

BRIEF

Addressed to

The Standing Committee on Transport and Communications

Regarding

Bill C-49, an Act to amend the *Canada Transportation Act* and other Acts respecting transportation and to make related and consequential amendments to other Acts (“Bill C-49”)

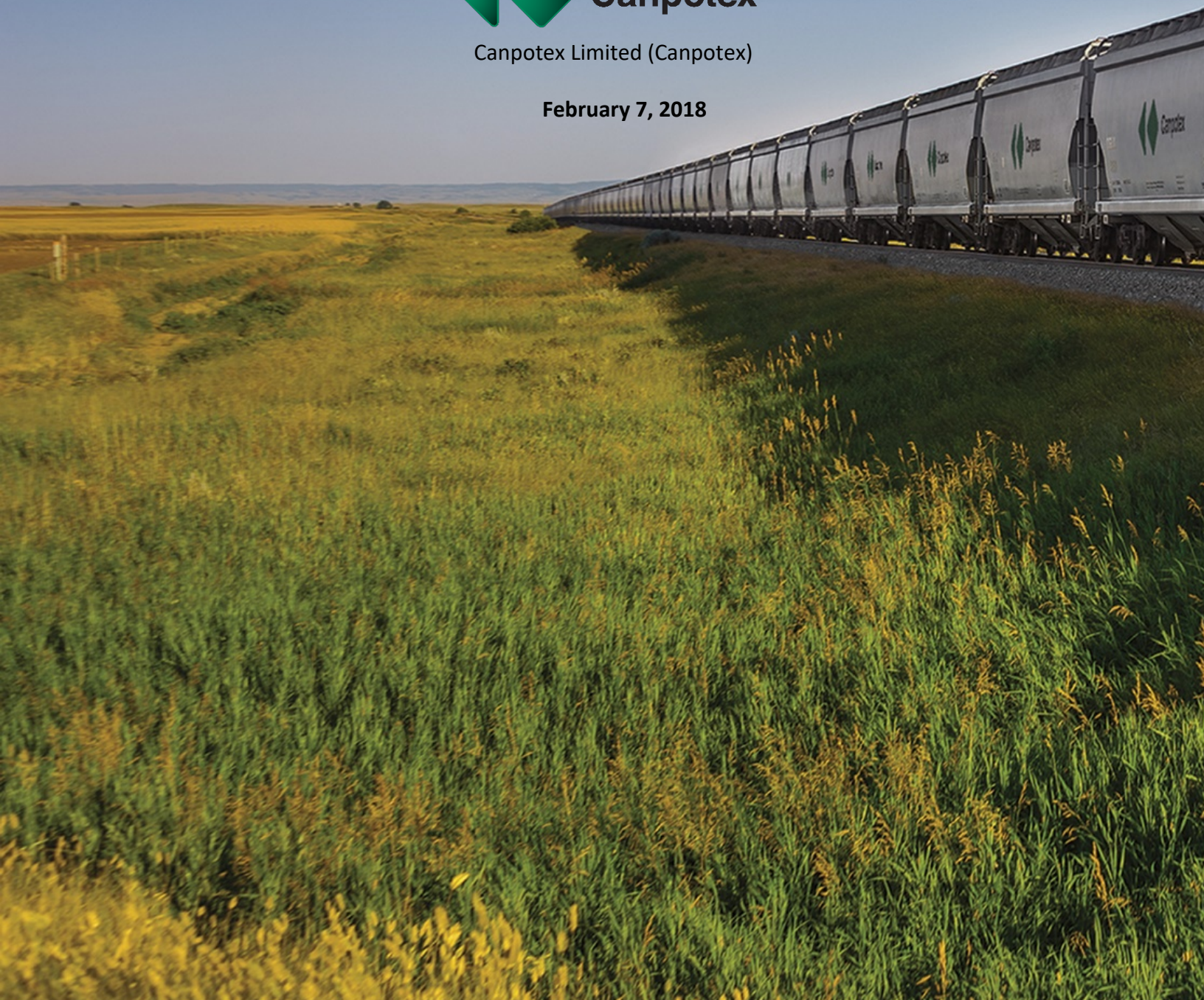
Prepared by



Canpotex

Canpotex Limited (Canpotex)

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Executive Summary

Canpotex is the world's premier potash exporter, an international marketing and logistics company that sells and delivers potash from Saskatchewan to offshore markets. Our reliability as a shipper is an important part of our competitive advantage – inadequate rail service harms that strength and diminishes the competitiveness of Canadian potash in overseas markets. Long-haul interswitching (LHI) could allow some captive shippers to access service alternatives that lead to competition on freight rates and service levels. However, this remedy would not be available to Canpotex to access the Port Saint John, as currently proposed. That is because the Canadian National Railway Company ("CN") has exclusive rail service to Port Saint John, and the nearest interchange to Saint John is in Montreal – which is located within the Quebec-Windsor corridor (as defined in Bill C-49) that excludes the use of the LHI remedy.

