

## Assessment of the GCT Deltaport Expansion - Berth Four Project

c/o Impact Assessment Agency of Canada / Government of Canada  
160 Elgin Street  
22nd Floor  
Ottawa, Ontario K1A 0H3  
[deltaport@iaac-aeic.gc.ca](mailto:deltaport@iaac-aeic.gc.ca) / Tel. : 343-572-7144

March 30, 2023

Dear Ms. Whiterly,

### **RE: Draft Review Panel Terms of Reference ("Terms of Reference") and Draft Canada-British Columbia Cooperation Agreement on the Coordination of the Environmental and Impact Assessment Processes for the GCT Deltaport Expansion – Berth Four Project ("Cooperation Agreement")**

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GCT Canada Limited Partnership ("**GCT**") writes to provide our comments to the Draft Terms of Reference and the Draft Cooperation Agreement issued by the Impact Assessment Agency on February 28, 2023.

## **1. Draft Terms of Reference**

### **1.1. Section 1 – Introduction**

GCT requests that the final Terms of Reference specifically reference that the impact assessment conducted by the Review Panel should be consistent with the *Joint Guidelines*.

### **1.2. Section 2 – Description of the Project**

The draft Terms of Reference state that the geographic extent of marine shipping incidental to the Project includes the marine shipping routes from the proposed terminal at Roberts Bank to the outer limit of Southern Resident Killer Whale critical habitat, as defined in the 2018 Recovery Strategy for the Northern and Southern Resident Killer Whales (*Orcinus orca*) in Canada. This extent also includes the Maa-nulth Domestic Fishing Area as defined under the Maa-nulth First Nations Final Agreement.

The defined terms used to delineate the relationship between the geographic extent of the Project and required effects assessment has been clearly articulated in the *Joint Guidelines*. GCT requests that the final Terms of Reference explicitly articulate the distinction between the marine shipping area and the Maa-nulth Domestic Fishing Area

and specifically reference section 16.4, including sections 16.4.1 and 16.4.2, of the *Joint Guidelines*. GCT suggests that Section 2 be revised as follows, or clarification be inserted to the effect within the final Terms of Reference:

The geographic extent of marine shipping incidental to the Project includes the marine shipping routes from the proposed terminal at Roberts Bank to the outer limit of Southern Resident Killer Whale critical habitat, as defined in the 2018 Recovery Strategy for the Northern and Southern Resident Killer Whales (*Orcinus orca*) in Canada (the "**marine shipping area**").[Footnote 1] This extent also includes the Maa-nulth Domestic Fishing Area as defined under the Maa-nulth First Nations Final Agreement ("**Maa-nult Domestic Fishing Area**"). [Footnote 2]

Footnote 1 text: Within the marine shipping area between the proposed terminal location to the outer limits of Southern Resident Killer Whale critical habitat, the Proponent must consider the effects listed under Section 16.4.1 of the Joint Guidelines.

Footnote 2 text: Within the Maa-nulth Domestic Fishing Area, the Proponent must consider the effects of marine shipping incidental to the Project as listed under Section 16.4.2 of the Joint Guidelines.

### **1.3. Section 3.14 – Scope of the Assessment by the Review Panel**

The draft Terms of Reference state that in conducting the assessment, the Review Panel must take into account the list of relevant matters listed under Section 3.14 in accordance with subsection 22(1)(t) of the *Impact Assessment Act*. As the final Terms of Reference are established by the Minister, and GCT understands that, the Minister does not direct the Agency with respect to section 22(1)(t) of the *Impact Assessment Act*, we suggest that the final Terms of Reference be clarified to state that the Agency requires the relevant matters to be taken into account by the Review Panel.

Another matter listed under Section 3.14 of the draft Terms of Reference includes provincially managed areas potentially impacted by the Project, including but not limited to the Roberts Bank Wildlife Management Area and Agricultural Land Reserve. As there are no Agricultural Land Reserve lands that intersect with the Project footprint and no rail or road infrastructure upgrades associated with the Project, GCT recommends that the reference be removed from the final Terms of Reference.

### **1.4. Section 4.8 to Section 4.33 – Impact Assessment Phase**

The draft Terms of Reference do not specify proposed timelines by which the Review Panel ought to allocate the 450 days within which the Review Panel Must submit its impact assessment report to the Minister, e.g. the proposed timelines anticipated for the sufficiency review, public hearing, and the Impact Assessment Report. GCT requests that the Minister consider specifying such timelines in the final Terms of Reference.

## **2. Draft Cooperation Agreement**

### **2.1. Section 7.15**

The draft Cooperation Agreement does not specify proposed timelines by which the Agency and BC Environmental Assessment Office will provide GCT with a deficiency report, if necessary. GCT requests the final Cooperation Agreement specify such timelines.

### **2.2. Sections 8.3 – 8.5**

The draft Cooperation Agreement states that the Proponent has up to three years to provide the information required by the relevant statutes. Within the three years provided for under the *Impact Assessment Act* and the *Environmental Assessment Act*, the Agency and EAO estimate they will require approximately one year to review the Impact Statement, seek feedback from relevant parties, potentially seek additional information or a revised Impact Statement from the Proponent, and consult with Indigenous nations to determine if the Impact Statement contains the necessary information and studies required in the Joint Guidelines.

Therefore in practical terms, the Proponent has up to two years to provide the information required by the relevant statutes to enable the one year review by the agencies. We request this clarification to ensure that all participants in the impact assessment are aware of the timelines and relevant constraints.

GCT appreciates the opportunity to comment on the draft documents. Please contact me should you have any questions.

Yours sincerely,

<Original signed by>

Marko Dekovic  
Vice President, Public Affairs  
GCT Global Container Terminals Inc.