



## **Submission to Task Force on Transportation and Industrial Relations Issues in the Ports of Vancouver**

### ***Vancouver Port Authority's overall perspective and position on the container trucking issue.***

In our view, a competitive trucking industry is a critical component of a successful gateway. However, it must also be an industry that pays a reasonable rate of return on investment and fair compensation. To achieve these objectives, we must increase productivity, not regulate rates.

The Order in Council has been successful in achieving the resumption of container trucking in the Port of Vancouver. While the OIC and the mandatory licensing system has resulted in almost 200 companies licensed and 3200 container trucks being permitted, it has not addressed many of the long-term systemic issues. We believe the OIC and the licensing system are only short-term responses to a crisis situation. It is not a sustainable solution in the long term.

The Order in Council and the Task Force Terms of Reference imply that long-term strategy should involve economic regulatory intervention. On the face of it, the trucking dispute has aspects that suggest that a regulatory response is justified. However this justification is thin. The public interest and concern that was generated had more to do with the violence, intimidation and disruption of the Port's businesses than the commercial issues. The real failure was the lack of enforcement of the criminal law to prevent the apparent intimidation and disruption of business. We do not believe that regulation of price and terms of service of the container trucking industry is the most appropriate response.

The recent dispute was essentially a commercial dispute that resulted in disruption of the national transportation system. It was not a labour dispute. Any long-term strategy must include a protocol for addressing such commercial trade disputes including standard operating procedures for policing and enforcement of laws during such disruptions.

The container trucking industry can be characterized by the following:

- Low entry costs – elasticity of supply evidenced by large number of new participants in industry and depressed pricing.
- Highly competitive market place – bidding down of prices to unsustainable levels.

- Market signals ignored - inelasticity of supply – dysfunctional market – uneconomic pricing not resulting in contraction of supply suggests owner/operators remain in business for non-economic reasons.
- Transfer of costs from supply chain participants to truckers. For example, truck gate line-ups, multiple dispatch, deadheading.
- Fragmented organizational structure - has discouraged the development, introduction and sharing of technology to increase productivity.

Port authorities have a responsibility to help solve these problems but have traditionally focused their attention on the marine terminal sector of the industry. At the VPA we recognized this and in 2004 turned our attention and assigned resources to better understand the entire logistics chain.

The solution to the container-trucking problem, in our view, is to allow the market to operate in an unregulated but efficient manner. Port authorities control access and can play a leadership role in facilitating the introduction of cost reduction operating initiatives that will enable the trucking sector to enjoy a reasonable return on investment and for the drivers to be fairly compensated. These initiatives could include:

- Extended gate hours.
- Mandatory reservation system.
- Coordinated dispatch throughout the gateway.
- Development, introduction and sharing of technology to improve productivity.

Solving the problem by regulating rates is not in the best interest of the gateway. Moreover, port authorities do not have the mandate, expertise or capacity to administer that regulatory process.

***The following pages respond to the Task Force's individual questions.***

1. *Examine and make recommendations on the roles of affected port authorities, brokers, freight-forwarders, shippers, trucking firms, truck owner-operators, as well as the provincial and federal governments with regard to optimizing efficiency in the movement of containers in the Lower BC Mainland, including movements into and out of the ports of Vancouver, Fraser River and North Fraser.*

The role of gateway port authorities is to ensure that the ports operate in a safe, secure, reliable and cost effective manner. Port authorities are required by the *Canada Marine Act* to be competitive, efficient, commercially oriented and financially self-sufficient.

Regulation of the container trucking industry is not within the VPA's mandate. Enforcement of any regulatory regime is beyond our capacity.

However, port authorities do have an important role to play in encouraging the introduction of cost-saving and productivity-improving operating initiatives including moving towards 24/7 operations, central dispatch, and mandatory reservations.

In order to implement gateway wide initiatives governments will need to be ready to assist in a timely way with any legislative or letters patent changes that may be required.

2. *Examine and report on possible synergies and optimization in the operations of the various port authorities, including such elements as 24-hour services.*

As outlined above, there are a number of initiatives that need to be considered to reduce costs and improve productivity:

- Extended gate hours - move towards 24/7 operation and uninterrupted gate openings.
- Mandatory reservations with performance incentives.
- Use 'access permit' system to enforce improved operating requirements.
- Better coordination of operations throughout gateway.
- Centralized dispatch.
- Measure and monitor performance to identify real versus perceived problems, with appropriate solutions.
- Greater use of technology and improved information collection and sharing.

