



Protectionism at the Border: Canadian Ports and the U.S. Harbor Maintenance Tax

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ASSOCIATION OF CANADIAN PORT AUTHORITIES

50 years serving the port community

North American Trade

Cross-border trade is crucial to Canada & U.S.

- each other's largest trading partners
- integrated continental transportation system
- FTA – 1988 and NAFTA – 1994
- 2011 – Obama and Harper signed:
 - *Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness:*
 - push security to the continental perimeter
 - ease restrictions on land border crossings



Canadian and U.S. Ports

Each country's ports have different structures

- Canada Port Authorities are non-profit, federal agencies:
 - required to be financially self-sufficient
 - contribute an annual stipend to the federal government (sole shareholder)
 - responsible for harbour maintenance including dredging

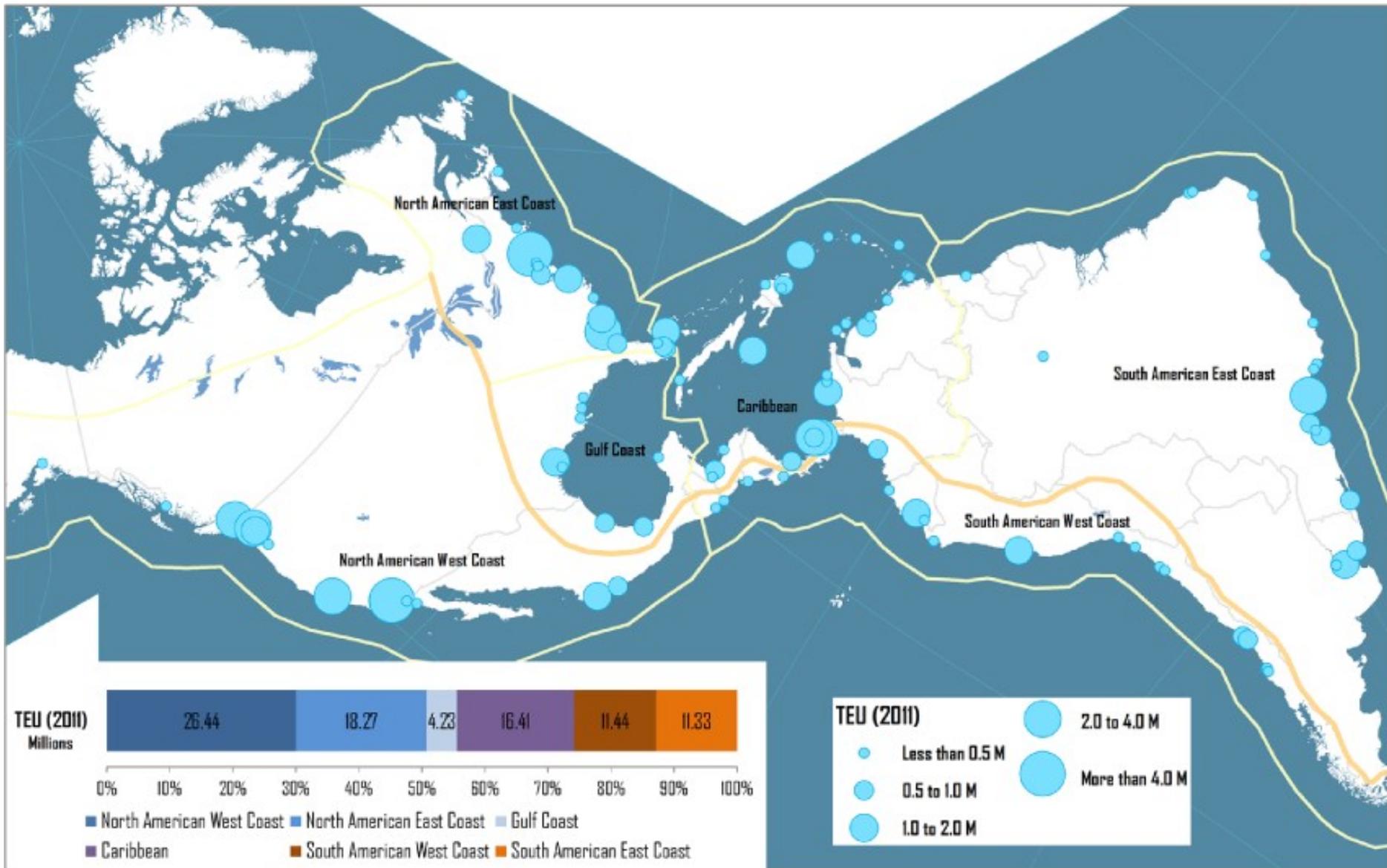
Canadian and U.S. Ports

- U.S. ports are state or municipal entities:
 - can access flexible funding:
 - revenue and obligation bonds
 - federal dredging by U.S. Army Corps of Engineers
 - 1986 – user pay introduced via Harbor Maintenance Tax (HMT)
 - 1990 – HMT amended to 0.125% of cargo value
 - HMT revenue dedicated to maintenance and dredging of navigational channels and ports

