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# Standing Committee on Transport, Infrastructure and Communities

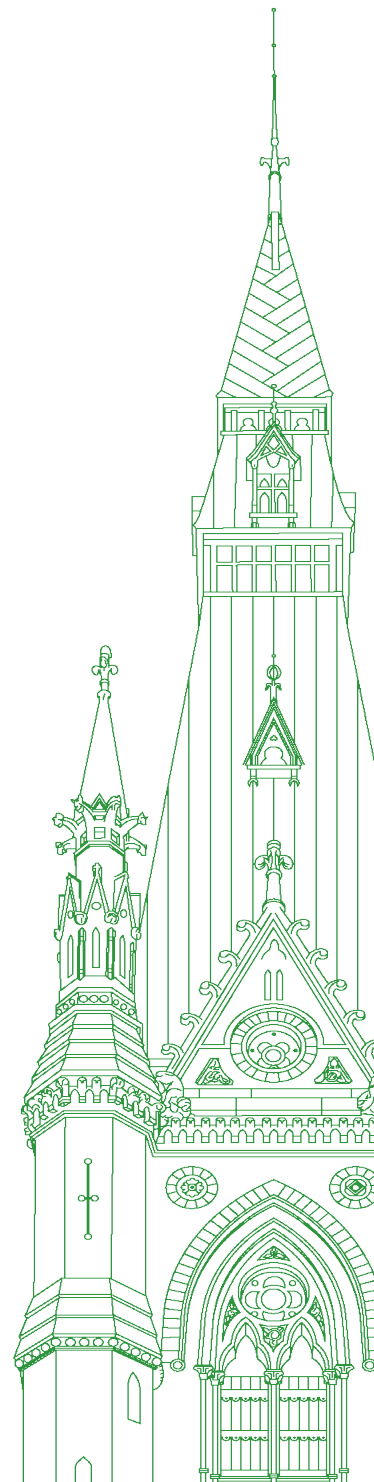
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Chair: Mr. Peter Schiefke



# Standing Committee on Transport, Infrastructure and Communities

Wednesday, October 25, 2023

• (1950)

[*English*]

**The Chair (Mr. Peter Schiefke (Vaudreuil—Soulanges, Lib.)):** I call this meeting to order.

Welcome to meeting number 84 of the House of Commons Standing Committee on Transport, Infrastructure and Communities.

Pursuant to the order of reference of Tuesday, September 26, 2023, the committee is meeting to discuss Bill C-33, An act to amend the Customs Act, the Railway Safety Act, the Transportation of Dangerous Goods Act, 1992, the Marine Transportation Security Act, the Canada Transportation Act and the Canada Marine Act and to make a consequential amendment to another Act.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. Therefore, members are attending in person in the room and remotely using the Zoom application.

I wish to inform members of the committee that all witnesses appearing virtually have been sound tested for today's meeting and have passed the test for the benefit of our interpreters.

Joining us today, colleagues, we have, from the Greater Victoria Harbour Authority, Robert Lewis-Manning, chief executive officer, joining by video conference. Welcome.

From Vancouver Fraser Port Authority we have Duncan Wilson, vice-president, environmental and external affairs.

[*Translation*]

From the Syndicat des débardeurs, local 1375, of the Canadian Union of Public Employees, we welcome Marie-Christine Morin, union adviser, who is joining us by video conference.

Welcome.

[*English*]

From Unifor, we have Joel Kennedy, director, rail sector, by video conference; as well as Mr. Graham Cox, national representative.

We begin with opening remarks.

For that, I will turn the floor over to Mr. Lewis-Manning.

The floor is yours. You have five minutes for your opening remarks.

**Mr. Robert Lewis-Manning (Chief Executive Officer, Greater Victoria Harbour Authority):** Thank you very much, Mr. Chair. As you mentioned, I am the CEO at the Greater Victoria Harbour

Authority. I've just recently joined it in the last seven months. I've assumed the role with a background of about 30 years in shipping and logistics. I hope to provide with a somewhat unique perspective on Bill C-33.

Today I'm speaking to you from the territory of the Lekwungen people, the Songhees Nation and the Esquimalt Nation, whose historical relationship with the land and the harbour continue to this day.

Why is the Greater Victoria Harbour Authority unique? Really it's unique because it's not a Canadian port authority, despite the name. In reality, Transport Canada remains the regulatory authority under the Canada Marine Act in the city of Victoria, which is an important nuance when considering the legislative amendments.

When the federal government divested these port assets over 20 years ago, there was an intent for GVHA to become a Canadian port authority, but a number of challenges persisted. Notwithstanding that, we now steward the majority of harbour infrastructure, including a number of marinas, facilities, water lots and a strategically located deepwater industrial terminal with four vessel berths, a warehouse and a large lay-down area. If you were to compare us with the existing 17 Canadian port authorities, we would be a mid-sized port in Canada according to revenue, vessel movements and physical infrastructure.

We are the number one destination port for cruise ships in Canada, with over 330 large cruise ships and about one million passengers visiting annually, over 100 commercial cargo ships every year, and we have several unique services, including wet docking, underwater cable storage and deployment and support for a large-scale ocean clean-up effort. We also steward several iconic assets, such as the lower causeway in front of the Fairmont Empress Hotel, Ship Point and the Breakwater.

The Greater Victoria Harbour Authority has a unique governance structure, including six member agencies representing local businesses and governments that are essentially shareholders and, most importantly, two rights-holders, the Songhees and Esquimalt first nations.

Much of the intent of Bill C-33 is supported, including the need to meaningfully engage indigenous peoples and local communities.

The GVHA has adopted these principles since its inception and it has facilitated a high degree of trust and the ability to pivot quickly for unexpected challenges, such as the COVID-19 pandemic. Having indigenous leaders as part of the GVHA's board of directors has led to several opportunities that may not have been possible previously. We also have advisory committees and a high level of interest and involvement with local community stakeholders.

Likewise, the proposed requirement to have climate change and climate adaptation plans and reporting makes eminent sense considering the vulnerability of ocean infrastructure and the supply chain and its importance to the well-being of the Canadian economy and Canadians. The Greater Victor Harbour Authority is in the process of developing both of these plans, including a resiliency strategy tied to sustainable finance and low-carbon trading opportunities to help reinvest in physical infrastructure to mitigate climate impacts. Our electrification strategy is now under way and includes both cruise and cargo shipping. We will be making an application for federal funding in the coming months and GVHA is a partner in the Pacific northwest green shipping corridor project.

The GVHA is actually strategically located to support a more efficient supply chain, reduce overall impacts on the environment and local communities, and support preparedness and responses to incidents involving commercial shipping.

With respect to the cumulative impacts from marine shipping, we are aware of the significant dialogue between the federal government, ports in British Columbia and local communities regarding the impacts from supply chain disruption. In this respect, the proposed amendments do not appear to be sufficiently robust to directly encourage regional port and waterway coordination and the efficient use of regional infrastructure. The management of vessel traffic should not be made in isolation and should leverage regional capabilities. For example, our four deepwater berths could support awaiting cargo exports from other ports, reducing carbon intensity and impacts on local communities.

Regardless of this weakness in the bill, we are working with partners to make this a competitive option and an advantage for exporters in the future. We would encourage the federal government to adopt this type of approach in its developing of the supply chain strategy.

Similarly, the Canada Marine Act should better leverage existing infrastructure to support contingency operations. In 2021 the GVHA played a pivotal role in the response to the *Zim Kingston* fire, providing a base of operations for salvage operations.

In closing, I think the preamble of the Canada Marine Act identifies the need for a systems approach. This legislation could be strengthened in order to provide that systems approach.

Thank you very much, Mr. Chair.

**The Chair:** Thank you very much, Mr. Lewis-Manning.

Next we have Mr. Wilson.

Mr. Wilson, I'll turn the floor over to you. You have five minutes for your opening remarks, sir.

**Mr. Duncan Wilson (Vice-President, Environment and External Affairs, Vancouver Fraser Port Authority):** Thank you, Mr. Chair.

Good evening. On behalf of the Vancouver Fraser Port Authority, I'd like to thank the committee for the opportunity to appear this evening.

