

**The Hill Times 25 Feb 2019**

**(text as submitted, not checked against published)**

## **Opinion: Why is the Ports Modernization Review not transparent?**

In March 2018, Transport Minister Marc Garneau initiated the [Ports Modernization Review](#) to examine the Canada Port Authority (CPA) system, 20 years after the system was reformed via the [Canada Marine Act, 1998](#). As the [Minister's mandate](#) stated that more transparency would be the hallmark of the current government, it was expected that this long awaited review would be open and transparent. This is currently not the case.

Canada needs to get the governance for 'national interest' ports right. There are two 'must do' elements to this: (1) Conduct the review in an open and transparent way. (2) Require ports to meet world-class governance and reporting standards, and be accountable to Canadians for their management and operation of government-owned assets. Let's unpack both of these statements.

### **(1) Conduct the review in an open and transparent way.**

The mandate letter for the Minister of Transport says "It is time to shine more light on government to ensure it remains focused on the people it serves. Government and its information should be open by default."

Yet submissions made to the Review are not available to the public. Those making submissions cannot see what they submitted or know who else made a submission. Even one port cannot see what another port has submitted.

By way of comparison, the European Commission is undertaking the [Consultation on the evaluation of the Consortia Block Exemption Regulation](#), applicable to an even more privacy-conscious industry, shipping, and it is a competition policy review. By visiting that Consultation's website anyone, even non-Europeans, can see and download submissions. That is an acceptable level of transparency and openness currently absent in the Ports Modernization Review. In an era of 'fake news' the Minister of Transport has left the impression that this is a fake consultation.

The need for privacy and anonymity in the Ports Review is not an acceptable argument for such secrecy. The EU site provides lessons for Canada. The anonymity of those submitting is protected while those who wish to go on the record are named. There are submissions by 'Anonymous, private person, Germany, English'

and also 'The European Shippers' Council, association, shippers, Spain, English'. Language of submission is clearly indicated, something that can certainly be applicable here to ensure that Canadians have the right to submit in their choice of an official language.

**(2) Require ports to meet world-class governance and reporting standards, and be accountable to Canadians for their management and operation of government-owned assets.**

Here, let us be clear. The current port board appointment process puts the fox in charge of the chicken house. Port users recommend directors but the Minister decides who will serve, leaving the door open for patronage appointments. Some Boards lack diversity and have been staffed almost entirely by lawyers, while others have included members with no port-related experience, including one past board member who was a career dentist. Canada's airport governance provides a much better way. Airport land, like port land, is owned by the crown, so no one is talking privatization of government assets. Airports are managed and operated by not-for-profit organizations with boards of directors who are nominated by a myriad of groups, including the federal government.

Port boards currently lack sufficient autonomy and cannot make decisions against political interests or they risk the wrath of Ottawa. As a bargaining chip, the government can withhold access to strategic gateway infrastructure funding as budgets above a threshold still require ministerial approval.

My [2017 study](#) of Canadian port governance found that community-reporting standards for CPAs were, to be blunt, inadequate. Seven of 18 CPAs in 2016 produced stakeholder reports that were poorly prepared (without common themes year over year, undated, or gave no indication of reporting frequency). This indicates a casual approach to stakeholder engagement is taken by a minority of CPAs, and suggests that firmer government guidelines are needed in setting reporting expectations.

For Canadian ports to be competitive and best in class, the Minister of Transport needs to relinquish some measure of control over port boards, particularly with respect to board appointments, and expand the number of representatives to include regional interests served. The airport model provides good guidance for the Minister. The process of the Review needs to be publicly accessible, so the Government can be held accountable for its actions on port policy before the next election. What is now in place is so 1990s.

Mary R. Brooks, Professor Emerita  
Rowe School of Business  
Dalhousie University  
PO BOX 15000

Halifax, NS, B3H 4R2 Canada  
e-mail: m.brooks@dal.ca

### **About Mary R. Brooks**

*Dr. Mary R. Brooks is Professor Emerita at Dalhousie University, Halifax, Canada. In September 2018, she received the Onassis Prize in Shipping 2018, in recognition of 'her outstanding contribution to the study of shipping.'*

### **Disclosure**

*Mary R. Brooks has occasionally conducted research funded by member ports of the Association of American Port Authorities, an industry association representing ports in Canada, the U.S., Central America, South America and the Caribbean. She also conducted research funded by Transport Canada on port performance for the Canada Transportation Act Review Panel in 2015. She is the founder of the Port Performance Research Network, a network of more than 60 scholars interested in port governance, port reform and port performance.*