



October 21, 2026

James Maloney, M.P.
Chair, Legislative Committee on Bill C-39
House of Commons
Ottawa, ON K1A 0A6

Sent via email: CC39@parl.gc.ca

RE: BILL C-39 GETS THE DIAGNOSIS RIGHT – NOW FINISH THE CURE

Dear Mr. Maloney and Members of the Committee:

On behalf of the more than 6,000 member, client and affiliated companies that make up the Independent Contractors and Businesses Association (ICBA), Canada's largest construction association, I am writing in support of Bill C-39, the *Building Canada Strong Act*, and also to ask the committee for a short list of amendments that would make it work as intended.

ICBA is a strong advocate for open markets, fair and competitive public tendering, cost-effective regulation and the responsible development of Canada's natural resources. We are one of the largest sponsors of trades apprentices in Canada, we train thousands of construction professionals every year, and we provide group benefit plans to more than 330,000 Canadians. Our members are the contractors and workers who will build the projects this bill is meant to speed up – and whose job sites stop when Canada's ports and railways stop.

We did not arrive at this bill cold. ICBA has written to Ottawa five times this year on the matters the bill covers: on major project approvals (May 11), on Canada Labour Code reform (May 4, July 21 and July 30), and on listing the West Coast Oil Pipeline and Roberts Bank Terminal 2 as national interest projects (September 10 and 17). Much of what we asked for is in Bill C-39. This submission is about the gap between what the bill enables and what it delivers.

1. The Problem Is Real, and It Lands on Construction

In a 16-month span in 2023–24, waterfront operations at Canada's West Coast ports – and the rail and trucking that depend on them – lost 24 days to shutdowns, disrupting an estimated \$19.2 billion in cargo. When ICBA surveyed members in late 2023, 62 per cent reported supply chain problems. Of those, 79 per cent said projects were delayed, 56 per cent raised prices and 23 per cent turned down other work.

Modern construction runs on imported inputs: structural steel and rebar, glazing, elevators, HVAC, electrical gear and specialty fasteners. Almost all of it reaches Western Canadian job sites through the ports of Vancouver and Prince Rupert. When the gateway closes, crews stand down, schedules slip, liquidated-damages clauses trigger and carrying costs pile up. The bill is paid by the Canadian buying a home, the taxpayer funding a school and the investor backing a project. At a macroeconomic level, it is also paid by the overall Canadian economy as our international customers and suppliers come to view the country as a less reliable supplier and commercial partner and look to redirect business to other North American gateways instead.

By the government's own count, the Minister has used section 107 of the Code ten times since July 2023 – once in 2023, eight times in 2024 and once in 2025 – to end work stoppages at ports, railways, Canada Post and airlines ([ESDC, Question Period Note, January 2026](#)). That is not a system with a few rough edges. It is a system that has run out of off-ramps.

2. The Special Mediator Is the Right Tool – Lock in the Sequence

ICBA asked for a special mediator in May and again in July, and Bill C-39 delivers one: appointed by day 75 of a 90-day conciliation period, 21 days to work, and a public report five days after the mandate ends. Making the report public is the most useful single feature of this section. It gives Parliament, the public and the parties a neutral account of who is holding out and why.

But the bill does not make that sequence binding. The new section 87.03 states that the purpose of the Division is to have special mediation take place before a strike or lockout, with “a minimum period of 10 days after the special mediator's report is made available to the public before a strike or lockout.” That is what ICBA asked for. Yet section 87.04(h) then says the appointment of a special mediator “does not suspend the right to strike or lockout,” and clause 324, which rewrites the preconditions for a lawful strike in section 89(1), adds no reference to the mediator's report or to the ten-day period. A purpose clause with no operative hook will be tested, and it will lose.

ICBA recommends that the committee amend section 89(1) to add, as a condition of a lawful strike or lockout, that no special mediator holds a current mandate and that ten days have passed since the public release of the mediator's report. This is a short, defined window, not a bar on the right to strike. It turns the stated purpose of section 87.03 into law.

3. Section 107 Should Let Government Act Before the Damage Is Done

Bill C-39 sets conditions on section 107: the Minister must have considered a special mediator's report and must find the dispute harms, or may harm, the national interest. ICBA supports a clear statutory test. It is better than emergency legislation and better than a blank cheque.

But the bill as written lets the Minister direct the Board only once a work stoppage is under way. Experience says it then takes days for the Board to issue an order. The 2023 longshore strike alone ran 13 days and disrupted an estimated \$11 billion in cargo before it ended. That is the waiting period this bill asks the country to accept again.

The Standing Senate Committee on Transport and Communications recommended in June a supply-chain labour regime that includes a binding arbitration option with a prohibition on strikes or lockouts. ICBA supported that model in July and supports it now.