There's no question that a review of the workings and structure of Canadian port authorities was overdue. We commend the government for recognizing that updating the act was necessary. There are, however, parts of the bill that concern us, and some amendments that we fear represent a step backwards and reflect a lack of confidence on the part of government in a system that continues to provide significant benefits to Canadian trade and the Canadian economy.

It is our view that the time was right for the government to take a further step back and allow port authorities more flexibility in their operations by reducing regulation. Instead, this seems to be a move toward a more prescriptive approach to the operation of ports and an attempt to impose a "one size fits all" model on all ports, when ports have very different business models and local contexts and very different levels of financial capacity.

The Port of Vancouver operates in one of the most challenging environments of any port in the world. We are one of the most diverse ports in North America, handling a wide range of cargo, including intermodal containers; bulk products, including grain, potash, coal and sulphur; automobiles; and break bulk. We also host a very successful cruise ship industry business.

We do this in a region where we interact with 16 local governments and a large number of first nations. Most ports around the world deal with only one local jurisdiction. Few would deal with more than two or three. On our terminal 2 container project, for example, we signed mutual benefit agreements with 26 first nations. We meet regularly with all of the municipalities that border the port. It includes annual meetings with our senior executives and board of directors.

I cite this complexity to illustrate the challenges with regard to government assuming a greater role in port operations. We welcome the provisions of the bill that provide ports with more authority for vessel traffic management. The increase in vessel traffic in some sectors has made it clear to us that to make the most efficient and environmentally responsible use of the port, reduce the need for ships to sit at anchor, and ensure safety, we require additional authority. Whether the bill will meet these needs will depend on the regulations that come.

The port authority also has in place the sort of committees mandated by the bill related to indigenous peoples and municipal governments. Whether having those committees mandated by legislation will enhance their effectiveness or limit flexibility remains to be seen. I can emphasize that we give this local engagement a very high priority and constant attention. At the same time, we recognize that a model that works for us is not necessarily appropriate for smaller ports with much more limited means and who deal with a fraction of the governments and first nations we engage with.

We share the concerns of the Association of Canadian Port Authorities regarding the level of port borrowing limits and the extremely long process required to increase them. The current process involves several departments, is measured in years, and bears little relationship to a port's financial capacity. While we're hopeful that the new process may offer a slight improvement, we were hoping for a more nimble, market-based approach.

I would also echo the association's concerns regarding the appointment of board chairs by the minister. We believe that the current system has worked well and that it is extremely important to have a chair who enjoys the confidence of the board. Port authority boards of directors follow a written code of conduct that establishes clear rules regarding conflicts of interest, inside information, and more. They collectively bring an extensive and diverse mix of expertise and skills to enable good governance and oversight of port operations and set strategic direction.

We also share ACPA's view regarding the need for increased and more predictable infrastructure spending. We are hoping that the newly created supply chain office within Transport Canada will signal the government taking a more active role in coordinating projects outside of port jurisdiction.

In some of the early rounds of infrastructure investment in the 1990s, major projects were completed that dramatically enhanced the efficiency and safety of the supply chain. These projects involved a large number of players, including railways, numerous municipal governments, the Province of B.C. and terminal operators. It is unlikely that they could have been completed without Transport Canada playing a significant coordinating and convening role to bring the parties together. Unfortunately, in recent years this role has largely been abandoned. It is left to the port authority to try to play this role despite a lack of jurisdiction and capacity.

We believe the current model for operating Canada's ports has been a great success story for the government of the day. The government of the day showed great foresight in creating a system that maintained a role for government while allowing ports to operate at arm's length, overseen by boards that include representatives from all levels of government.

• (1955)

We encourage the government to continue moving forward with this model, tweaking it where necessary, but recognizing the value of allowing ports to manage their businesses within the framework of the act.

Thank you again for the invitation to appear this evening. We look forward to your questions.

• (2000)

**The Chair:** Thank you very much, Mr. Wilson.

[*Translation*]

I will now give the floor to Ms. Morin.

Ms. Morin, you have the floor for five minutes.

**Ms. Marie-Christine Morin (Union Adviser, Syndicat des débardeurs, section locale 1375 du Syndicat canadien de la fonction publique):** Hello, Mr. Chair and members of the committee.

Thank you for inviting me.

You will notice that my vocabulary is quite different from that used by the people who spoke before me. I am here to represent the members of the Canadian Union of Public Employees, or CUPE, who work at the ports of Montreal, Trois-Rivières and Bécancour, that is, dockworkers of Trois-Rivières and Bécancour, local 1375, grain sector workers, local 5317, and rail workers, local 5598, of the Port of Montreal.

My main concern today is of course maintaining and improving working conditions for our employees in the shipping and rail sectors.

On October 16, 2023, you heard the concerns of my colleagues Robert Ashton and Michel Murray regarding the potential impact of Bill C-33 on labour relations and labour law.

I noted the assurance provided on October 16 by the assistant deputy minister, policy, at Transport Canada, Serge Bijimine, who stated that Bill C-33 is not expected to apply to labour relations.

Mr. Bijimine also agreed to obtain a legal opinion on the matter, if that had not already been done.

In any case, the best way to ensure that the bill does not interfere with labour relations or labour law is to add a clause to that effect right in the bill.

Consider for example the new clause 17.4 of Bill C-33 which gives the minister full power to intervene if he is of the opinion that something has to be done to respond to a threat to the security of transportation, including the security of goods, which is very broad.

Similarly, the new subclause 31(2) provides for the issuance of an emergency certificate.

There appears to be some confusion in Bill C-33 as to the concepts of “security” and “safety”. This confusion was also mentioned for other reasons in the Railway Association of Canada brief.

Moreover, clause 107.1(1) of the bill provides that, if the minister is of the opinion that there is a risk of imminent harm, specifically to national economic security or competition that constitutes a significant threat to the security of goods or the supply chain, the minister may order a port authority to take any measure that the minister considers necessary to prevent that harm.

At CUPE local 5598, the Montreal Port Authority is my direct employer and that of the rail workers. You can appreciate our concern, especially since this clause gives the minister full discretion in certain situations.

In short, without basic parameters in Bill C-33, we are afraid that the minister's new powers could be used to undermine fundamental rights, including labour rights. I am of course referring to the freedom of association in paragraph 2d) of the Canadian Charter of Rights and Freedoms, as well as the right to freedom of expression and peaceful assembly, in paragraphs 2b) and 2c).

Such parameters are present in Canadian legislation and jurisprudence, such as the Canada Labour Code. They are also present in international treaties and international jurisprudence, including those of the International Labour Organization and its International Labour Office, in convention 87, the International Convention on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

These are basic treaties linking us with the United Nations and other countries around the world. They serve to safeguard social justice and uphold fundamental rights, including the right to association, which includes the right to bargain and to strike.

That is why we are appearing today to appeal for the addition of an interpretation clause in Bill C-33, along the following lines: “The interpretation and application of this act must not in any case interfere with labour relations and must respect: a) fundamental rights, including the right to association; b) the Canada Labour Code; c) international labour law and Canada's commitments in that regard.

If Bill C-33 prohibits interference with labour relations, I think that should be spelled out to prevent any confusion. There you have it.

Thank you for your attention and your assistance.

**The Chair:** Thank you very much, Ms. Morin.

[*English*]

Finally for opening remarks, we have Mr. Kennedy and Mr. Cox. I'll turn the floor over to you. You have five minutes for your opening remarks.

**Mr. Joel Kennedy (Director, Rail Sector, Unifor):** Thank you.

Good evening, I'm Joel Kennedy, Unifor's rail sector director, and I am here with my colleague, Mr. Graham Cox. Thank you for the opportunity to speak on Bill C-33.

Unifor is Canada's largest union in the private sector, and represents 315,000 workers in every major area of the economy. Unifor represents 32 bargaining units and close to 10,000 members in the rail sector. This includes engineers, conductors, freight car and locomotive mechanics, electricians, crane operators, and a contingent of semi-skilled support workers, such as labourers and production workers who manufacture freight car, locomotive and track components. Unifor also represents 2,300 workers in the marine sector.

In the rail sector, Unifor members perform safety inspections on freight cars physically, visually, audibly, and sometimes even by smell. Our members perform brake tests and inspect the trains' mechanical components to ensure that they are working properly and are free of defects.

