

# **Evaluation of the Port Divestiture Program**

Final Report

Departmental Evaluation Services  
Transport Canada

September 2003

RDIMS #534844

## **TABLE OF CONTENTS**

EXECUTIVE SUMMARY .....	i
BACKGROUND .....	1
PROGRAM RELEVANCE .....	7
ACHIEVEMENT OF OBJECTIVES .....	9
COST-EFFECTIVENESS .....	23
APPENDIX 1: PROGRAM PROFILE.....	24
APPENDIX 2: LIST OF FILES AND DOCUMENTS REVIEWED .....	27
APPENDIX 3: LIST OF INTERVIEWEES .....	28
APPENDIX 4: INTERVIEW QUESTIONS .....	30
APPENDIX 5: PORTS SELECTED FOR IN-DEPTH DATA COLLECTION .....	32

## **EXECUTIVE SUMMARY**

### **Background**

- The evaluation took a formative approach and was conducted to recommend improvements to enhance the probability that the program will achieve its intended outcomes.
- The study examined the relevance, achievement of objectives, and cost-effectiveness of the Port Divestiture Program (PDP).
- A summative evaluation is scheduled for 2006-2007, which will assess program results in greater detail.

### **Key Findings**

#### *Relevance and Ongoing Demand*

- The PDP is aligned with the federal government and Transport Canada's (TC) policies and priorities.
- There is an ongoing need for the divestiture program and a demand for the contribution program.

#### *Achievement of Objectives*

- Significant progress has been made in the divestiture of Regional/Local ports. 450 of 549 ports (82%) have been divested to date.
- The divestiture rate for Regional/Local ports was below forecasted targets due to the complexity of the divestiture process as well as unanticipated regional, economic, social, and legal issues.
- The key factors impeding divestiture have been First Nations concerns, jurisdictional impediments, and environmental issues.
- The strategies used to address the obstacles to divestiture, which included consultation, negotiation, and consensus building, supported the program's objective of ensuring local involvement in the process.
- There are indications that the program has been successful in divesting ports according to the economic and social interests of local communities.

- Program success during the next three years may be constrained by the limited availability of contribution funding.
- It is likely that TC will continue to operate some ports after the scheduled end of the program in March 31, 2006.

### *Cost-Effectiveness*

- The estimated savings generated by the PDP is \$110 million to March 31, 2003.

### **Key Recommendations**

Transport Canada should:

- Continue to implement successful strategies for the divestiture of the remaining ports currently owned by the department. A plan should be developed for the divestiture of these ports as they will be the more difficult to divest in most cases.
- Continue its brokering role in the formation of local groups that best represent the social and economic needs of communities in the divestiture of the remaining ports.
- Review the divestiture guidelines to ensure that they are up to date, given their acknowledged importance as a tool to facilitate the divestiture process.
- Continue to use divestiture targets as a management tool to review and adjust program delivery. For accountability purposes, it should continue to use these targets for reporting on the status of divestiture to the general public and external stakeholders.
- Consider pursuing additional funding to ensure that adequate resources are available until the scheduled end of the program in March 2006. At that time, TC should have developed options for those ports likely to remain with the department following the scheduled conclusion of the program.
- Review the data collection strategy in the program's Results-based Management Accountability Framework (RMAF) to ensure that current data collection will support the summative evaluation in 2006-2007.

## BACKGROUND

### Program Profile

In an announcement in 1994, the Minister of Transport outlined the need to modernize the Canadian transportation system. Recognizing that large segments of Canada's transportation system were overbuilt, the Minister directed the department to distinguish between essential government activities and those that could be done more efficiently and economically by other levels of government or the private sector.

In keeping with this direction, the Government of Canada unveiled the *National Marine Policy* in December 1995. Among the policy's main objectives were to shift the financial burden of marine transportation to the system users, reduce excess infrastructure, and place facility operations in the hands of local users. The implementation of the National Marine Policy was part of Transport Canada's (TC) wider Program Review. This review was a key element of the broader government-wide initiative to rationalize federal government programs and policies.

In support of the government's *National Marine Policy*, Treasury Board (TB) approved the Port Divestiture Program (PDP) in 1996 to achieve the following:

#### National Marine Policy Objectives:

- Ensure affordable, effective and safe marine transportation services
- Encourage fair competition based on transportation rules applied consistently across the marine transport system
- Shift the financial burden for marine transportation from the Canadian taxpayer to the user
- Reduce infrastructure and service levels where appropriate, based on user needs; and
- Continue the Government of Canada's commitment to designated remote communities and maintain its commitment to meeting constitutional obligations.

- Transfer Regional/Local ports to their local communities and users;
- Provide safe and efficient services at a level dictated by the users of the system;
- Ensure operational decisions are made by users; and
- Reduce costs to the taxpayers.<sup>1</sup>

Prior to implementation of the PDP, 80% of marine traffic passed through 40 of the 572 sites under the responsibility of the Minister of Transport. The extensive public investment in port infrastructure did not provide an adequate return to taxpayers, who had funded most port development projects over the years.

Under the program, all Regional/Local ports were to be divested in priority sequence over a six-year period ending March 31, 2002 to other federal departments, provincial governments, local interests (including municipal authorities), users, and other private interests. In February 2002, the program was extended by one year to March 31, 2003 and it has since been extended to March 31, 2006.

---

<sup>1</sup> ATIP REMOVED

## *Program Funding*

TC provides funds through two envelopes to facilitate divestiture.

- The Port Divestiture Fund is used to provide assistance in bringing existing port property up to minimum safety or operating standards, or to make lump-sum payments to facilitate the takeover of a port. It may also be used to cover a portion of the costs incurred by the new owner or operator to achieve compliance with regulatory or insurance requirements, to fund feasibility studies, or to reduce potential liability. Finally, the fund may be used to assist local groups, communities or other interests to take over a collection of ports and reduce costs by rationalizing infrastructure.
- The Port Transfer Fund provides funding for departmental expenditures related to port divestiture. This fund covers such areas as land surveys, legal title searches, property appraisals, environmental assessments, the hiring of financial advisors, and administrative expenses.

Further details on the program are available in the Program Profile section in *Appendix 1*. More information is also available on the TC website at:

[www.tc.gc.ca/programs/ports/menu.htm](http://www.tc.gc.ca/programs/ports/menu.htm).

## **Study Rationale**

The conduct of this study is aligned with the *TB Evaluation Policy*, which supports the generation of accurate, objective, and evidence-based information to help managers make sound, more effective decisions on their policies, programs and initiatives. It is also consistent with the management framework for the federal government, *Results for Canadians*, which states that public service managers are expected to define anticipated results, continually focus attention towards results achievement, measure performance regularly and objectively, and learn and adjust to improve efficiency and effectiveness.

The evaluation will fulfill TB requirements to release the funds related to TC's request to extend the contribution program, as specified in the *Transfer Payment Policy (June 2000)*.