Canpotex respectfully requests an amendment the LHI provisions of Bill C-49 to allow Canpotex access to competitive rail service between Montreal and Port Saint John for export to overseas markets.

Canpotex Overview

Canpotex is wholly owned by Canadian potash producers Mosaic and Nutrien. Canpotex is responsible solely for the overseas export of their potash. Canpotex markets and delivers potash to approximately 130 customers in competitive markets in 40 countries, principally in Asia, Latin America and Oceania. Canpotex is one of Canada's largest overseas exporters to key markets, including Brazil, China, India, Malaysia and Indonesia. Operating since 1972, Canpotex is headquartered in Saskatoon and has marketing offices in Singapore, Tokyo, and Shanghai.

Annually, Canpotex ships over 10 million metric tonnes ("MT") of potash around the globe, representing approximately US\$3 billion worth of exports for Canada, and contributing approximately CDN\$500 million in tax revenues to Canadian governments every year. Each year, Canpotex potash accounts for approximately 100,000 railcar trips from Saskatchewan with hundreds of millions of dollars of associated costs. Accordingly, Canpotex is one of Canada's largest shippers.

Canpotex has a competitive advantage in overseas markets to the extent it can rely on a reputation as a reliable shipper. Customers' orders are time-sensitive, and competition for their business from foreign potash suppliers (primarily from Russia and Belarus) is fierce. To strengthen this reputation, Canpotex has invested heavily in its supply chain. Canpotex was recognized as "a global industry leader and transportation success story" in the 2016 final report of the *Canada Transportation Act Review*. This highly-integrated supply chain includes:

- over 5,000 custom railcars built in Hamilton Ontario, designed to optimize the volume of potash per car and maximize the number of railcars per train;
- three terminals which can efficiently load ocean vessels while minimizing degradation of potash: Neptune Bulk Terminals in Vancouver (co-owned with Teck Resources), Portland Bulk Terminals in Portland, Oregon, and Saint John terminal in New Brunswick;

- a railcar maintenance facility near Lanigan, Saskatchewan to ensure Canpotex railcars are well-maintained to efficiently and safely transport potash; and,
- annually, over 235 ocean vessel voyages making 750 port calls, chartered and managed by Canpotex staff based in Saskatoon.

The one portion of its product supply chain that Canpotex does not control is rail transport. Canpotex's reliance on rail service involves access to rail track and the provision of locomotives and crews to transport Canpotex railcars to one of its ocean terminals and back again.

Long-Haul Interswitching (LHI) – Access to Saint John

After Potash Corporation of Saskatchewan, Inc. ("PCS") suspended its potash mining operations in New Brunswick in early 2016, Canpotex agreed to assume control of the terminal facility owned by PCS at Port Saint John in an attempt to make it a competitive component of the Canpotex supply chain. This terminal is attractive given its proximity to offshore markets on the east coasts of South and Central America, the Caribbean, Europe and the west coast of Africa.

The Saint John terminal is an important part of Canpotex's supply chain. In 2017, over 1 million MT of potash was shipped through Saint John, which required almost 13,000 railcars to be unloaded at that terminal. This has been a welcome economic benefit in the region. However, it remains a higher-cost corridor option to reach tidewater. Continued or expanded use of the Port Saint John facility requires competitively-priced rail service. There is currently no ability to access more than one rail carrier to realize the benefits of price and service competition between Canada's class 1 rail carriers.

Canpotex appreciates the efforts of Transport Canada and Parliament to address the shortcomings in the present Canadian rail system, including the efforts to provide meaningful competition for rail services to shippers. The introduction of the LHI remedy to the *Canada Transportation Act* (the "Act") is one of those efforts. However, as currently drafted, Bill C-49 would exclude Canpotex from the use of the LHI remedy for potash shipments to its terminal at Port Saint John.