Current legislation requires these trains to be inspected and tested at the train's origin and destination points. However, regulatory exemptions have already been granted that allow rail companies to remove safety inspections and tests conducted by a qualified mechanic and to replace those with technology that is limited and largely untested and unregulated. We believe digital inspection creates some conflicts when the interests of the company's profits and that the inspection results do not align.

Unfortunately, technology and digitization is referred to in this bill in only the context of facilitating efficient supply chains and rule-making. Unifor believes this bill continues to and entrenches the “fox watching the henhouse” type of regulatory environment for the rail sector. We believe the large rail employers have taken advantage of this deregulated environment and are hiding behind safety to increase their bottom lines.

In an unregulated automation system there will be a lot of pressure for systems to be tweaked, not only for safety but also for convenience. Unifor believes that technology should be invested in and implemented to increase the safety and security of our supply chains. However, as it stands now, the focus has been on replacing workers while attempting to reach the same level of safety. There is even a current arbitration before the board about whether this digital safety inspection work is covered by Unifor's contract.

The U.S. Department of Transportation's Volpe Center, based on its research on rail technology, has said that “Replacing workers should not be the focus of technology implementation. Instead technology should be used to augment work, not replace it, to increase the safety of the rail system.” It is our understanding that this is also the position taken by the U.S. White House. We submit that any change to Canadian rail legislation that oversees safety should include the principle of augmentation in the pursuit of increased safety, not simply the replacement of workers in search of increased profits.

Unifor is also concerned that the proposed amendments by Bill C-33 to the ability to consult with third parties is just language to support the outsourcing responsibility to a third party on regulations and exemptions. If the minister's office feels it does not have in-house capacity to make good decisions on rules and exemptions, it should invest in a publicly financed, independent research arm to look at the impacts of rules and exemptions granted in the implementation of technology, not a private third party.

Unifor is concerned that private third party recommendations will be based on private proprietary data. Safety management systems and security management systems are already black boxes because they use software as if software development is some alien process and cannot be regulated. Unifor maintains that rule-making and the exemption process should be made public: Therefore, data collected on the impact of rules and exemptions should also be made public.

Finally, we'd also like to echo concerns brought up by our comrades at CUPE and ILWU about the implications of new powers of the minister when it comes to sustaining supply chains. While we recognize that the language was written to deal with pandemic-like emergencies, we feel that the language is too broad and, although it's not the intention of the language, could be used to interfere with the right to strike.

We believe the best model for expanded powers for emergency should be done, though, through a list of issues and types of disruption that can constitute emergencies and actions impacting supply chains. We submit that such a list can be clear to the public while also being sufficiently broad to deal with security against external actors, without undermining charter rights and legitimate actions.

I would like to also say that our friends at Teamsters adopt our positions as well, and they couldn't make it here today for certain reasons.

● (2005)

**The Chair:** Thank you very much, Mr. Kennedy.

We'll begin our line of questioning this evening with Mr. Strahl.

Mr. Strahl, I'll turn the floor over to you. You have six minutes, please.

**Mr. Mark Strahl (Chilliwack—Hope, CPC):** Thank you very much, Mr. Chair, and to all the witnesses for appearing here at this late time slot.

I'm once again quite shocked to hear from another panel of witnesses, most of whom had significant concerns about the bill—albeit some had faint praise for it. To me, it shows that the Liberal government did not do its homework before bringing this bill forward and did not meaningfully consult with the people who will be most affected by it. That is certainly what we are hearing panel after panel, meeting after meeting. It will be interesting to hear the minister explain that in a couple of meetings from now.

I want to go to the Vancouver Fraser Port Authority. Mr. Wilson, I think this bill, quite frankly, was drafted with the port that you represent in mind. I think we've certainly heard that some of the provisions in the bill will be extremely onerous for smaller ports that do not have your financial capacity, the number of employees,

or the ability to set up some of the mandatory requirements that have been included in the bill.

You did mention your concerns with the one-size-fits-all approach, but could you maybe quantify for the Vancouver Fraser Port Authority what your estimate is of the number of employees you would have to hire or the amount of money you would have to spend to come into compliance with the new requirements in the bill, including reporting and setting up of mandatory committees and that sort of thing. We've heard some ports were looking at its \$200,000 and requiring multiple new employees. I'm wondering if you have a number.

● (2010)

**Mr. Duncan Wilson:** Thank you for the question.

I would start by saying that most of the things that are required under the bill are things we're already doing, so there isn't any incremental cost. There are a couple of exceptions to that. One is the financial reporting requirements that will add cost. We estimate that will cost about, I believe, \$200,000 a year. An area where there will probably be increasing cost for us into the future, but an area we're very active in anyway and intend to continue stepping up in, is with respect to the environment.

The requirement to publish annual climate plans and climate adaptation plans and to report on those will create some extra work, but we're already doing a lot of that stuff. Those are areas where we're already active, and we already have large initiatives under way to advance those. So, for us, again, it's a less onerous change to what we're doing on a day-to-day basis than it would be for many of the smaller CPAs.

**Mr. Mark Strahl:** In a previous meeting a Liberal member of Parliament stated that, "I can tell in metro Vancouver there are lots of conflicts and there is disgruntlement that the port seems to trump the community's environmental or other priorities. I think we can do better." I said at the time that I was looking forward to your response to that.

Do you accept that you trump the community's concerns and are not responsive to them?

**Mr. Duncan Wilson:** We invest heavily in our local community engagement and our local government engagement. We have 16 municipalities that touch the port. There is a lot to do. If you think about the Port of Vancouver, it's the country's largest industrial port operation, immediately adjacent to communities on all sides. There are about 640 kilometres of coastline around which we have jurisdiction. That touches a lot of people. Those interfaces are necessarily going to create conflicts from time to time.

I would say, with the overwhelming majority of municipalities, we have a very strong working relationship. We meet regularly with the mayors, we have staff liaison committees, and we have, as I said, executive meetings with the mayors. We have an annual board meeting with the mayors. We work very hard to address local community concerns. For example, if we go back to the purpose clause of the Canada Marine Act, it's very much about facilitating Canada's trade policy priorities while at the same protecting the environment and considering the input of community. We're required by legislation to do that, and it's an area we take very seriously. Often we can do what they would like.

• (2015)

**Mr. Mark Strahl:** Mr. Chair, how much time do I have left?

**The Chair:** You have 50 seconds, Mr. Strahl.

**Mr. Mark Strahl:** We heard from a witness who said that increasing port borrowing limits puts taxpayers at risk. Can you address that concern from your perspective? If you are given an unlimited borrowing limit, for instance, do you feel that taxpayers are put at risk if, for some reason, you had the inability to pay?

**Mr. Duncan Wilson:** Again, under the Canada Marine Act, we're required to be financially self-sustaining, so we don't receive tax dollars for operations. In fact, we pay an annual stipend to the Government of Canada; so, from our perspective, the dollars we are using are the dollars that are paid to us by port users. That's the source of revenue, and I don't see any place where taxpayers dollars would be at risk. I would point out that, if we move to a more market-based borrowing regime, that would take care of itself.

**The Chair:** Thank you very much, Mr. Wilson.

Thank you, Mr. Strahl.

Next we go to Mr. Rogers.

Mr. Rogers, the floor is yours. You have six minutes, please.

**Mr. Churence Rogers (Bonavista—Burin—Trinity, Lib.):** Thanks, Chair.

Welcome to the witnesses this evening. It's great to see the folks here today, and we're counting on trying to produce a good piece of legislation, Bill C-33, and are certainly counting on the knowledge, expertise and experience of people who are around this table this evening to give us some good guidance and to produce legislation that is going to effectively improve and enhance our supply chain.

My first question is for Mr. Lewis-Manning. Then, Mr. Wilson, I'll come to you with the same question.

Should Bill C-33 pass, the federal government will have authority to make regulations with respect to how anchorages are managed at ports. What kinds of things would you like to see in these potential regulations?

I'll go to Mr. Lewis-Manning and then Mr. Wilson.

**Mr. Robert Lewis-Manning:** At the moment, the Port of Victoria doesn't have any anchorages within its harbour, so the question is not applicable. I think the question is probably best suited for Mr. Wilson.