## Evaluation Questions

The evaluation examined the following questions to determine the relevance, achievement of objectives, and cost-effectiveness of the PDP:

### *Program Relevance*

- 1) Do the program's objectives align with government priorities and advance the strategic objectives of TC?
- 2) Is there an ongoing need for the divestiture program as well as for the contribution program?

### *Achievement of Objectives*

- 1) What progress has TC made towards the goal of divestiture of Regional/Local ports? How does this progress relate to identified targets?
- 2) What port-specific or systemic factors affected the rate of divestiture?
- 3) What strategies were implemented to address these obstacles? How successful were they in reducing the time or costs of divestiture or in facilitating the process?
- 4) What are the main challenges / obstacles to the divestiture of the remaining ports? What strategies are planned to address them?
- 5) Do divested ports operate in the best economic and social interests of the local community? What changes, if any, are required to the process for identifying potential owners / operators to ensure that this is the case?
- 6) What is the likelihood that the remaining ports can be divested during the remainder of the program?

### *Cost-Effectiveness*

- 1) What has been the net savings to TC resulting from the PDP?

## Methodology

The evaluation took a formative approach. The purpose of this type of evaluation is to focus on program improvements to enhance the probability that the program will achieve its intended outcomes. A summative evaluation is scheduled for 2006-2007, which will assess program results in greater detail.

**Recommendation:** TC should review the data collection strategy in the program's Results-based Management Accountability Framework (RMAF) to ensure that current data collection will support the summative evaluation in 2006-2007.

TC's Departmental Evaluation Services directorate (DES) conducted the evaluation with the assistance of Consulting and Audit Canada (CAC). CAC developed the methodology for the evaluation, conducted stakeholder interviews, collected and analyzed program data, and prepared an initial draft of the report, which outlined preliminary findings and recommendations. DES drafted the final report, with input and data from CAC. DES also held further discussions with program management and staff to supplement the work conducted by CAC.

The evaluation plan developed by CAC was based on the evaluation strategy outlined in the program RMAF approved by TB in May 2003.

The following summarizes the key methodologies used during the conduct of the evaluation:

#### *Review of Program Documents*

The evaluation team reviewed the following documents. A detailed list of the specific documents reviewed during the course of the evaluation is available in *Appendix 2*.

- *Documents outlining Government of Canada and TC policies and priorities* – These documents were reviewed to assess whether PDP program objectives are aligned with federal government and TC objectives and policies.
- *Program Planning Documents / Annual Reports* – These documents provided summary data on: divestitures by region and by year, program targets for divestiture, systemic issues that arose over the course of the program, and data to inform the interviews and statistical analysis.
- *Program Files* – The evaluation reviewed Headquarters (HQ) program files to obtain information on ports that have been divested and those that remain to be divested. CAC collected data from regional offices, as required.
- *Media Reports* – The evaluation team reviewed relevant news stories concerning divested ports to assess the extent to which new ownership has resulted in ports that operate according to local economic and social interests.

#### *Interviews*

CAC conducted interviews with TC HQ and regional officials as well as selected external stakeholders. There were twenty-five respondents in total. A list of interviewees is available in *Appendix 3*. The lines of inquiry for the interviews are provided in *Appendix 4*. Different questions were used for TC officials and external stakeholders.

The evaluation team discussed the ports selected for a more in-depth review with the interviewees to gather specific examples from a small number of ports. (These ports are listed in *Appendix 5*).



### *Statistical Analysis*

The evaluation team also conducted a quantitative analysis of available statistical data on the program. They assessed the following as part of this analysis:

- Financial data
- Divestiture status
- Times required to divest Regional/Local ports
- Net savings to the taxpayer

### *In-depth Data Review of Selected Ports*

In addition to the quantitative analysis of program data, the evaluation team selected twenty divested ports for a more in-depth analysis. A list of the ports included in this review is provided in *Appendix 5*. These ports were selected at random with the evaluation team ensuring a cross-section of ports based on the region, size, and the key issues affecting the divestiture of the port. Program management assisted in ensuring that this balance was achieved.

For the selected ports, the evaluation team conducted a more detailed review of program files to identify any factors that affected divestiture that had not been previously identified and to obtain the results of any follow-up or audit reports conducted in relation to the divestiture. The evaluation team also interviewed external stakeholders from some of these ports including owner / operators, local officials, and for some, major clients of the port operation.<sup>2</sup>

These interviews focused on aspects of the process that could be improved, whether local interests were protected in the divestiture process, the difficulties or obstacles encountered, and the strategies adopted by community groups or individuals to overcome them.

### **Considerations / Context**

The evaluation team considered the following factors when developing the evaluation approach, collecting the evaluation data, and analysing the results:

*The timing of the evaluation is close to the scheduled end of the program in March 2006 and the subsequent summative evaluation in 2006-2007 – As a result, the evaluation focused on compiling lessons-learned and on identifying program improvements that could be implemented during the remainder of the program. The summative evaluation*

---

<sup>2</sup> Not all of these categories of interviewees were interviewed for all of the ports selected. In some cases, no local officials or major clients were identified and, in a few cases, interviews could not be arranged within the evaluation's timeframe.

will take a more in-depth look at program results, including the impact of the program on local communities.

*When originally implemented, the PDP was a relatively unique initiative for the department* – When the PDP was implemented in 1996, the department was undertaking an initiative that was relatively unique for the federal government. The mandate was for TC to end its ownership of 549 public ports and public port facilities within the program’s original timeframe of 6 years. The program based costs and timelines on the best information available at the time. Without benchmarks, however, it was challenging for the department to project with accuracy the actual time and effort required to complete the divestiture process. Aside from the more common impediments faced by the program, outlined in a subsequent section of this report, the complexities of divesting these ports (i.e. balancing the many social, economic, and political interests) resulted in many unanticipated obstacles. The evaluation team was cognizant that comparing predicted and actual divestiture targets—by themselves—would yield little valuable information on program success.

## **Report Structure**

The following report sections present the evaluation’s findings and recommendations. They are organized into three sections, corresponding to the evaluation issues of relevance, achievement of objectives, and cost-effectiveness.

Appendices are also provided to present supplemental information as follows:

- Appendix 1 presents a detailed profile of the PDP
- Appendix 2 presents a list of the files and documents reviewed
- Appendix 3 provides a list of those interviewed during the course of the evaluation
- Appendix 4 provides a list of interview questions for both TC staff and selected port owners and operators
- Appendix 5 presents a list of ports selected for in-depth review

## PROGRAM RELEVANCE

### 1) Do the program's objectives align with government priorities and advance the strategic objectives of TC?

*Finding:* The PDP is aligned with the federal government's direction as outlined in the 2002 Speech from the Throne.

- The objectives of the program, as outlined on page one, align with the federal government's themes of building healthy communities, modernizing infrastructure, and building a partnership between government and its citizens.<sup>3</sup>

*Finding:* The PDP is aligned with TC's strategic objectives.

