HARBOURS (SCOTLAND) BILL
BRITISH PORT ASSOCIATION
WRITTEN SUBMISSION

This response is on behalf of the Scottish Ports Committee of the BPA which represents the overwhelming majority of ports in Scotland including all the main trust ports.

Trust ports are independent statutory bodies, whose powers, structures and functions are set out in local legislation - Harbour Orders. Such Orders are Private Acts of Parliament specific to each trust port. Trusts operate on a commercial basis, independently of government and in line with their local legislation and good business practice. Trust ports are independent but are accountable to their local stakeholders. They cannot be owned by other companies or shareholders and reinvest their profits for the benefit of the port and its stakeholders. All these issues are set out in the guidance provided by Transport Scotland’s ‘Modern Trust Ports for Scotland’ document. This was agreed after detailed consultation between the Scottish Government and the trust sector and sets out the corporate governance responsibilities of the sector.

Our comments in relation to the two questions highlighted in the evidence call are as follows:-

Q1. What are your views on the Government’s proposals to repeal section 10 of the Ports Act 1991 (which gives Scottish Ministers’ powers to require Trust Ports over a certain turnover threshold to prepare privatisation proposals)?

The Scottish Ports Committee fully supports repeal of section 10 of the Ports Act 1991. It very much welcomes the proposals in as much as they will remove uncertainty for those ports above the privatisation threshold. It also confirms support for the Trust Port model as a vital part of the ownership mix in Scotland.

A further reason for our support is that repeal of Section 10 could also be persuasive with the Office for National Statistics and its classification of ports falling within section 10 as public corporations. This means that any borrowings made by major trust ports in Scotland on the Scottish Government’s own accounts as a deficit. This is unwelcome for the Scottish Government and inappropriate for trusts which are financially and strategically independent. To enable growth and development trust ports should have the ability borrow money commercially without causing budgetary issues for Transport Scotland. As Section 10 is one of the triggers for this classification its removal could therefore take them out of this classification and clarifies their financial status. This is a fundamental problem to which we hope the Bill will contribute a solution.

We would add that notwithstanding our support for the Bill, we support the ability of trust ports (of any size) to bring forward their own voluntary privatisation proposals to Scottish Ministers, should they wish to do so.

Q2. What are your views on the proposals to remove the requirement for six copies of a draft Harbour Order to be submitted along with the application for the Order, along with the removal of the requirement to submit six copies of a harbour
reorganisation scheme to the Scottish Ministers (Schedule 3 to the Harbours Act 1964)?

We support this as a sensible tidying up of procedure as the current requirement is not needed in an electronic age.

We are grateful for the opportunity to comment and would be pleased to provide further assistance if required.