**Mr. Churence Rogers:** Go ahead, Mr. Wilson.

**Mr. Duncan Wilson:** We're very happy with the direction of the legislation with respect to management of traffic and anchorages. We have, in addition to the anchorages inside the port's jurisdiction, a temporary protocol in place with Transport Canada for the Gulf Islands anchorages. We are trying to find ways to reduce the impacts of those anchorages by finding ways to have more vessels tied up within port jurisdiction. That's an area of a lot of work right now for us and something that we're taking very seriously, but we're comfortable with the legislation the way it is.

**Mr. Churence Rogers:** Thank you.

Mr. Wilson, how do you see data sharing helping ports to become more efficient and more competitive? Do you think that Bill C-33 will help end-to-end digitalization of our supply chain?

**Mr. Duncan Wilson:** Bill C-33 is maybe less about that specifically—but that digitalization is a huge focus for us. We have a program in place that we call Connect+, which is a combination of active vessel traffic management and a supply chain visibility initiative that are intended to work together to provide enhanced visibility of cargo movements across all sectors in and out of the gateway—again so that we can be more efficient, move cargo faster, reduce the impact on communities of things like anchorages and also reduce the impact of shipping on, for example, seven resident killer whales at risk.

**Mr. Churence Rogers:** Thank you very much.

Mr. Cox, or your counterpart there, how would you describe the relationship between ports and labour generally? Would you say that there's a need to create forums for ports to engage with labour such as the advisory committee that is being proposed in Bill C-33?

**Mr. Graham Cox (National Representative, Unifor):** I'll take that.

We don't really represent a lot of workers working directly at ports. We represent mostly workers who are working in the marine sector trying to get goods from trains to boats, the folks who work for CNTL and Fastfrate for CP moving goods in the intermodal system. Then we also represent folks who are along canals and moving goods on the boats themselves, so we wouldn't have a lot of comment on the interaction with the ports themselves. We deal with them in employer associations when we are bargaining, and most of that is dealt with in B.C. through the coordinated bargaining and sector bargaining agreements that we have there.



• (2020)

**Mr. Churence Rogers:** Thank you very much.

Mr. Wilson, you made reference earlier to ports having more nimble, market-based approaches in terms of how we structure governance, board chairs and so on. Of course, there are some different opinions on how that should happen.

Do you have any other comments on that, particularly how we should or shouldn't have a chair appointed by a board or a minister, or endorsed by somebody else?

**Mr. Duncan Wilson:** I think it's very important to keep in mind that for boards of directors of port authorities in Canada, once appointed to the board of directors, your fiduciary duty is to the port authority, not to the body that appointed you. Therefore, having the minister appointing over the top of that in a more political manner seems to be inconsistent with that approach. It also means that the chair would not necessarily enjoy the confidence of the board.

The legislation says that it will be done in consultation with the board of directors. From our perspective, different ministers will have different approaches, and having the chair appointed that way creates a significant leverage point.

**The Chair:** Thank you very much, Mr. Wilson.

Thank you, Mr. Rogers.

[*Translation*]

Mr. Barsalou-Duval is up next.

You have the floor for six minutes.

**Mr. Xavier Barsalou-Duval (Pierre-Boucher—Les Patriotes—Verchères, BQ):** Thank you, Mr. Chair.

Let me begin with you, Ms. Morin.

My question is about your main demand, which you outlined earlier.

You said an interpretation clause should be added to Bill C-33, which we are considering right now. Certain clauses in the bill allow the minister to invoke powers to free up the supply chain, so to speak, or for safety reasons. There are various clauses that would allow the minister to intervene indirectly in port operations, of his own accord.

If that interpretation clause were not added or if we did not receive the legal opinion mentioned earlier, do you think the bill should be adopted nonetheless?

**Ms. Marie-Christine Morin:** I don't think so. We have heard a host of arguments about other shortcomings of the bill, in particular the potential for partisan appointments to boards of directors.

No parameters are provided, but I think they are necessary. Even if it is not the legislator's intent at this time, at some point in a few years, someone could use the discussions we are having today to arrive at a different interpretation of the bill.

It would be complicated and a positive outcome would not be guaranteed. It would be much simpler to have a clause or limit on the minister's powers. In the current bill, the minister's powers are very broad, and also lack transparency. The minister could decide

of his own accord, based on certain information, that he does not have to publish the order. There is an override clause in the Statutory Instruments Act whereby government orders can escape parliamentary scrutiny.

The same is true for emergency injunctions, which have very serious consequences for people. When it is time to end a strike, employers and politicians alike can bring out the heavy artillery. There is no denying that the more even the playing field, the better. That is what labour law strives for.

It would be a serious mistake to provide further ammunition to limit the right to association, which is clearly a fundamental right. Yet this bill opens the door to providing that ammunition. This could undermine the union rights of all workers in the maritime sector, the rail sector and the transportation sector in general.

• (2025)

**Mr. Xavier Barsalou-Duval:** Thank you for your answer.

From my perspective, when a government has to take the blame for introducing special legislation in Parliament, the bill must be subject to debate before it is passed. On the other hand, if a minister simply wants to issue a ministerial order, he will not be answerable to anyone. He could do it from his basement and that would be the end of it. I think that would be rather problematic.

You said earlier that it might be helpful to set limits on ministers' powers in order to establish the way things are to be done. Bills often include the phrase "if the minister is of the opinion that". The minister does not have to prove anything; he just has to be of the opinion that there is a need, an emergency or even a risk.

What limits would you like to see in the bill?

**Ms. Marie-Christine Morin:** As I said before, I think there should be an interpretation clause to ensure that the act does not apply to labour relations and upholds fundamental rights. Otherwise, of course, it would take more than an estimate. In fact, the minister would have to demonstrate that there is an emergency.

The other issue is that goods, things and cargo are protected. Does a crate of oranges in danger on a ship fall under the security of goods? Perhaps I am exaggerating, but it could be interpreted that way. As to the right of association, I think the idea behind essential services is that the right to strike can be exercised until there is a risk to health or safety: a direct and imminent danger to public health or safety, that is, the safety of individuals, not of a crate of oranges or a Canadian Tire shipment. It is unfortunate, but strikes are an economic weapon.

I am not talking only about strikes, since many other things can happen that would lead to bargaining or arbitration. As you noted, there are very few constitutional or democratic parameters in this regard that would allow for a process during which the various stakeholders could state their case. Apart from the minister himself and a deputy minister who might take a glance at it, no one can interfere. As a result, a constitutional challenge would be needed, but the damage would already have been done.

I think an interpretation clause is really the solution; such a clause would ensure that the bill would not apply to matters of labour relations.

**The Chair:** Thank you very much, Ms. Morin and Mr. Barsalou-Duval.

[*English*]

Mr. Bachrach, the floor is yours. You have six minutes.

**Mr. Taylor Bachrach (Skeena—Bulkley Valley, NDP):** Thank you, Mr. Chair.

Thank you to our witnesses for being with us this evening.

I want to start on the topic of port borrowing, which has been a focus of the discussion around this bill. I understand that the port authorities would like greater flexibility in the ability to borrow on private capital markets to finance infrastructure that's much needed.

I'm curious, though, as to whether port authorities are behaving more like a private corporation and whether they can also go bankrupt in a situation where they have insufficient revenue to service the debt they take on. Can the Vancouver Fraser Port Authority go bankrupt?

**Mr. Duncan Wilson:** I think a market-based borrowing regime protects against that, because the borrowing that would be available to the port authority would be directly related to its financial security and our earnings, our balance sheet and what we can afford.

Where financial requirements are beyond that, I could see it being reasonable for a port to need to get a special approval from the government on a borrowing limit that would go beyond that. My view is that the market, in the case of a port authority...and I can't speak for the other port authorities, but in the case of the Port of Vancouver, we're the most diversified port, with diverse revenue streams, so we are very low risk.

• (2030)

**Mr. Taylor Bachrach:** Right, but risk notwithstanding, there's a larger question here that applies to all ports.

If we look at the Port of Oshawa, for instance, they got into a position where they were in real financial trouble and their liabilities outstripped their assets by a significant level. I believe one auditor said that they were at risk of becoming no longer a going concern, which kind of sounds like going bankrupt, only port authorities can't go bankrupt because they're backed by the Canadian public, as public institutions.