- The program's objectives are aligned with the departmental strategic objective of contributing to Canada's economic and social development. The relevant departmental ultimate outcomes under this strategic objective are to foster a transportation system that is responsive to users and to communities, that is efficient, and that is viable and affordable. These link closely to the PDP objectives previously identified in the background section of the report.

*Finding:* The PDP is aligned with TC's *Straight Ahead: A Vision for Transportation in Canada*.

- In the infrastructure section of *Straight Ahead*, this policy document indicates that the completion of divestiture activities is a focus for the department.<sup>4</sup>

### 2) Is there an ongoing need for the divestiture program as well as for the contribution program?

*Finding:* The evaluation found that there is an ongoing need for the divestiture program.

- The department has committed to completing the divestiture process for the remaining Regional/Local ports, as well as remote ports where there is an interest.

Local officials and port owners interviewed (12 in total) noted the following reasons for taking over port ownership / operations:

- Protect access for the local community
- Protect commercial access
- Build on existing recreational facilities

<sup>3</sup> *Speech from the Throne*, Second Session of the 37th Parliament of Canada 2002. See sections "Talent for Investment" and "Government and Citizens"

<sup>4</sup> *Straight Ahead: A Vision for Transportation in Canada*, Transport Canada, page 47, "Our Future Actions"

- As of September 19, 2003, 99 ports remain to be divested by TC (*see Table 1 on the next page*). To stop the divestiture process at this stage would create a fragmented port system, with some Regional/Local ports being subsidized federally while others are not. Where an opportunity for divestiture exists, the department should pursue it.

**Table 1: Regional/Local and Remote Ports Still Owned and Operated by TC**

Region/Province		Regional/Local Ports	Remote Ports	Total Ports
Atlantic	Newfoundland	17		17
	PEI	4		4
	Nova Scotia	4		4
	New Brunswick	2		2
Total: Atlantic Region		27		27
Total: Quebec Region		25	10	35
Ontario	Ontario	11	2	13
	Manitoba		1	1
Total: Ontario Region		11	3	14
Pacific	Saskatchewan	3		3
	Alberta	1		1
	B.C.	3	16	19
Total: Pacific Region		7	16	23
Total: All regions		70	29	99

**Finding:** *The evaluation found that there is an ongoing need for the contribution program.*

- The program's contribution payments to ports are necessary to facilitate the transfer of the remaining ports to new owners, particularly given the limited revenue-generating capacity of the remaining ports.<sup>5</sup> Most of the remaining communities of Regional/Local and Remote ports, according to regional officials, lack the financial capacity to take over ports that require substantial capital investments. They have, therefore, a demand for funding through the PDP.
- Of those interviewed who provided an opinion on the demand for funding, all respondents indicated that the funding provided by TC was a critical factor in their decision to take over the port. Without it, they say, they would not have taken over operation of the port facility.
- The PDP has provided contribution funding to Regional/Local ports for the past seven years. There is an expectation, according to program management, that the communities of the remaining ports would demand financial support that was equitable to the previously divested ports.

<sup>5</sup> Based on discussions with program management and the literature review conducted.

## ACHIEVEMENT OF OBJECTIVES

### 1) What progress has TC made towards the goal of divestiture of Regional/Local ports? How does this progress relate to identified targets?

***Finding:** Overall, TC has made significant progress in divesting Regional/Local ports, despite the number of significant impediments that have affected the divestiture process.*

The table below provides a summary of the divestitures to date under the PDP organized by type of divestiture. As this table indicates, of the 549 ports identified for divestiture, 450, or almost 82%, have been divested to date.

**Table 2: PDP - Total Divestitures**

Action	Number of Sites
Declared public harbours were deproclaimed <sup>6</sup> in June 1996 and March 1999	211
Sites transferred to other federal departments	65
Sites transferred to provincial governments	40
Sites divested to local interests	111
Port facilities demolished	5
Sites that have had TC interest terminated	18
Total	<b>450</b>

*Source: Port Divestiture Annual Reports and Program Records*

***Finding:** Although TC's divestiture rate for Regional/Local ports was below forecasted targets, there were numerous factors that affected this progress (e.g. the unanticipated complexity of the divestiture process as well as regional, economic, social, and legal issues). The use of consultation mechanisms, the careful brokering of negotiated settlements, and the use of nationally consistent guidelines served to support the program's intended immediate outcome of promoting local interests.*

The PDP was not able to divest all Regional/Local ports within the original estimated six-year timeframe of the program. See *Table 3* on the following page for a comparison between the target and actual divestitures by fiscal year. The impediments to divestiture, as well as strategies used to overcome them, are discussed further under questions 2 and 3 below.

---

<sup>6</sup> Deproclamation refers to the repeal of a public port designation.

In addition to these impediments, the evaluation team noted the following concerning the department's progress in divesting Regional/Local and remote ports:

- There were 71 divestitures in the first year of the program. Of the 71 ports divested in the first year, 59 were transferred to other government departments (mainly the Department of Fisheries and Oceans). The remaining twelve sites were divested to the provinces (see *Table 4*).
- Program management specifically targeted those ports without impediments for divestiture early in the program. This was noted in the program's original TB submission of April 18, 1996.
- Program managers used targets as a management tool to encourage the divestiture process. They reviewed and adjusted divestiture targets annually, taking into consideration in their analysis divestiture progress and a review of ports with a high likelihood to be divested in the following year.

**Table 3: Target vs. Actual Divestitures by Fiscal Year**

Fiscal year		Atlantic	Ontario	Quebec	Pacific	Total <sup>7</sup>
1995-96	Target					
	Actual	14		2	55	71
1996-97	Target	10	6	5	12	33
	Actual	28	1	2		31
1997-98	Target	21	14	17	29	81
	Actual	3	8		3	14
1998-99	Target	12	8		14	34
	Actual	7	5		5	17
1999-2000	Target	26	7	12	27	72
	Actual	9	4		2	15
2000-2001	Target	13	3	12	31	59
	Actual	5	2	9	16	32
2001-2002	Target	12	3	1	29	45
	Actual	7	4	1	30	42
2002-2003	Target	8	6	1	15	30
	Actual	2			11	13
2003-2004	Target	6	8	5	9	28
	Actual to date		1	1	2	4

*Source: Port Divestiture Annual Reports and Program Records*

<sup>7</sup> Officials from either Pacific or Ontario Regions conducted divestitures for Prairie Northern Region.

The gap between targeted and actual divestitures, illustrated in *Table 3*, demonstrates that program officials may have initially set very aggressive targets for the divestiture of ports in the inventory. According to program staff, this was done purposefully to facilitate the timely divestiture of ports. Not meeting these initial targets can be chiefly attributed to the divestiture impediments outlined in a following section of the report.

**Recommendation:** TC should continue to use divestiture targets as a management tool to review and adjust program delivery. For accountability purposes, it should continue to use these targets for reporting on the status of divestiture to the general public and external stakeholders.