LHI, specifically the opportunity for rail service competition, would make Saskatchewan to Port Saint John a more competitive corridor for Canpotex potash. Only CN can provide rail service to the Saint John terminal via a direct Canadian route – unlike service to Vancouver, which is currently serviced by both of Canada's class 1 rail carriers. Being captive to CN means that Canpotex has no alternative if CN does not provide suitable or adequate conditions of service or if CN charges rates higher than those that would prevail under conditions of effective competition. Over the past two years of operating the Saint John terminal, Canpotex's experience with CN in this corridor has triggered a need for a competitive alternative. When CN experiences delays in its network, it has tended to inordinately delay Canpotex's east-bound trains destined for Saint John which are captive to CN. The resulting delay comes at a significant cost to Canpotex and makes the Port Saint John corridor a less attractive shipping option.

LHI, as currently written, would not be a remedy for Canpotex. Bill C-49 requires that the Canadian Transportation Agency permit the use of the LHI remedy only at the closest interchange to the origin or destination. The nearest interchange to Saint John between CN and another federal railway company in the reasonable direction of the movement of traffic is the CN interchange with Canadian Pacific Railway ("CP") at Montreal, located within the Quebec-Windsor corridor (as defined in Bill C-49). Unfortunately, Bill C-49 would prevent the Agency from making an LHI order for the benefit of shippers at interchanges located in the Quebec-Windsor corridor. The only exception arises in the proposed new subsection 136(4) of the Act (as added by the House of Commons Standing Committee on Transport, Infrastructure and Communities), which would allow traffic that originates in Quebec north of the Quebec-Windsor corridor to pursue an LHI order, provided certain other conditions are met. All potash shipments originate in Saskatchewan, not northern Quebec, so this exception is unavailable to Canpotex. Therefore, the LHI remedy is unavailable to Canpotex for these shipments.

We understand that Transport Canada and CN and CP wish to exclude the Quebec-Windsor corridor because of claims that it is congested and that LHI may exacerbate the problem. We take a different view, since even with LHI, our intended traffic would be destined beyond this corridor to Port Saint John and would not be adding to congestion, as we run longer, full unit trains that require minimal handling along this corridor. Further, excluding access to some shippers in the corridor over others is discriminatory, pitting the interests of one region against those of another. In any event, the purpose of LHI is to overcome the harmful effects of a lack of railway competition that results in higher rates and lesser service, as experienced by Canpotex. Railway companies have a variety of means to effectively deal with congestion, not the least of which are capital improvements to eliminate bottleneck infrastructure.

Canpotex acknowledges that the Committee may wish to limit its changes to Bill C-49 at this stage. Rather than proposing the removal of the Quebec-Windsor corridor exclusion, Canpotex is proposing a narrower approach, consistent with the provisions for shipments originating in northern Quebec. For these reasons, Canpotex recommends exempting traffic that is destined to the relevant provinces by amending the proposed **paragraph 129(4)(b)** to read as follows:

129 (4) For the purpose of paragraph (3)(b), an interchange located in the metropolitan area of Montreal is deemed to be the nearest interchange and to be located outside the Quebec-Windsor corridor-~~if~~

(b) if

(i) the point of destination of the movement of the shipper's traffic is located in New Brunswick or Nova Scotia;

(ii) the shipper has access to the lines of only one class 1 rail carrier at the point of origin or destination; and

(iii) the nearest interchange is located in the Quebec-Windsor corridor.

An alternate approach would be to provide an exemption for shipments of potash in the proposed **section 129(4)**, as set forth below:

129 (4) For the purpose of paragraph (3)(b), an interchange located in the metropolitan area of Montreal is deemed to be the nearest interchange and to be located outside the Quebec-Windsor corridor-#

(a) if

(i) the point of origin of the movement of the shipper's traffic is located in Quebec and north of the Quebec-Windsor corridor;

(ii) the shipper has access to the lines of only one class 1 rail carrier at the point of origin or destination; and

(iii) the nearest interchange is located in the Quebec-Windsor corridor; or

(b) if the traffic is Potassium Chloride (Muriate of Potash) (STCC 2812534).

Conclusion

Canpotex welcomes the opportunity to share its expertise and experience to improve Canada's transportation system. Competitive and reliable rail service to Port Saint John for the overseas export of potash is an important part of Canpotex's supply chain. Canpotex respectfully requests that the Senate Standing Committee on Transport and Communications consider these modest recommendations regarding the LHI remedy proposed to:

- make Saskatchewan to Port Saint John a more competitive and reliable corridor for Canpotex potash;
- correct the unintended situation of having no remedies for competitive rail service to New Brunswick or Nova Scotia;
- support trade to markets Canpotex serves from Saint John, including Brazil, Latin America, Europe and Africa; and,
- support jobs, capacity and economic benefits at Port Saint John associated with the overseas export of potash.