3. *Examine and provide recommendations on the enforceability, by way of licensing or other effective mechanisms, of any standards for remuneration and other conditions, including the application of such standards to companies who are not party to an agreement on remuneration; the potential impact of new entrants; and corporate restructuring (successorship), and on the mechanisms required for any recommended licensing regimes to be established and enforced at the ports of Vancouver, Fraser River and North Fraser, including access compliance.*

We do not believe regulation of the cost or terms of service in the container trucking business is either necessary or appropriate. Moreover, it will be impossible to enforce.

Notwithstanding our preference for less regulation, there are many issues within the Order-in-Council and licensing system that would need to be addressed if they were to form the basis of a regulatory scheme. These include:

- Primarily deals with owner/operators and excludes segments of the trucking industry.
- Prohibition on litigation.
- Voluntary overtime.

Port authorities do not have statutory authority or capacity to regulate rates and should not be expected to establish or regulate rates or tariffs, enforce or audit compliance with rates or deal with alleged violations.

Port authorities cannot accept the liability that comes with regulation of this industry. Proper regulation requires an independent regulatory body with specialized expertise.

As manager of the Port of Vancouver, the VPA should have authority to issue permits for truck access and establish operational, security, safety, performance, technology and environmental standards. This must be distinguished from licensing or regulating container trucking.

In conclusion, we suggest that regulation of movement of containers by the trucks does not fall within the VPA mandate any more so than the regulation of movement of the containers by ships or trains. Any licensing should be the responsibility of an existing or newly empowered federal regulatory agency.

4. *Examine costs and possible impediments and inefficiencies in the movement of containers, including wait times and dispatch procedures, within the Lower BC Mainland.*

The industry is characterized by low entry costs resulting in a large number of new participants. This highly competitive market place results in bidding down of prices to unsustainable levels. Furthermore, owner/operators, for non-economic reasons, are not exiting the business when the market would suggest.

The fragmented structure of this sector results in the costs of inefficiencies being disproportionately borne by owner operators. For example, lack of participation in the reservation system by trucking companies leads to truck gate line-ups. Decentralized dispatch results in multiple trucks being dispatched for one pick up or multiple trips for a single container.

Port authorities can provide leadership to drive costs out of system but this will involve cooperation of all stakeholders and behavioral changes that are difficult to affect.

5. *Examine and provide options and recommendations regarding legislative and/or regulatory frameworks available to the federal and provincial governments and how these may be applicable.*

If licensing and regulation is selected as the preferred option, then the recommended choice as a regulatory body is the Canadian Transportation Agency. Its mission is to “*administer transportation legislation and Government of Canada policies to help achieve an efficient and accessible transportation system through essential regulation.*” The CTA could be infused with the necessary authority to regulate the movement of containers by truck.

The scope of any regulatory system would have to go well beyond the licensing system described in the Order in Council. The regulatory system would have to apply equally to new entrants, successors and all truckers that haul containers. There should be no exemptions in a regulated industry.

If regulation is deemed an appropriate response to this dispute, then the regulatory body must be empowered to:

- Licence container trucks and equipment.
- Establish tariffs.
- Enforce compliance with tariffs.

- Carry out compliance audits
- Engage in periodic rate reviews
- Deal with alleged violations and handle license revocations.
- The regulatory system should not be limited to the current Memorandum of Agreement – must apply equitably to all business models.

Implementation of a regulatory system would supercede the MOA and licensing system ordered by government

6. *Examine and report on best practices at other ports and how they may apply in these circumstances.*

Some examples of recent initiatives that are not regulatory but are operational include:

- PierPASS - Ports of Los Angeles/Long Beach system to incent the use of night gates (\$80 US per 40' container)
- China operates 365/24/7
- Mandatory reservations for trucks in Hong Kong
- Gateway focus/approach (including all ports in Lower Mainland)
- Empty coordination -- use of technology to improve logistics and information thereby improving efficiencies.

7. *Examine the industrial relations between the trucking companies and container truck drivers serving the ports of Vancouver, Fraser River and North Fraser, including the process for determining rates and other contract terms and conditions and the process for resolving disputes.*

As suggested earlier, in our view, the trucking dispute was a commercial dispute and not an industrial relations dispute.

Quite simply, independent service providers chose to not participate in this industry since they were not making enough money. Had the criminal laws been enforced to prevent the disruption of business and had market forces been allowed to operate, a resolution would have evolved.

Having said that, the dispute has confirmed the need for changes to the operational model for this business sector.

8. *Examine other outstanding issues of representation.*

No comments.