**Table 4: Port Programs and Divestiture Transfer Inventory<sup>8</sup>**

Year	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Total
Sites Transferred to Provinces	12	18	2	-	-	7	1	-	-	40
Sites Transferred to other Federal Departments	59	2	2	1	-	-	-	-	1	65
Sites Divested to Local Interests	-	10	9	7	11	23	37	12	2	111
Sites Demolished	-	1	1	1	-	-	-	1	1	5
TC Interest Terminated	-	-	-	8	4	2	4	-	-	18
<b>TOTAL</b>	<b>71</b>	<b>31</b>	<b>14</b>	<b>17</b>	<b>15</b>	<b>32</b>	<b>42</b>	<b>13</b>	<b>4</b>	<b>239</b>

**2) What port-specific or systemic factors affected the rate of divestiture?**

*Finding:* The key factors that have affected the rate of divestiture have been issues relating to First Nations land claims, jurisdictional impediments, and environmental concerns.

Based on interviews and the literature review conducted during the evaluation, the evaluation team identified the following issues as impediments to the divestiture process.

<sup>8</sup> Not including deproclaimed public harbours.

It should be noted that the factors that inhibited progress were likely of greater concern to non-federal government recipients, according to program management. *Table 4* illustrates the annual port divestitures by recipient. While the first two years of the program showed significant progress, it is interesting to note that 61 of 102 ports were transferred to other government departments.

### **First Nations Concerns**

The 1997 Supreme Court of Canada decision regarding *Delgamuukw vs. the Queen in Right of British Columbia* has had an impact not only on TC's ability to pursue public port divestiture, but also on government-wide land transfer activities. While this ruling has affected the time required to complete port transfers across the country, its greatest effects have been felt in Ontario and British Columbia (B.C.). In some cases, First Nations' claims have been registered in court, thereby further slowing completion of the divestiture agreements.

In an effort to obtain more insight into the significance of this issue, regional officials were asked about factors that had affected either the feasibility of divestiture or the time required for divestiture of ports in their region. Results from these interviews support the claim that First Nations issues have affected the divestiture process. According to some of the interview respondents, First Nations' land claims have slowed the process of almost all of the divestitures in B.C. Interview respondents similarly noted that land claims of First Nations have also affected the divestiture process in Ontario.

### **Jurisdictional Issues**

#### *Provincial Consent (Reversionary Clauses)*

For the creation of public ports, the provinces transferred administration and control of a majority of their sites to the Government of Canada subject to the condition that these lands revert back to the respective province in the event that they were no longer required for use as a public port. This is often referred to as a "reversionary clause". As such, the federal government cannot transfer the port lands to other parties without the specific approval of the applicable provincial government. The requirement to obtain approval from the provincial governments has impeded the divestiture process in Newfoundland and Labrador, Quebec, and B.C.

The decision by the provinces not to provide consent may be attributed to the following factors: various political concerns, a preference to have the ports remain federally operated, and a lack of interest in owning or operating the port due to its low economic viability.



There have also been further complications for municipal authorities, according to one municipal official, as the municipalities must obtain provincial government approval to take ownership of a port facility.

### *Government Approaches and Priorities*

Interview responses from program staff indicate that changes in federal and provincial governments have slowed the divestiture process. Program management noted a loss of momentum in the divestiture negotiations during the transition period between governments and between the election call and election.

Changes in government, however, can afford TC an opportunity to pursue divestiture in the case where the former government did not favour divestiture. Once the position of the new government in Quebec is known, for example, it may provide the department with an opportunity to pursue divestiture of the remaining ports in that region.

### **Environmental Issues**

In accordance with the *Canadian Environmental Assessment Act*, environmental assessments are completed as part of the transfer of each port. The standard practice is to conduct an Environmental Baseline Study prior to transfers to ascertain the environmental condition of a port. Where necessary, remediation is undertaken to comply with the applicable environmental laws and regulations. After transfer, the new operator is also subject to all environmental laws.

While environmental issues have been associated with every divestiture, only in Ontario and B.C. was this issue explicitly mentioned as a major factor. In both B.C. and Ontario, regional officials indicated that environmental problems identified as requiring remedial action were quite common. In B.C., for example, approximately 90% of sites have shown to have their sediments polluted by hydrocarbons. The provincial agency responsible for Crown lands held a very strong position regarding the need for remedial action at these sites, and it took several years of negotiations among TC, the provincial Crown agency and the provincial lands and environment departments to come to an agreed approach to deal with these sites. In the end, through site testing and improved communication, both parties had a better understanding of the issues and, subsequently, determined that the environmental issues were less problematic than expected. By adopting this approach, the department has built its capacity to address future environmental issues in a more effective and timely manner.

## **Legal and Administrative Impediments**

The rate of divestiture, particularly during the initial years of the program, was slowed by unforeseen legal and administrative impediments. Program officials provided the following examples of the types of obstacles encountered:

- The property law issues encountered for some divestitures required detailed research into land titles, which extended the time to complete the divestiture agreement. Title research is required for every divestiture transaction. In some cases, the land title agreements predated Confederation.
- For some of the divestitures, the capacity of small communities to obtain legal counsel to review legal documents increased the time to divest the port. While TC facilitated this process by using generic legal documents, smaller communities still required legal counsel to review port transfer documents. This explains, in part, why 85 of the 111 divestitures to local interests occurred since 1999-2000 (See *Table 4* on page 11).

## **Issues Related to the Program's One-Year Extension**

It was noted by the evaluation team, on the basis of interviews conducted, that the department's capacity to complete divestitures was reduced due to factors relating to the program's one-year extension. Program management noted the following issues:

- The department was granted a one-year extension to the program during the 2002-2003 fiscal year. Given the complexity of the divestiture process, some divestitures could not be pursued in the one-year timeframe.
- Stakeholders had an expectation that TC would continue to operate the undivested ports at the scheduled end of the program, which at that time was March 31, 2003. Accordingly, the department had a reduction in the number of expressions of interest to take over ports.
- As the program was expected to end at the end of 2003, TC lost a number of experienced staff who had taken new positions elsewhere.

### **3) What strategies were implemented to address these obstacles? How successful were they in reducing the time or costs of divestiture or in facilitating the process?**

***Finding:** A review of these strategies shows that, while some divestitures took longer than anticipated, many of the strategies employed—in particular those that involved consultation, negotiation, and consensus building—supported the program's objective of ensuring local involvement.*

## Overall Approaches

### *Negotiation and Consensus-building*

The PDP adopted an approach that attempts to achieve a consensus in the community with respect to new the operators / owners. When two or more interested parties have expressed an interest in acquiring a site, TC staff organize meetings of interested parties and try to broker a solution that all interested parties can accept. According to program officials, this approach has been an essential element of the program to facilitate a transfer agreement that is aligned with community and local interests. These results will be assessed further in the planned summative evaluation.

Transfers of the Pugwash, Nova Scotia, Goderich, Ontario, and Cumberland, Ontario ports are examples of TC's facilitation and consensus-building role. In these cases, the department facilitated meetings between the municipalities and users to reach an agreement to transfer their port facilities.

