

## CANADA PORT AUTHORITIES – ACCESS TO GOVERNMENT FUNDING PROGRAMS

Section 25 of the *Canada Marine Act* (CMA) sets out a general prohibition against Canada Port Authorities (CPAs) receiving federal funding.

There are however three exceptions, also set out in section 25, to this general prohibition against federal appropriations:

- 1) a payment made under the *Emergencies Act* or any other Act in respect of emergencies;
- 2) a payment made under an Act that provides for grants and that has general application; and
- 3) a payment made to fund the Crown's obligations under an agreement in existence at the time that the provision came into force.

As part of the Government initiatives on security, funding to CPAs for implementing security enhancements was made possible until November 2007, through the *Marine Transportation Security Act*.

### Background

The limitations on federal funding to ports reflect the original intention of the 1995 National Marine Policy that CPAs are commercial entities mandated to operate in the public interest and according to business principles. CPAs are expected to meet their capital requirements through operating revenues and their ability to borrow money from private sector lenders.

Generally, infrastructure funding takes the form of contribution programs,

which are more structured and goal oriented, require that projects support federal government priorities, meet specific national interest objectives, have valid business cases, and have the support of the private sector and other parties.

Changes in the economics of marine transportation have necessitated a re-examination of the general prohibition against funding to CPAs. In addition, ports around the world are receiving increasing funding for capital, environmental and security enhancements.

With continued growth in trade projected, especially in relation to China/Asia, capacity, infrastructure and intermodalism are critical issues to ports. Ports are integral parts of the national transportation infrastructure, key to the national economy and investment required for improving and building new or improving upon existing transportation infrastructure corridors cannot always be borne by the private sector alone. Those investments tend to require the collaboration of several parties, such as CPAs, the private sector and various levels of government, including the federal government.

CPAs are statute-barred from federal funding programs available to other commercial entities. For instance, tenants of a CPA, are able to apply for monies from federal funding initiatives whenever their needs fall within the scope of such an initiative. Similarly, other modes of transport (rail, road and air) are not subject to the legislative

prohibition against access to federal contribution funding.

CPAs believe that access to funding for particular projects, over and above what they can secure through borrowings, is necessary and would provide recognition of their role as managers of public assets. The CPAs maintain that their inability to access federal funds places them at a disadvantage relative to ports in the United States and to other modes of transport.

### **Proposed Change**

It is proposed to amend section 25 with the following objectives:

- ◆ Remove the existing access to federal grant programs;
- ◆ Provide access to federal contributions in respect of:
  - capital costs of infrastructure projects;
  - environmental sustainability; and
  - security.

### **Recommendations by the CMA Review Panel - 5.1 & 5.2**

*5.1 The Government of Canada should make investments in infrastructure for CPAs where the amount of capital needed is beyond the ability of the CPA to finance its cash stream as currently provided for and where the business case for such investment has been approved by the appropriate government department.*

*5.2 Section 25 of the CMA should be clarified to ensure that CPAs are allowed to participate in any suitable programs provided by the Government*

*of Canada that are available to other Canadian companies.*

### **Observation by the CMA Review Panel – Observation 9**

*It is appropriate for the Government of Canada, rather than the marine transportation industry, to bear the expense of implementing national security measures.*

### **Stakeholder Views**

Most stakeholders recommended that CPAs have access to federal funding, including grants, contributions, and loans, as well as investments in port infrastructure by the federal government.

Marine stakeholders, including ports, shipping lines, and shippers, all supported having the federal government bear the cost of national security measures, particularly in light of the funding being provided to ports for increased security in the US and the impact this will have on port competitiveness.