I guess what I'm getting at here is that part of the trade-off for that flexibility is potentially increased risk in the case of a port that isn't as diversified or makes some bad decisions about investment down the road. How does the Port of Vancouver view that risk

when it comes to the Canadian taxpayer essentially underwriting this borrowing that the port would take on?

**Mr. Duncan Wilson:** On the broader port system—and this is part of the challenge with the legislation that I mentioned in my remarks—it's a one-size-fits-all approach for Canadian Port Authorities, and it doesn't take into account those factors, and it probably should.

I expect that probably one of the reasons they're requiring additional financial reporting is because of some of those risks. While it is somewhat burdensome to have to do it, I can't speak to what the authors were thinking when they were doing that, but that seems to be trying to address that.

**Mr. Taylor Bachrach:** Turning to Mr. Kennedy and a discussion around rail safety, I think many members of the committee were disappointed that this bill didn't go further in addressing the many concerns related to rail safety that have been articulated by your union and others and in our own work at this table and the report we released last year. One of the things we heard from witnesses was that safety management systems have really become the primary tool for ensuring the safety of our railroads and that they're relied on more and more heavily, as opposed to more conventional rules and inspections. Is that a fair characterization?

**Mr. Joel Kennedy:** It is, yes. We're seeing a lot of reliance on detection devices and self-reporting.

The issue we're seeing there is that there's no regulation on self-reporting. There's really no regulation holding the employers accountable in that regard. We are seeing more reliance on self-reporting. As I said in my previous statement, what's happening in the Canadian rail industry now is a real case of the fox watching the henhouse. It is quite frustrating when we're being replaced with technology to inspect, because our members are really the counterbalance in Canada to understand what's being inspected, how it's being inspected, where it's being inspected and whether these employers are even complying with regulation. Essentially we're being cut out of the process now. We're being replaced with technology. We don't know what's going on. We don't know if the employers are even complying with the regulatory exemptions they're getting. We don't know where they're in compliance. We just hear sometimes that they're not complying. We're not reported to and we're not part of the process, and that's scary.

We were the counterbalance in Canada, and these employers are mainly large American employers now, and it's quite interesting when they re-regulate. They're bringing more accountability into the States, and now we have these large American employers trying to deregulate, and it seems as though it's a bit of a stomping ground for them. I absolutely agree with your comment. It is 100% on point, sir.

**Mr. Taylor Bachrach:** Mr. Kennedy, following on that, you described safety management systems as a black box. Would it be reasonable to require rail companies to make their safety management systems public?

**Mr. Joel Kennedy:** It would one hundred per cent. The public of Canada deserves that, especially when we have outside entities coming into Canada. We have only one chance to get this right with our environment. We've seen a lot of things happening in the States now as well with derailments in indigenous communities where medicines grow, in our water and on our land. It absolutely needs to be public. The public needs to know what's going on now, and it seems to be hidden a little bit. If the public actually knew the number of derailments that are happening in Canada each day, there would be a lot more people in Canada upset with what's happening today.

**The Chair:** Thank you very much, Mr. Kennedy.

Thank you, Mr. Bachrach.

Next we'll go to Mr. Strahl.

Mr. Strahl, I'll turn the floor over to you. You have five minutes. Go ahead, please.

• (2035)

**Mr. Mark Strahl:** Thank you.

I'll go back to Mr. Wilson.

We've heard from railway companies in the past that have blamed their on-time performance struggles on the inability of grain ships to load in the rain in Vancouver. We heard at the last meeting as well, from people who are concerned about Gulf Islands anchorages, that those happen in part because we can't load grain in the rain in Vancouver. This has been a long-standing problem, and I understand the rulings, arbitration and situation that have gotten us here. Is there anything in Bill C-33 that would give us some hope that this issue is going to be resolved, or will it be resolved only when the terminal operators and the workers can either come up with infrastructure solutions or address the safety concerns that prevent that from happening? Maybe you can give us a bit of an update, if there is any, on how we can get ships loaded in the 170 days a year it rains at the Port of Vancouver.

**Mr. Duncan Wilson:** Thank you.

Yes, grain loading in the rain is, of course, an important issue. Our understanding is that we would probably increase capacity by about 7% if we could do it.

In terms of its effect on anchorages, though, I would say I think that's somewhat overblown. The biggest reason for relying on so many extra anchorages has to do with timing the cargos to arrive at the port at the same time as the ship. That's very much why the program I was talking about, the Connect+ program, which is all about

supply chain visibility and digitalization, is so critical, because that's what's going to really help us unlock some potential in that area.

**Mr. Mark Strahl:** I'm sure you've reviewed the testimony from the last meeting with your team about the concern about the Gulf Islands anchorages. We heard frustration in trying to get new anchorages in better locations—perhaps we can say it that way. This bill would give you some more authority over anchorages and how they operate, etc.

Can you describe some of the challenges with creating new anchorages and whether you believe Bill C-33 addresses them?

You're talking about a massive expansion at the Port of Vancouver. Removing anchorages doesn't seem to make any sense, but there are sensitive areas where, perhaps, they're not best placed.

Can you talk about the challenges with moving or creating new anchorages, which I think we'll need to do as the port expands?

**Mr. Duncan Wilson:** The largest issue with respect to increasing new anchorages would obviously be the concerns of local communities. There are places to create additional anchorages. The bill gives us additional authority, which is going to help us more with traffic management. We're comfortable with the bill in that regard.

There's a paradigm shift that we need to have in the port—which I think we're well under way on—that it's not just anchorages where you can tie up ships. You can have mooring dolphins, where ships could be tied up. You can also have single point moorings, which would reduce the amount of space that's required for anchorages and allow you to moor more vessels.

**Mr. Mark Strahl:** Finally, we've heard some testimony and a belief that perhaps labour representatives—and I know there are some others—who believe that active port users should be able to have active employees of their companies sit on the board.

Can you explain, from your perspective...?

You talked about the fiduciary duty. Do you see a conflict of interest if a person who's actively involved in labour at the port or actively involved in business at the port is given a seat at the table on the board of directors?

**Mr. Duncan Wilson:** We actually have a very high-profile Canadian labour leader on our board of directors currently, who was appointed by the Province of British Columbia.

I think having somebody who's actively involved in the port, working on the docks or in the business, would represent a conflict of interest. It would be very difficult for them to maintain their fiduciary duty when their core income is tied to the other side.

• (2040)

**The Chair:** Thank you very much, Mr. Strahl.

Thank you once again, Mr. Wilson.

Next, we have Ms. Koutrakis.

The floor is yours. You have five minutes.

**Ms. Annie Koutrakis (Vimy, Lib.):** Thank you, Mr. Chair.

Thank you to our witnesses for being here with us at this late meeting. Your testimony is very important and it's a very interesting conversation.

Mr. Wilson, we heard some of the challenges and some of the areas where you think this bill can be strengthened or be better. However, I'd like to ask you what you think the most positive parts of the bill are. I'm pretty sure there are some positive parts of the bill that you could speak to.

**Mr. Duncan Wilson:** I think the amendment of the purpose clause to include indigenous peoples is really meaningful and significant. We applaud the government for putting that forward.

I'm pleased in general with the focus on the environment. I think some of the bill is maybe a little too prescriptive in how we do that, but the additional emphasis there is welcome.

Again, we're happy with the changes that will allow for better traffic management, subject to regulations.

There is a lot of good that's in the bill. Obviously, coming to committee today, I'm focusing on the things that are of concern, because those are the areas we would really like to see addressed.

**Ms. Annie Koutrakis:** Would any of the other witnesses like to chime in with your perspective on the same question? No. Okay.

My next question is for Mr. Lewis-Manning.

We heard quite a bit about the active vessel traffic today. Do you think the active vessel traffic management measures in this bill will help ports operate more effectively? If so, how?

**The Chair:** Unfortunately, Ms. Koutrakis, Mr. Lewis-Manning had to leave. He left about five minutes ago.

**Ms. Annie Koutrakis:** Okay, then I will ask the question of Mr. Wilson.

Thank you.

Do you think that the active vessel traffic management measures in this bill will help ports operate more effectively, and how?

**Mr. Duncan Wilson:** Yes, but that's subject to regulation. The detail will be in the regulation. The legislation is necessarily at a higher level. That relates to not just that aspect but also to borrowing and everything else. A lot of the most meaningful changes will come forward in the form of regulation.