**Recommendation:** TC should continue its brokering role in the formation of local groups that best represent the social and economic needs of communities, in the divestiture of the remaining ports.

### *Reviews of Divestiture Targets*

Program staff noted that divestiture targets are established annually. This provides them with an opportunity to review progress, re-evaluate their approach, and make necessary program adjustments (i.e. targeting those ports where there is a “window of opportunity” to pursue negotiations with provincial governments and local interests).

### *Divestiture Guidelines / Nationally Consistent Tools and Approaches*

A comprehensive set of divestiture guidelines for use by HQ and regional staff was developed in 1996. They provide details on authorities, accountabilities, principles, process summaries, evaluation criteria, common law and civil code generic documents, internal communication flows, external communications instruments such as sample letters to tenants, funding and real property forms, financial considerations and control and tracking documents.

The purpose of the guidelines and directives is to ensure that the negotiation process for port divestiture is consistent with the framework approved by TB and is conducted with prudence and probity. The guidelines provide staff with guidance to ensure that:

- Title and environmental status are clear prior to the transfer;
- The transfer price is determined in accordance with TB directives to protect the interest of the Crown;
- The potential operators / owners are treated fairly; and
- The divestiture process is applied consistently across the country.

Regional officials indicated that having access to detailed processes, checklists, generic forms, and legal documents facilitated the timely exploration of legal considerations associated with the transfers—ensuring all aspects were undertaken properly. HQ and Regional officials of the PDP were unanimous in the view that the guidelines assist in providing a process that gives all potential interested parties an opportunity to be advised of and to participate in the divestiture process. Regional officials indicated that they are very careful to follow the guidelines regarding communications and consultations with port communities and that public meetings, advertised in local print and radio media, were held in virtually every case.

Over the seven years of the program, it is noted that the guidelines have been revised four times.

***Finding:*** *The divestiture guidelines were highly regarded by HQ and Regional staff. In their view, they facilitated timely divestitures, a nationally consistent approach, and the inclusion of local interests in the divestiture process.*

**Recommendation:** TC should review the divestiture guidelines to ensure that they are up to date given their acknowledged importance as a tool to facilitate the divestiture process.

#### *Divestiture Implementation Teams*

The use of divestiture implementation teams was a mechanism to facilitate the divestiture process, according to data collected through the literature review and the interviews conducted.<sup>9</sup> These teams usually were comprised of representatives from the following areas: Regional officials, Public Works and Government Services Canada, Legal Services, finance advisors, and PDP representatives from HQ as required. The teams were tasked to conduct legal title searches, financial and market analyses, property surveys, asset appraisals, environmental assessments and audits in preparation for active marketing and subsequent negotiations to conclude transfer agreements with interested parties.

Later in the program, according to program officials, variations of these teams were used on an *ad hoc* basis to pursue the divestiture of a port, or group of ports, when there was an identified “window of opportunity” (i.e. sudden interest in owning the port or a changing political situation). This approach continues to be used, for example, when there is a requirement for HQ to have a role in specific divestiture negotiations (i.e. to facilitate the transaction).

Interview responses suggest that the capacity of the department to use such teams has been significantly reduced in the later years of the program. As previously mentioned, this is attributable in part, to a loss of momentum in the program as a result of the one-

---

<sup>9</sup>

year extension. Program management also indicated that to some degree the mandate of regional divestiture officials has shifted from pursuing divestiture to a greater focus on auditing divested ports.

Some external interview respondents indicated that it is important for TC officials with decision-making power to be part of such teams and for negotiators to have sufficient capacity to conduct the negotiations. One option may be the further use of HQ divestiture teams to support regional divestiture teams.

## **First Nations Concerns**

### *Negotiator's Consultation Model*

The TC consultation model provides a mechanism to identify First Nations issues and to provide for the appropriate response. The use of this model enables departmental transactions to proceed, albeit more slowly than was expected when the program began in 1996. The transfers in Victoria, B.C. are prime examples of such First Nations consultation. Through the efforts of TC negotiators, two First Nations representatives now sit on the Board of the Greater Victoria Harbour Authority, the new owner of several former TC port facilities.

As in the past years of the program, TC continues to use this consultation model to respect the crown's fiduciary obligations to First Nations and to work with provinces and local interests to resolve provincial issues, recognizing that in many cases, these efforts lengthen the time required to complete divestitures. This extended time, however, in the view of the evaluation team, has improved the divestiture process: one that builds consensus, is open and transparent, and involves interested parties from local communities at the outset of negotiations.

### *Regional Perspective*

In B.C., according to regional officials, the strategy adopted to address First Nations issues was threefold: respect, reconciliation and participation. In their view, this strategy was very successful once implemented. First Nations groups with a claim on a site were invited to participate with the local group to whom the operation was to be divested, and were given an opportunity to voice their concerns regarding the divestiture. As a result, First Nations issues have not proven to be an obstacle to divestiture in recent years. Once First Nations groups were satisfied that the divestiture process would not affect their legal claims, in almost all cases, they either participated in the new ownership group or indicated they had no objection to divestiture.

## **Strategies for Provincial Issues**

Program staff noted that the PDP adopted the following strategies to address provincial government issues. These steps are outlined in the divestiture guidelines:

- i) Negotiate with provincial governments in an effort to resolve issues that underlie their resistance to divestitures;
- ii) Carry out divestitures of ports where there are no reversionary clauses that would enable the provincial government to prevent divestiture;
- iii) Carry out divestitures where, for one reason or another, the provincial government is willing to allow divestiture even though it could prevent it; and
- iv) Take advantage of changes in provincial governments or changes in the policies of existing governments to gain acceptance of the divestiture process.

This strategy has worked relatively well, in particular with the province of BC, where the working relationship between the federal and provincial governments on divestitures is seen to be very good. In Quebec and Newfoundland, the results have been mixed since the beginning of the program, but current negotiations are going well, as the provincial governments are willing to discuss divestiture of the remaining ports in their jurisdiction.

### **Environmental Issues**

The strategy for addressing environmental issues, based on interviews with program managers, has been to incorporate lessons learned and best practices adopted over the early years of the program. According to program officials, as the program progressed, the department was better able to manage environmental impediments to the divestiture process. Some of the practices implemented through the course of the program included the following:

- TC became more knowledgeable about the environmental issues facing ports eligible for divestiture. Strategies to address environmental issues that were identified during the first couple of years of the program were replicated in subsequent divestitures.
- Some of the environmental issues involved jurisdictional issues between the federal and provincial governments. Communication between the two levels of government was enhanced and legal obstacles that were encountered were addressed during the earlier part of the program.
- TC conducted baseline environmental assessments for a number of ports in its inventory. This enhanced the department's awareness of environmental issues concerning port transfers.

