1 (1) The Vancouver Port Authority is directed, in respect of the territory under its jurisdiction and control,

- (a) to establish a licensing system giving access to the Port of Vancouver to trucks and other road transportation equipment for the delivery, pick-up or movement of containers into and out of that port;
- (b) to include as two of the conditions of a licence issued under paragraph (a) that the applicant

<sup>1</sup> SOR/2005-232



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(i) be a signatory to the Memorandum of Agreement between Trucking Companies (Owners/Brokers) and Vancouver Container Truckers' Association dated July 29, 2005 and be in full compliance with that agreement, and

(ii) accepts the arbitration process set out in section 10 of the Memorandum of Agreement for the purpose of reaching a final and binding resolution of any dispute relating to the interpretation or application of the licence; and

(c) to prohibit access to the Port of Vancouver to any truck or other road transportation equipment referred to in paragraph (a) that does not meet the requirements of paragraph (b).

(2) The Vancouver Port Authority has the freedom to do the things directed of it under subsection (1) without the constraints imposed under the *Competition Act* that may otherwise apply.

(3) Nothing in this section is intended to affect any collective labour agreement.

#### APPLICATION TO PORT OF FRASER RIVER

**3.2 (1)** The Fraser River Port Authority is directed, in respect of the territory under its jurisdiction and control,

(a) to establish a licensing system giving access to the Port of Fraser River to trucks and other road transportation equipment for the delivery, pick-up or movement of containers into and out of that port;

(b) to include as two of the conditions of a licence issued under paragraph (a) that the applicant

(i) be a signatory to the Memorandum of Agreement between Trucking Companies (Owners/Brokers) and Vancouver Container Truckers' Association dated July 29, 2005 and be in full compliance with that agreement, and

(ii) accepts the arbitration process set out in section 10 of the Memorandum of Agreement for the purpose of reaching a final and binding resolution of any dispute relating to the interpretation or application of the licence, and

(c) to prohibit access to the Port of Fraser River to any truck or other road transportation equipment referred to in paragraph (a) that does not meet the requirements of paragraph (b).

(2) The Fraser River Port Authority has the freedom to do the things directed of it under subsection (1) without the constraints imposed under the *Competition Act* that may otherwise apply.

(3) Nothing in this section is intended to affect any collective labour agreement.



(4) Nothing in this section prohibits the Fraser River Port Authority from recognizing a licence issued under section 3.1 by the Vancouver Port Authority as sufficient for the purposes of this section.

**COMING INTO FORCE**

**3. This Order comes into force on the day on which it is made.**



*Examined by the Drafting Services Group of the Department of Justice  
Examiné par le Groupe des services de rédaction du ministère de la Justice*

**CG-II/GC-II 2005/8/4 (12:32)**

## REGULATORY IMPACT ANALYSIS STATEMENT

*(This statement is not part of the Regulations)*

### *Description*

The purpose of this Order amending Order P.C. 2005-1356 is to stabilize the national transportation system, and specifically to resolve the dispute that has caused the disruption of the movement of containers into and out of the ports of Vancouver and Fraser River, in British Columbia, and which has disrupted the movement of trade nationally. This Order authorizes the facilitator, for-hire truck operators and owner-operators, shippers and brokers and the operators of the ports of Vancouver and Fraser River to enter into an agreement to implement rates, charges and terms and conditions as may be agreed to by these parties, for a period of 90 days, without the constraints imposed under the *Competition Act* that may otherwise apply.

This Order also provides that the rates, charges and terms and conditions that are agreed to by the parties will be binding for the movement of containers into and out of the ports of Vancouver and Fraser River, in British Columbia, as applicable.

The operators of the ports of Vancouver and Fraser River are instructed by this Order, as amended, to implement a licensing program for accessing the properties of these ports for the purposes of the movement of containers.

### *Alternatives*

There is no alternative to achieve the policy objective of resolving the dispute that has caused the disruption of container movements into and out of the ports Vancouver and Fraser River, in British Columbia, and which has impeded the effective and efficient operation of the national transportation system, but to make this amendment to the Order issued pursuant to section 47 of the *Canada Transportation Act*.

### *Benefits and Costs*

The primary benefit of pursuing this Order is to reduce or remove impediments to the efficient flow of containers into and out of ports and other facilities within the vicinity of Vancouver, British Columbia, and throughout the Canadian transportation system.

Costs associated with this Order are those agreed to by the parties.

### *Environmental Impact*

There is no environmental impact.

### *Consultation*

No person has been formally consulted by the Minister of Transport, pursuant to subsection 47(2) of the *Canada Transportation Act*.

***Compliance and Enforcement***

This Order will apply to any agreement entered into with respect to rates, charges and terms and conditions for the movement of containers into and out of the ports of Vancouver and Fraser River, as applicable.

***Contact***

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