ICBA recommends amending the new section 107 so that, where a special mediator has reported that meaningful bargaining is exhausted and the Minister finds the national interest is at stake, the Minister may direct the Board before a stoppage begins. The threshold should stay high. The sequence should not force Canadians to absorb the harm first.

4. Geographic Certification: The Door Is Open – Walk Through It Before Bargaining Starts

The Industrial Inquiry Commission's central recommendation after the 2023 longshore strike was a B.C.-wide geographic certification for West Coast ports. Today, only a union can apply for one, and the ILWU will not. Bill C-39 fixes that by letting two or more employers, the Minister or the Board itself start the process. That is the most important structural change in Part 3, and ICBA welcomes it.

It is also incomplete. The bill opens a path; it does not put anyone on it. The current ILWU–BCMEA agreement expires March 31, 2027, and bargaining is expected to begin this fall. If royal assent comes in mid-December and nothing follows, the 2027 headlines will look like the 2023 headlines.

ICBA recommends that the Minister of Labour commit, on the record before this committee, to refer West Coast longshoring to the Board for geographic certification on royal assent, and that the committee add a requirement for the Minister to report to Parliament within 90 days on the status of that referral.

5. Keep the New Bargaining Powers Aimed at the Problem

Geographic and multi-employer certification is the right answer for the waterfront. It is not the right answer everywhere. The government’s own second-phase consultation reported that the clearest message from phase one was to target changes at specific problems, not apply them broadly.

Construction is project-based and competitive. Companies differ in size, trade, workforce model and market. ICBA members are not federally regulated for labour relations, and we want to keep it that way; but the bill’s authority is drafted for “certain industries in certain geographic areas,” with the industries to be designated later.

ICBA recommends that any designation beyond longshoring require a demonstrated labour-relations problem, consultation with affected employers and workers, and a review after five years.

6. Three Items From Our July Submission Still Missing

Secret-ballot certification. ICBA asked that every certification application under the Code be decided by a confidential, Board-run secret ballot vote. It is the same safeguard Canadians use to elect governments. Bill C-39 does not include it. **ICBA recommends** the committee add it.

The 60-day strike mandate. The bill does not extend the 60-day validity of a strike or lockout vote. Good. A mandate should not run forever without the workers affected getting a second say. **ICBA recommends** the committee leave it alone.

Expedited grievance arbitration. The bill leaves this to regulation. **ICBA recommends** that any regulation make the process voluntary and leave negotiated grievance procedures intact. The B.C. model, which lets one party force expedited arbitration over the other’s objection, has been used for tactical ends and should not be imported.

7. Parts 1 and 2: Build It in a Year, and Keep Section 35 as the Standard

ICBA strongly supports the core of Parts 1 and 2: a one-year decision clock, one federal decision document, the Canada Energy Regulator as sole assessor for pipelines and power lines, Regions of National Interest pre-cleared by regional assessment, a Transportation Project Office and trade corridor designations. Our members made this case in May: five years to a federal decision is not caution, it is decline.

Two points for the committee to ponder. First, the one-year clock starts only when the responsible authority is satisfied the proponent’s information is complete. If that determination has no deadline of its own, the clock will not start. The committee should set one and require public reasons when the determination is withheld. Second, the bill grounds its consultation duties in section 35 of the *Constitution Act, 1982*, and the Crown Consultation Hub is built to make that duty work better: one process per project, per community. That is the right design. It should stay that way. Every major Indigenous-industry partnership in B.C., from Cedar LNG to Ksi Lisims, was built inside section 35. Consent thresholds imported from elsewhere would turn a working standard into one nobody can predict.

8. Open Tendering Is Not Optional

Every national interest project advanced under this bill, and every contract tied to it, should be tendered on an open, competitive and labour-neutral basis and awarded on safety record, qualifications, experience, price and capacity to deliver. More than 85 per cent of B.C.'s construction workforce, and 88 per cent of Alberta's, is not in a building trades union. A procurement model that shuts them out shuts out most of the people needed to build on schedule, at the moment labour supply is the binding constraint.

Conclusion

Our members build the homes, hospitals, schools, roads, ports, pipelines and industrial plants that this country is counting on. Canada cannot set out to build all of that while leaving its most important supply chains open to the next shutdown.

Bill C-39 gets the diagnosis right. The amendments above – a locked-in mediation window, authority to act before a stoppage, a geographic certification referral before bargaining begins, a secret ballot and targeted use of the new powers – would finish the job. We would welcome the opportunity to appear before the committee.

Sincerely,

INDEPENDENT CONTRACTORS AND BUSINESSES ASSOCIATION



Chris Gardner

President and CEO

cc:

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