**Ms. Annie Koutrakis:** Thank you.

[*Translation*]

My last question is for Ms. Morin.

One of the points raised is that unions must be represented on port authority boards of directors.

Do you agree that such representation is needed and what point of view could unions offer to port authorities if that were to happen?

My colleague Mr. Strahl already asked whether there would be a conflict of interest.

How could we manage that?

**Ms. Marie-Christine Morin:** To my mind, there is no risk of conflict of interest because the employer is represented, in any case. I think port workers want the port to operate and might even provide interesting insights regarding productivity, efficiency and shortcomings. Listening to workers is always helpful for productivity and a company's success.

I support my colleagues who are asking for a seat on the board of directors. For my part, I am concerned that the union will be left out of discussions relating to working conditions, among other issues.

Nonetheless, I think it is always a good idea to have a union representative at the table to get insights from the workers; otherwise, a piece of the puzzle is missing. I do not see any risk of conflict of interest.

**Ms. Annie Koutrakis:** Thank you.

That's all, Mr. Chair.

**The Chair:** Thank you, Ms. Koutrakis.

Mr. Barsalou-Duval now has the floor for two and a half minutes.

**Mr. Xavier Barsalou-Duval:** Thank you, Mr. Chair.

My question is for Mr. Wilson and pertains to the way Bill C-33 was introduced.

The bill was introduced by the government at the end of the parliamentary session last year. So that is a year ago.

On November 18, 2022, an article about Bill C-33 appeared in the newspaper, La Presse. Roughly translated, the headline was: A bill to strengthen cooperation among Quebec ports.

This article explains that, with this bill, the minister intended to improve the supply chain and provide for greater cooperation among ports. When I read the bill, however, that was not necessarily what I understood.

Can you tell us about the features of Bill C-33 that would strengthen cooperation among ports or improve the supply chain? That might be helpful to the committee.

● (2045)

[English]

**Mr. Duncan Wilson:** The most significant changes in the legislation give ports additional powers with respect to traffic management.

In respect to collaboration between port authorities, there's nothing stopping that today. We do communicate and work with other port authorities. Earlier this evening, I was with the Quebec ports at an event. There is a lot of engagement between the port authorities through our association.

I think there is an opportunity, particularly on the west coast, for some greater collaboration between us and particularly some of the other ports, but there is really nothing preventing that.

Is that something that's required in the legislation? That's an excellent question. I think that's something that is worthy of consideration, but there's nothing right now that's a barrier to making that happen.

[Translation]

**Mr. Xavier Barsalou-Duval:** We heard from port workers who told us more or less the opposite. They said they are forced to compete with one another, which can undermine cooperation. They said they would have liked to see changes in Bill C-33 that would have allowed for such cooperation.

Would you agree?

[English]

**Mr. Duncan Wilson:** I can only speak for the Vancouver Fraser Port Authority's perspective on this. We see our responsibility to facilitate Canada's trade policy priorities. So, what is in the interests of Canadian trade? If it makes more sense for something to go through Prince Rupert, it makes more sense for it to go through there. If it makes more sense for something to go through Vancouver or Nanaimo.... It's about facilitating the most Canadian trade.

I don't feel competitive with those port authorities.

**The Chair:** Thank you, Mr. Wilson. These rounds go really quickly, unfortunately.

Mr. Bachrach, I'll turn the floor over to you next for two and a half minutes, please.

**Mr. Taylor Bachrach:** Thank you, Mr. Chair.

I have another question for Mr. Kennedy.

I noted at the top that there are many things that were left out of this bill when it comes to rail safety. If the minister asked you to go back to the drawing board with him and redraft the bill, what is one thing that isn't in the current bill that you would like to see in legislation specific to rail safety?

**Mr. Joel Kennedy:** I think I touched on it in my report. Specific to rail safety is to see the augmentation of technology to enhance rail safety in Canada and to promote the best, safest rail infrastructure that we absolutely can in Canada to protect our environment, communities and systems in our urban and rural areas.

Right now there's nothing in there. There is no regulatory oversight with the employers. It seems that these exemptions are granted, and there is no oversight. We're essentially taken out of the house in this regard.

We talk about the expedited exemption process and the granting of that. I think we need more involvement. We need to be let in the house. We need to be able to consult, and we need more public engagement and regulatory oversight with some of the technologies and exemptions that are actually granted.

**Mr. Taylor Bachrach:** Along those lines, one of the issues that have been raised by the families of rail workers, who have been killed in rail accidents, is the use of corporate rail police.

Is it appropriate that the big rail companies have their own police forces and investigate themselves?

**Mr. Joel Kennedy:** No, albeit at one time, it possibly was. However, I think those times have changed. I think the RCMP is the body that should be investigating any kind of rail infrastructure or accidents that are happening.

I think that historically the police were involved with the rails when we used to transport loads of money through rail, and people on horses were coming and robbing trains, to tell you the truth. I don't agree with that.

That was one of the biggest issues with the CP-KCS merger that you saw in the States. There was a lot of kickback and misunderstanding from our counterparts south of the border about why our Canadian rail companies would actually need their own police forces. I'm still confused by that myself, sir.

● (2050)

**The Chair:** Thank you very much, Mr. Kennedy, and Mr. Bachrach.

Next we have Mr. Muys.

Mr. Muys, I'll turn the floor over to you for five minutes, please.

**Mr. Dan Muys (Flamborough—Glanbrook, CPC):** Thank you, Mr. Chair.

Thank you to all of the witnesses who have stayed with us this long. It is a late hour, and I get the honour of coming in at the end of the discussion.

Mr. Wilson, one thing that struck me from your opening statement was the fact that the Vancouver Fraser Port Authority deals with 16 local governments—and I missed the number of first nations, but it was a large number.

Maybe you can elaborate a bit. We have a bill that proposes that the minister appoint the chair—so that's Ottawa. I think there are lots of provisions in this bill where it's an Ottawa-knows-best approach to stuff that you're already doing, so what is the point of Bill C-33?

**Mr. Duncan Wilson:** I think from where we sit there is not, as I said in my remarks, really a large impact, other than some of the very specific things like traffic management and reporting requirements. But most of those things are just a slight tweak to what we're doing right now.

**Mr. Dan Muys:** Obviously you have local knowledge and an understanding of what's going on on the ground, and that's the point we're making. Does it make sense to have the minister appoint the chair, who would maybe not be aware of what's going on on the ground? It seems to be a step backwards.

**Mr. Duncan Wilson:** We feel that the Canada Marine Act was created to depoliticize ports and put us in a position where we can be nimble in decision-making, and frankly, sometimes make difficult decisions that are in Canada's interest without interference from politics. It is a concern to us.

**Mr. Dan Muys:** You talked as well about why the market can't dictate the borrowing limit. We heard something similar from other port authorities—obviously, though, they are not as large as the Port of Vancouver. Obviously if there is not a business case, you're not going to get the funds from those who are lending. Maybe you can talk a bit more about that.

We heard from others that this is hampering the potential of Canadian ports. The Port of Vancouver obviously is a gateway to Asia. It's critically important and needs to grow. It's important to our supply chains. We've heard that, and that's supposed to be the intent of this bill, yet you still have these handcuffs.

**Mr. Duncan Wilson:** As I said, we measure the time it takes to get a borrowing limit changed in years, and we've never been turned down in the 20 years I've been with the port on a borrowing limit request. It just takes a long time. To go to a more market-based approach would really speed that up.

**Mr. Dan Muys:** Let me ask you, Mr. Kennedy, because you bring the perspective from the rail sector. I know that my colleague, Mr. Bachrach, asked about rail safety, but this is a bill that amends seven acts of Parliament, and as I think we've heard, it's kind of overwhelming in so many ways.

In terms of rail overall, what more could have been done in this bill? We've waited, how many years, for a bill that hasn't accomplish much.

**Mr. Joel Kennedy:** I was very disappointed with how loosely this bill was written. When we talk about oversight and expediting the exemption processes, it's very frustrating because I think the major rail employers that we see in Canada have a different agenda. They're not mainly owned by Canadians. They're Americans, so when we have an exemption given, it scares the crap out of me, especially when we talk about an expedited process for an exemption process, which I think this bill alludes to.