#### **4) What are the main challenges / obstacles to the divestiture of the remaining ports? What strategies are planned to address them?**

Based on interview results and the literature review, the obstacles to divestiture previously discussed (i.e. First Nations concerns, and jurisdictional and environmental issues) will continue to be a challenge for the divestiture of the remaining ports. In addition, funding will be a major concern as these ports are primarily those with a lower probability of commercial viability.

***Finding:** The PDP's success during the next three years may be constrained by the limited availability of contribution funding.*

**Recommendation:** TC should consider pursuing additional funding to ensure that adequate resources are available until the scheduled end of the program in March 2006. At that time, TC should have developed options for those ports likely to remain with the department following the scheduled conclusion of the program.

#### *Availability of Contribution Funding*

The program was developed to divest 549 ports over a six-year period, . It is important to distinguish the two separate issues - funding and program authority. . TC funded the contribution program from within its existing reference levels through March 31, 2003, assisted by \$8.4 million provided to TC from the Consolidated Revenue Fund. These funds related to the proceeds from the sale of public port assets. TC did not have a distinct allotment of funds for port divestiture, but rather, the department allocated funds from its reference levels each year through the annual budgeting process.

In 2002, . During this time, 64 ports were forecasted to be transferred, with a requirement for the additional \$45 million to provide contributions for those sites.

In the February 2003 Budget, the government agreed to provide TC with \$50 million for contribution payments to continue the PDP, because the department no longer had funds available to divest ports from within its existing reference levels. The program authority was increased to \$175 million.<sup>10</sup>

Program officials indicate that the PDP's success during the next three years may be constrained by the limited availability of contribution funding. Their strategy is to continue to negotiate divestitures and to address any shortfall in PDP resources when it is evident that additional funding will be required. TC's funding options include existing departmental resources and/or returning to TB for an additional allocation of resources. The option of achieving savings through reduced contributions, in the view of program management, is not possible because of the use of the nationally consistent financial model, and because local interests would be less inclined to accept ownership of a local port with a reduced contribution.

#### *Low Level of Interest for Some Remaining Ports*

According to information gathered from the literature review and from interviews with TC officials, many of the remaining sites are less attractive from an economic perspective or, in some cases, will require more financial contributions or repair prior to their transfer. Interview data suggests that TC may have to undertake reconstruction efforts at some ports to make them ready for divestiture. In other cases, where no interest in the

---

<sup>10</sup> Supporting documentation on file with TC program officials.

port has been shown, TC is already considering demolition. This activity, however, will also be costly, and is constrained by the availability of funds.

**Recommendation:** TC should continue to implement successful strategies for the divestiture of the remaining ports currently owned by the department. A plan should be developed for the divestiture of these ports as they will be the more difficult to divest in most cases.

**5) Do divested ports operate in the best economic and social interests of the local community? What changes, if any, are required to the process for identifying potential owners / operators to ensure that this is the case?**

A more in-depth assessment of this question will be explored through stakeholder interviews and case studies during the program's summative evaluation in 2006-2007.

***Finding:** The evaluation found indications that the program has been successful in divesting ports according to the economic and social interests of the local community.*

The evaluation team based this conclusion on the following information, gathered from the literature review and interviews conducted:

- Of the 450 Ports divested as of September 12, 2003, 111 of these sites were divested to local communities.
- The department has adopted an approach to divestiture that entails negotiations on a "port-by-port" basis. This approach enables the department to incorporate unique local community interests into each divestiture agreement.
- TC's approach to divestiture includes the use of public notices to solicit interest in port ownership. All interested parties, including groups from the local communities, are provided with relevant information.



- TC HQ and regional staff indicated that the divestiture guidelines have been a key instrument in supporting the incorporation of local interests into the divestiture process. These guidelines include standard operating procedures and “checklists” to ensure local and regional concerns are considered during the divestiture process.
- The sidebar provides anecdotal examples of how the change in port ownership to local communities and organizations has resulted in an increased ability for them to operate ports according to local social and economic interests, without additional TC funding.

Examples of divested ports contributing to local social and economic interests were gathered from a review of press clippings:

- A new marine terminal at Mulgrave is to be built with external sources of funding. This will provide the Straight of Canso Superport Corporation with a competitive advantage in attracting new business.
- The Sydney Ports Corporation is converting facilities into a convention center. Local officials expect a \$125 million spin-off to the local economy.
- Pictou is negotiating for use of its facilities as a cruise and cargo ship stop for 2006.
- Victoria has made plans to increase cruise ship traffic. Press article notes the city and neighboring leaseholders are satisfied with new port ownership arrangement as a means of “creating more jobs” and a “livelier harbour industry”

## 6) What is the likelihood that the remaining ports can be divested during the remainder of the program?

***Finding:** The evaluation found that most likely, TC will continue to operate some ports after the scheduled end of the program.*

Most of the “easy” divestitures were completed early in the program. Interviews with program management and a review of program documents indicate that most of the transfers that were undertaken early in the program were of the more profitable and attractive sites from a business perspective.

By contrast, the remaining ports will be more difficult to divest. Results from both the literature review and interviews indicate that the remaining ports will be more difficult to divest for the following reasons:

- Land titles have not been resolved;
- There is a lack of interest; and/or
- The port has no significant commercial value.

### *Regional Perspective*

Regional officials in Ontario indicated that the most difficult ports still remain to be divested. They expect divestiture activities to take longer, and expressed some doubt as to whether the remaining ports could in fact, be divested by March 2006 (the current end date for the PDP).

In B.C., regional officials noted that the remaining ports are located in communities that have been the most reluctant to take over responsibility for these ports. Moreover, in almost all cases, there are serious environmental issues to resolve. Nevertheless, regional officials are reasonably optimistic that they will be able to divest 8-9 ports this year and all of the remaining ports within the next three years.

### *Remote Ports*

Of the 99 ports remaining to be divested, twenty-nine are remote ports that are eligible to be divested, should an interest be expressed.<sup>11</sup> The department is required to ensure the continued operation of the remote port in the case where no interest is expressed to take over port ownership. Many of the remaining remote ports are located in very small communities that lack the technical or financial means of operating the ports, and will be difficult to divest. It is likely that most of these ports will remain under TC ownership at the end of the PDP program.

---

<sup>11</sup> Remote ports are ports located in communities where water transport is the primary mode of transportation for the movement of people or goods for at least part of the year.

## COST-EFFECTIVENESS

### 1) What has been the net savings to TC resulting from the PDP?

**Finding:** The evaluation found that the estimated savings generated by the PDP is \$110 million to March 31, 2003.

As of March 31, 2003, program management indicates that the total federal expenditures related to port divestiture (excluding program support and departmental overhead) has been \$182 million.

Table 5: Net savings resulting from the PDP

	\$ (millions)
Revenue generated (from port sales)	8.4
Estimated savings to TC (cost to run ports which have been divested)	+ 284
	= 292.4
Actual PDP Expenditures	- 182.00
Estimated savings to TC	= 110

Source PDP Program Records

This amount consists of the following expenditures:

- \$125 million spent from the Port Divestiture Fund to transfer 235 sites;
- \$7 million for the divestiture of 17 Labrador ports;
- \$9 million for the divestiture of 12 Newfoundland and Labrador south coast ferry wharves to the and province; and
- \$41 million from the Port Transfer Fund.

