CEREALS CANADA PRESENTATION TO

THE SENATE STANDING COMMITTEE ON
TRANSPORTATION AND COMMUNICATIONS

REVIEW OF C-49
TRANSPORTATION MODERNIZATION ACT

February 14, 2018
INTRODUCTION

On behalf of Cereals Canada I want to thank the Standing Committee for the invitation to appear before you today. Reform to legislation governing rail transportation for grain is critical if Canada is to meet growing demand and maintain our reputation as a reliable supplier. Failure to reform our regulatory framework will negatively impact the entire value chain, including farmers, grain handlers and exporters. Failure to ensure our growing production is able to move to market will cost jobs across the country and limit investment in growth and innovation research.

The reverse is also true. A modernized grain transportation system will allow Canadian agriculture to grow and prosper and deliver jobs in both urban and rural Canada.

The “Barton Report” singled out agriculture as a sector that has the potential to lead Canadian economic growth. Today Canada is the world’s fifth-largest agricultural exporter. The report sets a target of becoming the world’s second largest agriculture and agri-food exporter in the world. The most recent budget set a target for the sector of $75 billion in exports by 2025, a 50% increase from today’s levels.

Agriculture and agri-food can accomplish these goals, growing the economy and creating jobs in both urban and rural Canada. I note that even before the goals for ambitious growth set out in the “Barton Report” one in eight jobs in Canada depends on agriculture and agri-food.

The opportunity comes from our ability to leverage our reputation as a trusted global leader in safe, nutritious, and sustainable food. I want to highlight the word “trusted”. Cereals Canada meets regularly with customers around the world. This past November and December we travelled to 18 key markets to directly meet with the buyers of Canadian grain. Every one of those markets had questions about the ability of the Canadian transportation system to reliably get product to them. Questions about Canadian transportation continue to be raised because of the fiasco of 2013/14. That year Canada failed to deliver. We did not meet our shipping requirements in a timely fashion. Our brand reputation suffered and it has not yet fully recovered.

The grain provisions of C-49 are designed to ensure that the problems of 2013/14 never recur. Passing this legislation will re-enforce the Canadian brand as a reliable, or trusted, supplier of safe, nutritious, and sustainable food.

Our ability to meet the growth targets depend upon moving or production to market in a timely manner. “Timely manner” must be defined by the international marketplace. We will not achieve these goals if transportation providers limit our ability to satisfy world demand. These are the implications of the matters being considered by this Committee.

This brings me to the most important message on C-49 I want to deliver. Please pass this legislation quickly. The Bill will help introduce better commercial accountability into the grain transportation system, it will help improve grain movement planning and it will improve transparency and reporting. It should be law.
I do not want to leave the impression that the grain sector has received all that was requested. There are provisions that the industry had requested (continuation of the Extended Interswitching Provisions from the *Fair Rail for Farmers Act* for example) that have not been brought into the legislation. However, no piece of legislation is perfect. We believe the bill should be passed.

Before proceeding further I would like to briefly introduce Cereals Canada. Cereals Canada brings together a broad and diverse collaboration of partners from all sectors of the cereals value chain to enhance the domestic and international competitiveness of Canadian cereals. Our members include farmers, grain handling and processing firms along with seed and crop development companies and end use processors.

Our Board of Directors is drawn from each of these membership pillars; 39% farmers, 39% grain handling, exporting and processing firms and 22% from crop development and seed companies. The budget of Cereals Canada comes from membership dues that are split in the same proportion as the representation on the Board of Directors.

Cereals Canada’s mission is “*to enhance the competitiveness of the Canadian cereals industry by providing leadership on behalf of the value chain to key initiatives of common and strategic interest, including innovation, market development and advocacy.*” I share this with you because I want to emphasize a few words and phrases. One of these is “value chain”. All parts of the industry must be profitable if we are to achieve our goals for growth and development. The links in the value chain must be partners in this growth, not competitors.

**THE NEED FOR LEGISLATION**

Flaws in the grain transportation system were highlighted in 2013/14 when the system suffered a significant breakdown. The systemic failure impacted the entire value chain and damaged Canada’s brand and reputation as a reliable supplier of agricultural products, resulting in lost sales. The crisis cost farmers, grain handling firms, exporters, Canadian value added processors and ultimately the Canadian economy as a whole.

This was not the first time that the transportation system failed one of Canada’s largest sectors. This is clearly demonstrated by past reviews and commissions, such as the studies conducted by the late Justice Estey, Arthur Kroeger and the report from the Senior Executive Officers of the grain value chain. History shows that if the underlying structural issues are not addressed, transportation failures will recur. Canadian agriculture and the Canadian economy cannot afford for this to happen again in the future.

