



Federal Maritime Commission
Washington, D.C. 20573

Office of the Commissioner

November 5, 2021

The Honorable Janet L. Yellen
Secretary of the Treasury
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Madam Secretary:

We write to express concern with the potential investment proposed by the Canada Pension Plan Investment Board (CPP Investments) to acquire 100% ownership of Ports America.

Ports America is the largest terminal operator in North America, with diversified operations across the country, including 70 locations in 33 ports on each of this Nation's coasts. The company is reported to annually handle 13.4 million twenty-foot equivalent units (TEUs), including 10 million tons of general cargo, 2.5 million vehicles and 1.7 million cruise ship passengers. This proposed acquisition is an all too familiar repetition of a U.S. transportation and supply chain asset being acquired by foreign investors. Our supply chain assets directly impact our domestic economy and our national security. They should not be treated as an ordinary resource to be sold to whomever can pay the highest price. By water, the U.S. global shipping market is served almost entirely by foreign flagged vessels. Currently, by rail, the Canadian Pacific Railroad is attempting to acquire the Kansas City Southern railroad, which could have severe impacts on port competitiveness in the Pacific Northwest.

CPP Investments is a minority investor in Ports America, but with the proposed acquisition of interest in funds currently managed by Oaktree Capital Management, L.P. it will hold exclusive interest in a strategic United States enterprise. Such a change in ownership of a company managing critical infrastructure should be carefully scrutinized. Such a review is not without precedent. In 2006 the Committee on Foreign Investment in the United States (CFIUS) recognized the strategic importance of port terminal management and stevedoring operations and asserted its authority reviewing the acquisition of the North American operations of P&O Ports by DP World. Congress voted to block the Dubai based Dubai Ports World's attempted control of P&O Ports North America's marine terminal and stevedoring concessions at various U.S. ports. It was this action that led to the creation of Ports America.

CPP Investments is a professional investment management organization that serves the interest of the more than 20 million contributors and beneficiaries of the Canada Pension Plan. CPP Investments is governed and managed independently of the Canada Pension Plan and at arm's length from governments. Nevertheless, as a foreign enterprise with a vested interest in the

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welfare of foreign nationals, a review is warranted. We grant you that the foreign interest involved comes from our trusted northern neighbor and close trading partner, still, its ultimate loyalty does not lie with the United States.

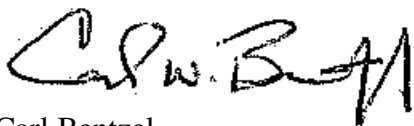
When dealing with strategic infrastructure such as commercial deep-water ports, railroads, airports, telecommunications, or electrical power generation, we as a Nation should be hyper-vigilant when allowing foreign interests to obtain control. This concern is not borne out of nationalism or xenophobia but simple common sense. After an examination it may be determined that the reported acquisition is appropriate, however, to allow acquisition of such a significant portion of our national supply chain without review would be a dereliction of duty.

Currently, the Surface Transportation Board is reviewing efforts by the Canadian Pacific Railroad to garner greater access from Canada into U.S. markets through the acquisition of the Kansas City Southern Railroad. For many years the Canadian government has implemented policies and made substantial investments to stimulate utilization of one or two major ports on both the Pacific and Atlantic Coasts of Canada. In the United States, because of the volume of strategic ports, and Constitutional protections that prevent the federal government from favoring particular ports, we have not invested the level of resources into port development of particular ports. As a result, we have seen substantial deviation of cargo bound for the U.S. markets being transported through Canadian ports. We question whether the efforts of the Canadian Pacific Railroad to purchase the Kansas City Southern are intended to increase cargo diversion, and we question whether CPP Investments is in fact committed to growth of U.S. based maritime infrastructure.

If the current pandemic has illustrated anything it is just how vital our global and domestic supply chain is to our way of life. We therefore request CFIUS exercise its authority and launch a full and thorough review of the national security implications of Ports America's acquisition by the Canada Pension Plan Investment Board.

We appreciate your attention to this important matter and look forward to your response.

Respectfully,



Carl Bentzel
Commissioner



Louis E. Sola
Commissioner

Cc: Merrick B. Garland, Attorney General