Revenues generated from port sales have totalled \$8.4 million.

The department has avoided program expenditures on port maintenance and operations by no longer owning 235 port facilities. In addition, the department has reduced expenditures by limiting spending on remaining facilities to urgent and safety-related repairs. In the years preceding divestiture, an average of \$68 million (expressed in 2002/2003 dollars) was spent each year to operate ports. Over the course of the 7 years of the PDP, the average annual expenditures on port operations have been reduced to \$27.4 million (expressed in 2002/2003 dollars). The difference between the historical and actual expenditures is the basis for the program's estimated savings of \$284 million over the first seven years of the Program.

Based on the above-noted amounts, program managers estimate that the total net savings generated by the PDP to date are \$110 million: \$284 million in reduced expenditures to operate and maintain ports, plus \$8.4 million for the proceeds of transfers, less \$182 million disbursed as part of the Program.

## **APPENDIX 1: PROGRAM PROFILE**

### **Background**

Prior to divestiture, TC was the primary landlord and operator of most of the federal government's commercial port facilities. There were 572 sites under the responsibility of the Minister of Transport. A National Ports System was identified in 1995 that included financially self-sufficient ports vital to domestic and international trade. Canada Port Authorities (CPA), now manage these ports, which number 19. The CPA model instils commercial discipline in Canada's major ports. They are required to abide by strict principles of public accountability. Government funding is not available for CPAs.

The majority of ports (489) were designated as Regional/Local ports in the National Marine Policy. These ports ranged from operations that support significant local and regional commercial activity to very small facilities with little or no commercial traffic. These ports were to be transferred to other federal departments, provincial governments or local interests, including municipalities, private interests and other groups.

Finally, 60 ports were designated as Remote ports. Remote communities were defined as communities where water transport is the primary mode of transportation for the movement of people or goods for at least some portion of the year; not connected by a road network to another site with a wharf; and/or not connected to a major centre by year-round surface means or by regular air service. The Remote ports were to continue being operated by TC unless local stakeholders expressed an interest in acquiring these facilities, in which case they would be divested to these local groups.

In April 1996, \_\_\_\_\_, both of which facilitated the divestiture process. A separate Port Transfer Fund was also put in place to finance departmental activities related to port divestiture. From 1996 to 2003, TC funded all aspects of the PDP entirely from departmental reference levels.

The six-year PDP, originally designed to achieve objectives by March 31, 2002, was granted a one-year extension to March 31, 2003, and subsequently, a further three-year extension to March 31, 2006.

Further information on the PDP is available on the TC website at:  
<http://www.tc.gc.ca/programs/ports/menu.htm>.

### **The Port Divestiture Fund**

The six-year, \$125 million Port Divestiture Fund envelope was intended to ease the transfer process by reducing the initial financial impact of port transfers. The fund was used to aid in bringing existing port property up to minimum safety or operating standards or to make lump-sum payments to facilitate the take-over of a port. It could also be used to cover a portion of costs incurred by new owners or operators to achieve compliance with regulatory or insurance requirements, to fund feasibility studies or

reduce potential liability. The PDF envelope was increased by \$50 million during 2002 and 2003.

### **The Port Transfer Fund**

A separate Port Transfer Fund was also created from departmental reference levels to fund departmental expenditures related to port divestiture. This fund covers such areas as land surveys, legal title searches, property appraisals, environmental assessments, the hiring of financial advisors and administrative expenses.

**Table 6: Port Divestiture Program Fund Expenditures (\$ million)**

Fund	1996/1997	1997/1998	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003	Total
Port Divestiture Fund	13.1	1.5	1.3	16.9	46.5	23.1	22.4	124.8
Port Transfer Fund	6.6	7.2	7.1	6.4	5.8	5.3	3.0	41.4

### **Program Delivery Responsibilities and Principles**

The Director General Port Programs and Divestiture exercises functional responsibility for the delivery of the PDP. This functional authority extends to such areas as divestiture policy, national divestiture issues, funding from the Port Divestiture Fund and Port Transfer Fund and support to regional divestiture teams. The DG is involved early on when a transfer agreement is expected to exceed the regional delegated authority or the Program principles.

Divestiture Secretariat/HQ was established to support the regional divestiture teams and assist them in obtaining early results by: providing guidelines and directives and generic transfer documents; supporting negotiations through the establishment of a fast-track divestiture validation mechanism, leading certain regional divestitures, provide funding through PDF and PTF and providing advice and assistance on issues that went beyond regional responsibilities and authorities.

The Regional Directors General have line authority for the delivery of the PDP for their respective regions. Reporting to the Regional Directors General through a Regional Director are regional divestiture teams. These teams are largely made up of regional TC, Harbours and Ports / Programs personnel with knowledge of the ports “inventory” in their respective operating environments. These teams have included regional Public Works and Government Services Canada employees who have served as facilitators in negotiations and the teams were seconded by financial advisors to help with the

development of the Crown No Worse Off financial estimates and review business plan from new potential owners.

The regional teams were tasked with the conduct of legal title searches, financial and market analysis, property surveys, asset appraisals, site environmental audits in preparation for active marketing, preparing site specific financial models, and transfer of ports.

The PDP transfer strategy is intended to ensure that:

- No offer will be accepted that leaves the Crown financially worse off as a result of divestiture;
- The Crown receives best value for port land and other assets;
- A new port owner will not enjoy any windfall profits from the subsequent sale of lands, assets and/or chattels; and
- TC fully upholds its fiduciary responsibility with respect to First Nations.

### **Transfer Process**

There are six basic steps in port divestiture at the local or community level:

1. TC regional officials initiate port divestiture discussions with local interests.
2. Local interests form a legal entity, which signs a non-binding Letter of Intent to negotiate the port transfer and a legally binding Disclosure of Information Agreement with TC to protect third-party information.
3. TC provides the local entity with financial data, traffic or tonnage statistics, and any other relevant information concerning environmental, technical, engineering, and property or leasing issues.
4. The local entity conducts a due diligence process, usually with funding from TC.
5. TC and the local entity negotiate financial and other conditions of transfer.
6. Both parties sign a transfer agreement.