We've seen employers make an exemption under safety, and they've removed our people from the process and relied on technology. Even in terms of the Railway Safety Act and the freight car inspection rules, you know, legislation is not supposed to be changed unless it's "safer than".

We're removed from the process, and these things aren't happening. The employers are saying that they're relying on these exemptions for certain things and that it's going to enhance rail safety, but the fact is that's not what's happening in Canada. When we talk about an "expedited process", it's removing us from that process.

We have a lot of good things to bring in and consult on, from the workers' perspective and other perspectives, that these large, mainly American, players don't bring to the table.

• (2055)

**The Chair:** Thank you very much, Mr. Muys, and Mr. Kennedy.

Next we'll go to Mr. Badawey.

The floor is yours for five minutes.

**Mr. Vance Badawey (Niagara Centre, Lib.):** Thank you, Mr. Chair.

I want to get into the bill itself. I have to say that I'm hoping that most members of the committee read the bill and really dug deep into it. We had a chance to meet Mr. Wilson about some of the concerns that were brought forward about the bill.

I want to get into clause 114, which seeks to amend section 39 of the Canadian Marine Act with respect to the business planning process. As part of this process, there's an opportunity for port authorities to submit a five-year business plan. I would only assume that part of that five-year business plan is going to be the financing part, one part of what you have, which is your asset management plan. The second part is your capital plan with respect to where you want to be as you move on in that five-year plan with business growth.

I want to drill down for your thoughts on the financial flexibility, both in terms of borrowing as well as leveraging, that exists on site but also sometimes off site, as you partner with additional organizations.

Can you speak about the benefit of that and whether in fact the amendments you speak of would include that as part of the overall bill.

**Mr. Duncan Wilson:** I think additional tools and flexibility would be terrific. I'm not sure how much of it is required in the legislation versus.... If we move to a market-based borrowing regime, that's obviously going to speed things up in terms of getting borrowing limits approved and being able to be nimble.

I would say that a port authority's ability to partner with the private sector on development, which is becoming more and more important, is something that needs to be given attention. I think there could be more flexibility in doing that.

Frankly, that can be done again through changes to our letters patent, which is a regulatory process.

**Mr. Vance Badawey:** What would some of those changes to your letters patent be?

**Mr. Duncan Wilson:** We could bring equity partners into developments—that kind of thing, just with more flexibility.

When we made our submission on the port modernization review, it was almost entirely about regulatory change, not the act itself. We basically supported the act as it stood as an excellent, well-thought-out, forward-thinking piece of legislation with very few changes needed. Most of the changes are on the regulatory front.

**Mr. Vance Badawey:** You find that this bill brings into play the port modernization review, aligning supply chains, strengthening inter and multi-modal networks, capital investments, asset management—speaking to that—port competitiveness, managing traffic, developing inland waterways, implementing strategic business plans, reducing the threshold for investment notification review, governance, expanding membership, working with advisory groups, working with stakeholders, working with indigenous groups, things of that nature. I'm going through a list here from when I read the bill.

There's also environmental sustainability, regulatory changes, updates; in the railway area, transparency, rules, exemptions, alignment, and the list goes on. There's safety, transparency, consultation, efficiency, exemptions, collaboration, adaptability, security, and the list goes on.

Do you find that this hits those areas, number one? And number two, with respect to amendments, is your organization—and I'm going to ask the same question of the members online—prepared to actually present amendments that it feels should be presented to actually make this bill better?

**Mr. Duncan Wilson:** Yes, absolutely. I'd be pleased to present amendments to try to improve the bill. And I do think that in some cases it's adding layers of process in places where frankly.... Even when it comes to liaison committees, we made the decision on our own because it was the right thing to do for our business at the time to put those committees together, and having them in the act seems a bit of an overkill.

**Mr. Vance Badawey:** Thank you.

I'll ask the members online if they could give their thoughts to what I had just alluded to.

• (2100)

**The Chair:** Mr. Kennedy? Mr. Cox? Madame Morin?

**Mr. Joel Kennedy:** Certainly there are elements of this bill that are okay, but there are a lot of different elements that we're concerned about, and we would certainly be prepared to draft some amendments to strengthen our position and to address our concerns.

**Mr. Vance Badawey:** Thank you, Mr. Kennedy.

**The Chair:** Mr. Cox, can you hear the members of the committee?

**Mr. Graham Cox:** No, I can't.

**The Chair:** Thank you very much, Mr. Cox.

Next we'll go back to Mr. Muys.

Mr. Muys, I'll turn the floor over to you. You have five minutes for a last round of questioning.

**Mr. Dan Muys:** All right.

I'll go to Mr. Wilson again.

We heard from one port authority that in his opinion nothing at all might be preferable to the proposed changes in Bill C-33.. Do you share that opinion?

**Mr. Duncan Wilson:** As I said, I think that the vast majority of changes that we think are needed to port governance do not stem from the legislation itself. They are things that can be done in consultation with Transport Canada through changes to regulation and letters patent.

**Mr. Dan Muys:** Right. Would you agree that we've had some questioning tonight from witnesses to identify positive aspects of the legislation, and it's like crickets is the answer or it's okay. It's a very mediocre or lukewarm response.

**Mr. Duncan Wilson:** The legislation doesn't respond to our submission on the port modernization review. But our submission, as I said, was not primarily about the need to change the legislation. It was about the need to change a lot of the regulations that relate to our operations.

**Mr. Dan Muys:** I think the Association of Canadian Port Authorities—I think you've read some of their materials, as you're obviously part of the association—had written to the previous minister early on when the legislation was tabled and asked for clarification on some things, and then when we had the witness here, they talked about additional requests for information or elaboration on these details. We asked that question. And the answer seemed to be that they hadn't gotten an answer back and there were no details around it. I think that's pretty much what you're saying as well, that we're looking for that.

**Mr. Duncan Wilson:** Yes, the devil is in the detail, which in this case is regulation.

**Mr. Dan Muys:** You talked as well about the \$200,000 figure that was for your port, and we had asked the Transport Canada officials in the first meeting whether a cost analysis had been done. The answer was no. Would you—and I know you don't speak for other ports—imagine this as being an onerous burden for some of the smaller ports?

**Mr. Duncan Wilson:** I know, from what we've heard from smaller ports—MP Strahl spoke to this—that the legislation looks like it was designed on a lot of the things that we're doing. I know that we've heard directly from many of our colleague ports about how concerned they are about its being an onerous piece of legislation for them, and we support the association's position on that and their perspective.

**Mr. Dan Muys:** Yes, because you've talked about some of the things that you have done proactively over the course of time that are encapsulated in Bill C-33, but that it's taken time, effort and money, and now it's going to be imposed upon others.

I guess what you're saying is that it is a burden that other smaller ports or even medium-sized ports would face.

**Mr. Duncan Wilson:** We would be spending millions. We are spending millions on those kinds of things to do them at the scale that we need in a port the size of Vancouver, and I don't have a sense of how it would be for smaller ports. They're best to speak to that themselves.

**Mr. Dan Muys:** Right. Well, I'd observe that millions is a big number considering that, when we were on tour at the Port of St. John's in Newfoundland, we heard that their borrowing limit is \$8 million, which will buy you maybe one house or half a house in the greater Vancouver area, so millions is a big cost.

I have 30 seconds. What can I do in 30 seconds?

Do you have anything further to add, Mr. Kennedy, from a rail perspective?

• (2105)

**Mr. Joel Kennedy:** I would just like to add that we've made our points in our brief here, and what we need in Canada is more regulation, and this bill, in our view, is more deregulation. It comes at a time in Canadian history when we've really got to be conscious of the environment and the lands that we are running through, and we have to be respectful of those communities as well.

I think we've made it very clear in our brief what's missing and what we need to see in there, and I thank you guys for that opportunity.

**The Chair:** Thank you very much, Mr. Kennedy.

Thank you, Mr. Muys.

Next we have Mr. Iacono.

Mr. Iacono, the floor is yours. You have five minutes.

[Translation]

**Mr. Angelo Iacono (Alfred-Pellan, Lib.):** Thank you, Mr. Chair.

I welcome the witnesses and thank them for being here this evening to share their comments and views on our study.

To begin, I have a question for the representative from the Greater Victoria Port Authority.

What do you think of the environmental measures in the bill?

[English]

Is he no longer there?