Railway monopolistic power is a key reason why the grain transportation environment does not function to maximize the profitability of the entire value chain. Virtually all shippers are served by one carrier and are subject to monopolistic pricing and service strategies. Therefore, the government has a critical role to play in establishing a regulatory structure that strikes a measured and appropriate competitive balance.

System reform will be successful only if the legislative and regulatory structure for grain transportation is adjusted so that it mimics the conditions of a competitive environment.

It is worth noting that the record size of the 2013 crop, often cited by critics of reform as a cause of the 2013/14 transportation crisis, is not an anomaly. Grain production in Canada continues to grow as does world demand. Investment in research and innovation and improvements in crop
production techniques (like precision farming) have generated a strong upward trend in Canadian grain production. This is good for farmers, good for the industry and good for Canada. But only good if we can move our product to market.

The crop of 2017 was also one of the largest on record. Focusing specifically on wheat, the quality of the 2017 crop is unparalleled. This means that Canadian exporters have an opportunity for strong sales at strong prices. But we are being held back by railway performance, and one railway in particular. For example, according to the Ag. Transport Coalition, in week 25 (January 14th to 20th – the latest data available for the drafting of this brief) one railway only supplied 2,444 of the 4,065 cars requested by shippers (60% of demand). This legislation is required to give farmers and grain shippers competitive options.

**COMMENTS ON SPECIFIC PROVISIONS OF C-49**

C-49 will move us towards a more accountable and reliable grains transportation system. This is good news for everyone involved – including our customers.

The grain, oilseed and special crops industries have been united in our call for measures that will help ensure railway accountability for performance. The legislation today will help correct the imbalance between the market power of the railways and captive shippers.

The legislation includes the following key positive elements:

- tools that will allow shippers to hold railways financially accountable for their service performance;
- improved processes through the Canadian Transportation Agency (CTA);
- clarification of railway responsibility in the Canada Transportation Act by better defining adequate and suitable service;
- increased requirements for reporting and railway contingency planning.

If passed C-49 will help balance railway market power through measures that mimic what would occur if there were open competition. This is good economic and public policy.

While the most important part of the legislation is the increase in railway accountability, all of these provisions are important. Improving CTA processes are important to ensure problems are caught and addressed before they snowball into major failures. Together with clarification to the meaning of adequate and suitable railway service this will help ensure that the Canadian transportation system meets the expectations of our customers – both within Canada and internationally.

I want to close by raising an issue that is not directly addressed in the legislation – the resources of the Canadian Transportation Agency (CTA). Bill C-49 will require more of the CTA - including investigations into systemic problems, determining long haul interswitching orders, and arbitration of level of service agreements. All the while the Agency will be required to carry out the work it is doing today.

Cereals Canada asks the Transportation and Communication Committee to emphasize the need for additional resources for the CTA in order to carry out the new functions mandated by C-49. If the CTA does not receive the resources necessary, it will be unable to provide rulings in a timely manner, Canadian shipments will be missed and Canada’s reputation as a trusted supplier will
suffer. If I may I would like to suggest that the Standing Committee set a date for a hearing for six months following Royal Assent of C-49 with the explicit aim of determining if the additional resources required have been made available to the Agency.
APPENDIX: POTENTIAL FOR IMPROVING C-49

Cereals Canada reiterates our headline position that C-49 should be passed as quickly as possible. This means that Cereals Canada supports the bill moving forward without amendments. Opening up C-49 would cause delay to the passage of the bill, delay which Cereals Canada believes is potentially harmful to our industry.

However, if for other reasons the Senate does choose to propose amendments to C-49, some changes to the grain provision of the bill should be considered.

The extended interswitching provisions of the now expired *Fair Rail for Farmers Act* provided real competition within the Canadian rail system. The long haul interswitching provisions will not have the same competitive impact, but these provisions can be improved. The exporter members of Cereals Canada are suggesting two simple improvements:

- that elevators that have existing access to an interchange within 30km, should not be disqualified from using the long-haul interswitching measures
- that facilities that are served by both railways not be disqualified from the long-haul interswitching measures

Even if an elevator has direct access to a second railway (or access within 30 km) the competing carrier may not be willing or able to move grain to the right destination. In these cases an elevator will be essentially captive to the one carrier that is able to move product to a destination. It is reasonable, in these cases, to allow that company competitive access to another carrier through the long haul interswitching provisions of C-49.