## **APPENDIX 2: LIST OF FILES AND DOCUMENTS REVIEWED**

Speech from the Throne, Second Session of the 37<sup>th</sup> Parliament of Canada

National Marine Policy, December 1995

Annual Report on Port Divestiture and Operations from 1997-1998 to 2002-2003

TC Departmental Performance Report, 1996-1997 to 2002-2003

Divestiture Guidelines

Post-Transfer Evaluation Program for Regional/Local and Remote Port Divestiture Program

Port Programs and Divestiture Monthly Status Reports

TC Negotiators' Consultation Model Respecting Aboriginal Interests in Federal Real Property Divestiture, September 30, 1998

Operating Agreement with Operating Obligations, version June 13, 2001

Contribution Agreement with Operating Obligations, version June 13, 2001

Project Contribution Agreement, version June 13, 2001

Audit of the Port Divestiture Fund, Port Programs and Divestiture June 21, 2001

Port Divestiture Program RMAF, February 2003

Regional Divestiture Files for:

- Tobermory (Ontario)
- Walpole (Ontario)
- Port Stanley (Ontario)
- Quyon-Mohr's Landing (Ontario)
- Kingston Crawford Docks (Ontario)
- Kingston Howard Johnston (Ontario)
- Batiscan (Quebec)
- Lachine (Quebec)
- Cumberland (Ontario but carried out by Quebec Region)
- Sorel (Quebec)

## **APPENDIX 3: LIST OF INTERVIEWEES**

### **Transport Canada Headquarters**

Randy Morriss, Director General, Port Programs and Divestiture

Paul-Émile Drapeau, Director, Port Divestiture and Operations

Gail Anderson, Senior Advisor, Port Divestiture and Coordination

Brenda Quinlan, A/Strategic Planning Officer, Strategic Planning and Communications

Dan Laprade, Chief, Economic and Financial Assessment

### **Fisheries and Oceans**

Robert Bergeron, Director General, Small Craft Harbour, Real Property Management and Environmental Coordination Directorate

### **Atlantic**

Lloyd Henderson, Harbours and Ports

Tim Gilfoy, Mulgrave Terminals & Port Hawkesbury, private owner/operator

Wanda Lundrigan, Real Property, Government of Newfoundland

Sheree Appleby, Real Property, Government of Newfoundland

### **Quebec**

Denis Bastien, Manager, Programs and Divestiture

Pierre Barradin, municipal employee, owner/operator, Lachine

Réjean Chartrand, municipal employee, owner/operator, Cumberland

Phil McNeely, City Councillor, Cumberland

### **Ontario**

Dave Washington, Regional Director, Programs

Susan Johnston, Senior Programs Officer, Port Operations, Divestiture and Property Programs

Barclay Mayhew, municipal official owner/operator, Kingston Crawford Docks,



Barbara Allinson, private owner/operator, Kingston Howard-Johnston

Gary Wiseman, private owner/operator, Mohr's Landing – Quyon

Dwight Eastman, local official, Mohr's Landing- Quyon

**British Columbia**

Cliff Rhodes, Regional Manager, Property and Divestiture

Dean Johnson, private owner/operator, Esperanza,

Gary Nason, municipal employee owner/operator, Brentwood Bay, Saanichton Bay

Rt. Hon. Allison Habkirk, Mayor, Brentwood Bay / Saanichton,

Paul Fenwick, owner/operator, Eastbourne, Halfmoon Bay, and Halkett Bay

## APPENDIX 4: INTERVIEW QUESTIONS

### Questions for External Stakeholders

- 1) Please describe your role in the divestiture of this (these) port(s).
- 2) What is the primary use of this port?
- 3) Why was your organization (municipality / company) interested in taking over ownership/operation of this port?
- 4) How satisfied are you with the following aspects of the divestiture process:
  - Fairness with which you were treated
  - The time required to meet pre-transfer requirements (environmental assessments, appraisals, etc.)
  - The funding provided for pre-transfer studies, appraisals, capital upgrades etc
  - The overall time required to complete the divestiture process
- 5) Were there any significant difficulties or obstacles encountered in the process by which you took over ownership/operation of this port? What steps did you / TC take to overcome these obstacles?
- 6) Would your organization have funded any of the following if it had been necessary to expedite transfer of the port to you?
  - Pre-transfer appraisals, environmental assessments, engineering studies, research into First Nations' interests etc
  - Required capital improvements to the port facilities
- 7) Is there any other organization in this community that has the capability to operate this port? Did they express interest in taking over ownership / operation of the port? If yes, do you know why you were selected rather than another organization / individual?
- 8) What are your main sources of revenue for this port? Have actual revenues met your expectations when applying for ownership? Are these revenues sufficient to cover your annual operating and maintenance costs? Periodic capital costs? Who will provide funding if revenues are not sufficient to operate the port?
- 9) Who are the main users of this port? How satisfied are they, in your view, with the service provided and the costs of accessing these services since you took over ownership / operation? What initiatives / mechanisms do you have in place in order to work with the community?

## Questions for TC Headquarters and Regional Officials

- 1) Please describe your role, responsibilities or past experience related to PDP.
- 2) Had you established annual targets for divestiture in this region? How did the number of divestitures each year compare to your target? (Please provide actual data if available)
- 3) What were the main factors that affected the rate of divestiture in this region? How did these factors affect the cost, timeliness or feasibility of divestiture? How many divestitures were affected by these factors?
- 4) What strategies were implemented to address these factors? How successful were these strategies in terms of reducing the time or costs of divestiture or in facilitating divestiture?
- 5) Did you establish (or make use of national) criteria in this region for potential owners/operators of divested ports? Were these criteria applied regionally or were they port-specific?
- 6) How did you identify potential owners/operators of ports? Did the process ensure that all interested and potentially capable persons or organizations had an opportunity to be considered for ownership? Were any unsuccessful interested parties dissatisfied with the process, so far as you are aware?
- 7) What are the main challenges / obstacles to divestiture of the remaining ports in this region? What will be the likely impacts of these challenges / obstacles in terms of the cost of divestiture, the time required for divestiture, the likelihood of divestiture?
- 8) Do you have in place operational plans for divestiture of your remaining ports? What strategies are planned to address potential obstacles? Will these strategies ensure that all ports are divested by the program target dates?
- 9) How effective are the divestiture guidelines in ensuring that divestitures proceed in a manner consistent with key financial and other principles of divestiture? (I.e. fairness, Crown no worse off, highest & best use, best value for port land, no windfall profits, First Nations fiduciary duties)? Do the Guidelines negatively impact on the feasibility, timeliness, costs, or other aspects of divestiture?
- 10) What changes, if any, should be made to program policies, guidelines or procedures to facilitate divestiture of the remaining ports? To reduce the time or costs of divestiture?
- 11) What is the likelihood that the remaining ports can be divested in a cost-effective manner?

## **APPENDIX 5: PORTS SELECTED FOR IN-DEPTH DATA COLLECTION**

### **Atlantic**

- Hansport
- Mulgrave
- Pictou Pier C
- Weymouth
- Yarmouth Wharf

### **Quebec**

- Batiscan
- Lachine
- Cumberland (Ontario)

### **Ontario**

- Mohr's Landing
- Quyon (Quebec, opposite Mohr's Landing)
- Kingston Crawford Docks
- Kingston Howard Johnston

### **British Columbia**

- Brentwood Bay
- Eastbourne
- Halfmoon Bay
- Halkett Bay
- Horseshoe Bay
- Victoria