USWC Port Challenges

U.S. West Coast ports face many challenges:

- decline in Asia-U.S. container market share:
 - 2000 – 84%
 - 2009 – 69%
 - 2013 – 40% (estimated)
 - container trade continues to grow
- expansion of the Panama Canal
 - larger container ships will likely bypass USWC to serve Gulf and East Coast ports



USWC Port Challenges

- port diversity versus “hub and spoke”
 - shippers want flexibility
 - avoid being tied to one hub port
- competition from Canadian and Mexican ports:
 - Vancouver, Prince Rupert, Lázaro Cárdenas
 - Prince Rupert - newest transshipment port (1997)
 - CN double stack rail cars to Chicago and Midwest
 - WC Canadian ports closer to China:
 - Shanghai to Prince Rupert – 4,642 nautical miles
 - Shanghai to Los Angeles – 5,810 nautical miles (2-3 extra days sailing time)



USWC Port Challenges

Journal of Commerce port productivity:

- container moves per hour from ship arrival to departure
- world's most productive ports in 2013:

• Tianjin, China	130
• Qingdao, China	126
• Ningbo, China	120 ...
• Long Beach	88
• Los Angeles	87
• Lázaro Cárdenas	82 ...
• Prince Rupert	72
• Vancouver	68
• Montreal & Halifax	52

USWC Port Challenges

USWC ports focused on Canadian competition claiming:

- HMT avoidance led shippers to choose foreign ports:
 - HMT should be applied to U.S. imports at land borders
- 2013 TEU throughput by port:
 - Prince Rupert 534,940
 - Vancouver 2,825,475
 - Seattle 1,574,994
 - Tacoma 1,888,678
 - Oakland 2,346,460
 - Los Angeles 7,868,572
 - Long Beach 6,730,573
- USWC ports – 20.5 mil; Cdn ports –3.4 mil (17%)

Harbor Maintenance Tax

In 2011, Washington State legislators asked the Federal Maritime Commission to:

- *examine the impact of and extent to which HMT might provide incentives for U.S. imports to come through Canadian and Mexican ports [in particular, Prince Rupert]*

FMC published a “Notice of Inquiry” seeking input:

- responses from U.S., Canada and Mexico
 - 76 responses with 220 comments
 - 12 (16%) supported HMT avoidance as an incentive to use foreign ports
 - 64 (84%) opposed the concept

Harbor Maintenance Tax

Opposition cited the benefits of using Prince Rupert:

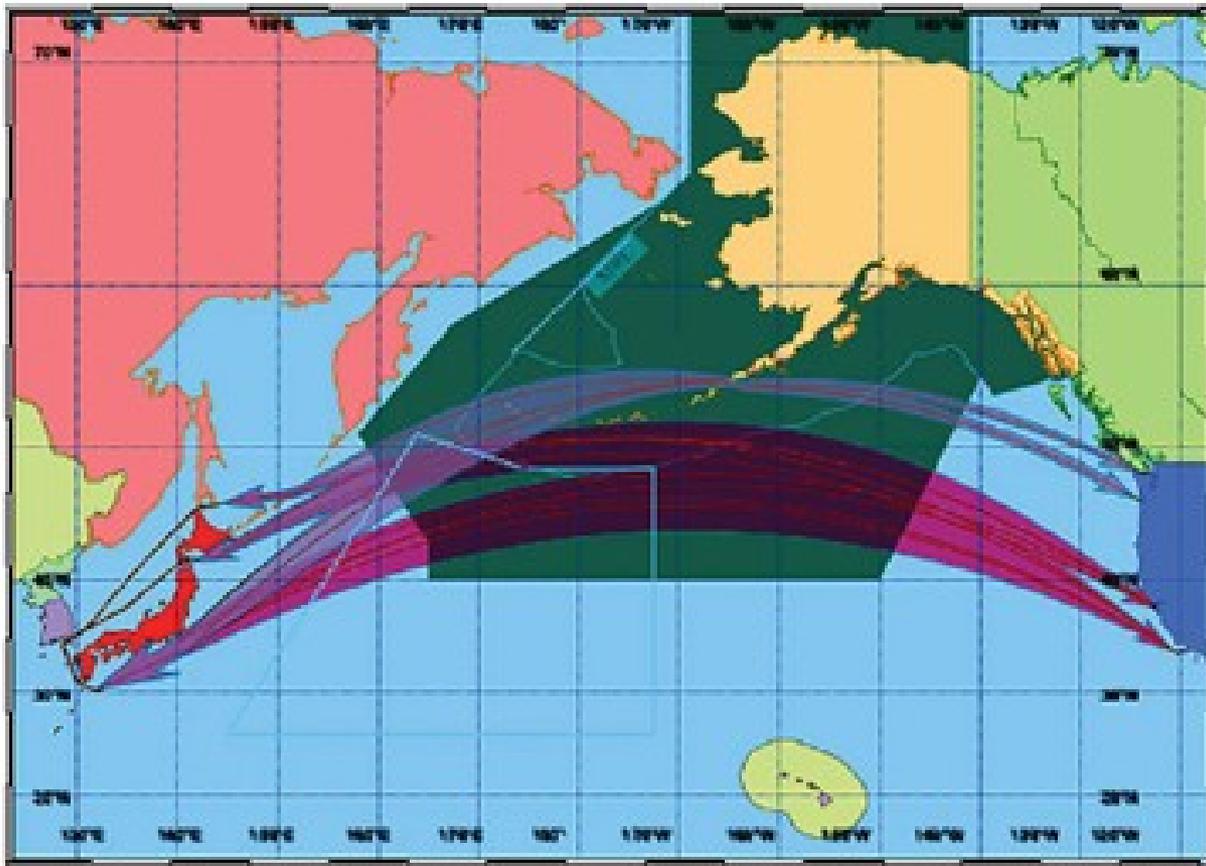
- geographic proximity to China (great circle route)
- shorter transit time to U.S. (CN to Chicago & Mid-West)
- lower costs
- workforce stability
- superior productivity
- deeper water
- reliable intermodal service
- frequency of service

One U.S. port official suggested:

“what the Canadians have done is a best practice we can learn from”

Harbor Maintenance Tax

Figure 2. Mercator projection map showing the northern and southern great circle routes across the North Pacific.



Source: U.S. Coast Guard, Maritime Domain Awareness Center.



Harbor Maintenance Tax

In 2012, the FMC concluded

“.... carriers shipping cargo through Canadian and Mexican ports violate no U.S. law, treaty, agreement, or FMC regulation”

Despite this conclusion, the 2012 report suggests:

“It is clear that HMT is one of the many factors affecting the increased use of foreign ports.... suggest that amendment to the current HMT should be given consideration”

Two of the five FMC commissioners objected to the findings:

- study is full of contradictions and conflicting data
- *“The study... is a political policy paper to justify a predetermined conclusion that HMT affects ‘cargo diversion’ from U.S. to Canadian ports”*

Harbor Maintenance Tax

Does cargo diversion warrant HMT protectionist measures?

- 2010 – 425,000 U.S. TEU diverted (2.5% of imports)
- 2010 – 6.1% of Canadian imports diverted

Unfortunately, FMC is not the end of the protectionist story:

- in 2013, two Washington senators introduced a new bill:
 - *Maritime Goods Movement Act for the 21st Century* to:
 - repeal HMT, new fee on ocean freight crossing borders
 - MGMA failed to pass through committee stage
 - in 2014, Washington rep brought MGMA to Congress:
 - assigned to committee review and expected to languish

Harbor Maintenance Tax

Canadian government, ACPA and major ports retained a DC law firm to monitor HMT and related events

Minister of Transport, Lisa Raitt:

“we will vigorously defend our trade interests and rights attained through our international agreements”

Irony: Prince Rupert was selected as one of three pilot projects in *Beyond the Border Action Plan*:

- goal – screen and clear inbound cargo at continent’s perimeter
- principle: *“cleared once, accepted twice”*

FMC study and *Maritime Goods Movement Act* run counter to the fundamental principles of *Beyond the Border*

Conclusion

Canadian government and ports continue to monitor protectionist sentiments in DC

The goal of the federal government and our ports is to:

- ensure effective and efficient border crossings (sea and land) to:
 - stimulate the economic development of both countries