[Translation]

I have a question for Mr. Wilson then.

[English]

As a port located in a major urban centre, anchorages can be a major issue with nearby communities. How does the port currently manage its anchorage? Will the measures in Bill C-33 help the port to do this more effectively?

**Mr. Duncan Wilson:** Yes, the measures in Bill C-33 will help us do that more effectively. Obviously, the regulation will spell out exactly how that is. We manage the anchorages on an interim protocol basis in the Gulf Islands and directly in terms of our jurisdiction, and the changes that are required are mostly in the areas where we don't have jurisdiction.

**Mr. Angelo Iacono:** Thank you.

You mentioned at the beginning that you were quite happy with this legislation. Can you elaborate on what exactly you're quite happy about? Let's go two ways: what are you really happy about, and what are you not happy about? That will help us get better orientation as to what should stay and what should go, because we're getting mixed responses from different witnesses.

You were really convincing when you said that you were really happy about a lot of it, so please share with us what you're happy about.

**Mr. Duncan Wilson:** I think that, when the legislation was first tabled, we were relieved, because we were concerned where it might go, and it didn't go in a different direction than we were already going, for the most part, with the exception of some of the governance things. I think that's what we're happiest about. It's a reaffirmation of a lot of the work we're already doing in the port, so we saw that as a positive reflection on decisions that we'd taken over the years to do those things.

Again, we're a very different animal from some of the smaller port authorities, so our reaction to the legislation was much different from their reaction.

**Mr. Angelo Iacono:** I don't want to put you on the spot, but let's say I asked you for the three things you really liked about it and three things you don't like about it.

**Mr. Duncan Wilson:** I'd say I like the inclusion of the indigenous peoples in the purpose clause. I like the provision for us to be able to direct traffic, and I like the intention of giving us a better process around borrowing limits. Hopefully it will help.

**Mr. Angelo Iacono:** Thank you very much.



[Translation]

Ms. Morin, how would you describe the relationship between the port authorities and the workers in general?

**The Chair:** Can you hear us, Ms. Morin?

**Ms. Marie-Christine Morin:** I did not hear that the question was for me, but I am pleased to answer.

Can you repeat the question?

[English]

**Mr. Angelo Iacono:** Will you give me back my—

[Translation]

**The Chair:** Yes, I will give you 20 seconds, Mr. Iacono.

**Mr. Angelo Iacono:** Ms. Morin, how would you describe the relationship between the port authorities and the workers in general?

**Ms. Marie-Christine Morin:** I would say it is not very good.

I have to say that I am pleased you asked the question. I think it was Mr. Strahl who mentioned consultation committees earlier as a way of improving staff relations. In my opinion, it will take more than a consultation committee to improve staff relations in ports. Employees in the marine sector are in fact in a very difficult position because, under section 34 of the Canada Labour Code, the workers often bargain with a port authority rather than their direct employers. That makes for difficult labour relations, among other things. There you have it.

• (2110)

**Mr. Angelo Iacono:** You are on the front lines, you represent the employees and your role is to bargain. Tell us exactly what you suggest to the government or to those responsible for bargaining. What would your strategy be?

**Ms. Marie-Christine Morin:** It depends in what respect, but it would certainly make things easier if the real decision-makers were at the bargaining table rather than a port authority, which ultimately manages human resources, enforces discipline, and so forth.

The problem is that the real decision-makers, the boards of directors and the companies, are not at the bargaining table, which complicates matters. In addition, a change in culture in staff relations is needed, and I think the port authorities know that.

A consultation committee could be a first step, but a much stronger commitment will be needed.

**The Chair:** Thank you, Ms. Morin.

**Mr. Angelo Iacono:** Everyone has to be in good faith though, don't they?

**The Chair:** Thank you, Ms. Morin and Mr. Iacono.

Mr. Barsalou-Duval has the floor for two and a half minutes.

**Mr. Xavier Barsalou-Duval:** Thank you, Mr. Chair.

My comments are for Mr. Kennedy.

I was quite surprised to hear earlier that there are safety exemptions. Such exemptions that are sometimes granted to rail companies are not public. So they are secret and no one is aware of them. That concerns me.

So you are proposing that those exemptions would automatically be made public. In your opinion, what impact would that have on accountability, first of all, but also on the use of those exemptions? Do you think they would be used more sparingly or that there would be reluctance to abuse them?

[English]

**Mr. Joel Kennedy:** I would have to agree that they would be reluctant to abuse those exemptions, yes.

When we bring in the proper stakeholders, we get a holistic view of impacts. For example, we've talked about bringing indigenous representation onto boards. We run trains through their lands—period. It's unceded territory and treaty land. We're not consulting with everybody we need to. It's great that they're consulting with unions, but that's whom they're only consulting with: Transport Canada and the unions.

The fact of the matter is that these trains go through different communities, sacred lands, national parks and UNESCO sites. When we talk about true stakeholder engagement and consultation, they are only engaging with labour stakeholders. That's it. We're not engaging with all the stakeholders who actually have, and would be directly impacted by, any safety concerns from these regulatory exemptions.

I 100% agree with your comments that the public needs to be consulted on this, because these trains are running through their communities. The people they're consulting right now are in the unions. We bring the labour perspective, but we don't bring the voice of the communities these trains run through. I think that's a very important component. They have some ownership and voice. They need to be able to raise their concerns, as well.

[Translation]

**The Chair:** Thank you very much, Mr. Barsalou-Duval.

[English]

Thank you, Mr. Kennedy.

Clearing the bases for us this evening is Mr. Bachrach.

Mr. Bachrach, the floor is yours. You have two and a half minutes, please.

**Mr. Taylor Bachrach:** Thank you, Mr. Chair.

Thank you again to our witnesses for staying so late and engaging with us on this topic.

I have a question for Mr. Wilson.

You spoke about decarbonization at ports, and I think everyone that we've spoken to has recognized the huge opportunity there. You also mentioned that many of those things are already under way in one form or another.

Bill C-33 empowers the minister to require that ports produce five-year climate plans, and that's in line with what the government is requiring of other sectors. I know they've proposed it for airports as well.

My observation is that a lot of corporate climate plans are PR exercises. They are a summary of things that are going on that can be roughly construed as falling into that climate action category, but they often lack accountability measures. They lack firm targets the kind of detail that allows the government or the public to hold the entity accountable. I'm not talking about ports in this regard; I'm just talking in general. Our experience over the last couple of decades with climate planning has been, I would say, fairly lacklustre in the corporate sector.

If this is to be a useful exercise, how should the government and this committee consider building accountability into ports' climate plans so that it's not just a summary of things that the port plans to do, but a road map to get to the kinds of emission reductions that we need to see?

• (2115)

**Mr. Duncan Wilson:** If the climate plan were specifically about the port authority on its own and didn't include the broader port community, that would be achievable. I would say that it's not achievable in respect of the broader port, because the port authority doesn't control or have the ability to be able to compel the kind of participation that would be required from industry. We rely on collaboration with industry, which we do, but collaboration sometimes doesn't get us to the place we need to be.

**Mr. Taylor Bachrach:** So, possibly, splitting that question into two pieces, there can be more accountability if it deals with the ac-

tivities of the port authority specifically, and it's more difficult to pin down the broader port community, because they're operating outside of the direct control of the port authority.

Is that what you're saying?

**Mr. Duncan Wilson:** Yes. This is a continuous improvement process. The inputs that we need to be able to decarbonize the port.... It's not that the terminals aren't doing the right thing; they are doing the right thing, but we need a supply of alternative energy. We need Vancouver to become an energy hub for things like hydrogen, ethanol and other things that will allow us to decarbonize more broadly. We need greater electrification. There are plenty of things that we need that will support that. It's not as though anyone, industry or the ports, are pushing back on it. We embrace that, but we just need the platform.

**The Chair:** Thank you very much, Mr. Wilson.

Thank you, Mr. Bachrach.

On behalf of all committee members, I would like to thank all the witnesses who joined us either in person or virtually for their time this evening, for lending us their testimony to this very important piece of legislation and for doing so at such a late hour on this Wednesday.

I will now suspend the meeting, and we will go into committee business in camera for approximately 10 minutes.

Thanks to everyone. I ask all of the witnesses to now log off.

*[Proceedings continue in camera]*

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