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—
Chair

The Honourable Judy A. Sgro

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•(0845)

[Translation]

The Vice-Chair (Mr. Luc Berthold (Mégantic—L'Érable, CPC)): Hello and welcome everyone.

On behalf of our chair, Mrs. Sgro, who is ill today unfortunately, welcome back to Ottawa. On all our behalf, if I may, I wish her a speedy recovery so she can return fit and filled with her usual determination.

I hope you had an enjoyable summer. It looks like we have an interesting session ahead of us.

I would also like to welcome a new member, Mr. Aubin, who is replacing Mrs. Duncan. I must accordingly give the floor to our clerk so we can elect a new vice-chair.

[English]

The Clerk of the Committee (Mr. Andrew Bartholomew Chaplin): Pursuant to Standing Order 106(2), the second vice-chair must be a member of an opposition party other than the official opposition.

[Translation]

I am now ready to receive a motion to that effect.

Mr. Iacono, you have the floor.

Mr. Angelo Iacono (Alfred-Pellan, Lib.): I nominate Mr. Aubin as the second vice-chair.

[English]

The Clerk: It has been moved by Mr. Iacono that Mr. Aubin

[Translation]

to be elected as the second vice-chair of the committee.

[English]

The committee has heard the terms of the motion. Is it the pleasure of the committee to adopt the motion?

Some hon. members: Yes.

[Translation]

(Motion agreed to)

The Clerk: I declare the motion adopted and Mr. Aubin is duly elected as second vice-chair of the committee.

The Vice-Chair (Mr. Luc Berthold): That was a very short election campaign, Mr. Aubin.

As shown on our agenda, we will now begin our study of certain provisions of the Fair Rail for Grain Farmers Act. We will hear from two groups of witnesses this morning.

First, we have officials from the Canadian Transportation Agency and I invite them to introduce themselves. They will give a presentation of about 10 minutes, followed by a round of questions from committee members.

Mr. Gaspar, please go ahead.

Mr. Fred Gaspar (Chief Compliance Officer, Canadian Transportation Agency): Thank you, Mr. Chair and members of the committee.

My name is Fred Gaspar and I am the chief compliance officer for the Canadian Transportation Agency and with me today is Randall Meades, who is our chief strategy officer.

[English]

We are pleased to appear before you again and to answer any questions you may have concerning your study.

I'd like to start by offering a brief reminder about our organization and its mandate. The Canadian Transportation Agency is an independent body. As a federal quasi-judicial tribunal and regulator, we have jurisdiction over a broad range of air, rail, and marine matters. The agency essentially has three core mandates. The first is to help smooth the national transportation system, keeping it running efficiently. The second is to protect the human rights of travellers with disabilities by ensuring that the transportation system is fully accessible. The third is consumer protection for air travellers.

The Canada Transportation Act is the agency's enabling statute. It outlines the extent of the agency's authority and jurisdiction as well as the agency's role in administering the act.

•(0850)

[Translation]

The agency also shares responsibility for certain provisions of the Railway Relocation and Crossing Act and the Railway Safety Act. These provisions are focused mainly on resolving disputes and cost recovery.

[English]

When it comes to rail transportation, the agency's mandate applies to railway companies under federal jurisdiction, of which there are currently 21 active railways, including class 1s and short lines. Briefly, the agency is responsible for a number of regulatory functions that range from ensuring that federal railways carry the required third party liability insurance requirements to establishing the annual maximum revenue entitlement for CN and CP in moving western grains.

[Translation]

The agency also plays an important role in helping to resolve rail transport disputes. In addition to our formal adjudicative function, we also have expertise in alternative dispute resolution services, including facilitation, mediation, and arbitration services. In our experience, these methods can be faster and less expensive, producing a resolution that benefits all sides.

[English]

Of relevance today, I'd like to highlight that the alternative dispute resolution process administered or provided by the agency now includes three forms of arbitration: rail level of service arbitration, rail arbitration, and final offer arbitration.

Since 2013, under the new rail level of service arbitration framework, the agency has had the authority to impose administrative monetary penalties for the contravention of any requirement imposed on a railway company, up to a maximum of \$100,000 for each violation. In addition to this, the 2014 amendments gave the agency the power to order railway companies to pay compensation as part of its level of service complaint mechanism.

[Translation]

Although the agency has a number of rail-related responsibilities, today I'd like to focus exclusively on Bill C-30, Fair Rail for Grain Farmers Act. It was first passed on August 1, 2014 and further extended by this Parliament on June 15, 2016.

Bill C-30 was aimed at getting grain crops to market quickly and at increasing predictability and transparency in the supply chain. As you will, recall it was introduced as an urgent response to a unique set of circumstances: an unprecedented crop year and a polar vortex.

[English]

The key new provisions that were set out in that bill empowered the agency in three new ways: to specify by regulation what constitutes operational terms for the purpose of rail level of service arbitration; to provide confidential advice to the Minister of Transport in establishing minimum grain volume requirements for the movement of schedule II grains; and, to set out an interswitching rate for areas of commodities that the agency specifies.

When the Fair Rail Freight Service Act was enacted in June 2013, it introduced arbitration for rail level of service where parties are unable to negotiate the terms of a level of service agreement confidentially.

This arbitration is limited to matters within subsection 169.31(1) of the Canada Transportation Act, and specifically, "the operational terms that the railway company must comply with" for the

"receiving, loading, carrying, unloading and delivering" of "traffic, including performance standards and communication protocols", as well as any other "operational terms" that the shipper must comply with that are related to the company's own operational terms; any "incidental" service provided by the railway company; or "the question of whether the railway company may apply a charge with respect to an operational term" or for an incidental service provided by the company.

The level of service arbitration provisions do not define operational terms themselves. At the time, the agency had no power to define them by way of regulation. The Fair Rail for Grain Farmers Act further amended the CTA to provide the agency with the authority to then make regulations specifying what constitutes "operational terms".

In order to establish the regulations, the agency consulted broadly. We conducted targeted and focused consultations both with the shippers and the railways and with other stakeholders. Now in force, those regulations bring clarity to shippers and railways as to what might be the subject of a level of service arbitration.

Today, the regulations and operational terms for arbitration on the level of service of railways support efficient arbitration within a statutory deadline of 45 to 65 calendar days, and they've reduced the need for parallel adjudication by the agency as to the eligibility of certain matters that may be submitted for arbitration.

[Translation]

To clarify, an operational term refers to railway and shipper obligations in receiving, loading, carrying, unloading and delivering of traffic, including performance standards and communication protocols. They are an extensive but non-exhaustive list of terms that are eligible for arbitration.

[English]

Bill C-30 also amended the act, and requires the agency, after consulting with CN and CP and the owners and/or operators of grain handling undertakings, to provide advice to the minister on the minimum amount of grain that CN and CP should be required to move during each month of the crop year, on or before July 1 of each year preceding that crop year.

Third, and probably most important to this committee, Bill C-30 introduced provisions that enable the agency to expand interswitching to 160 kilometres for Manitoba, Alberta, and Saskatchewan. Interswitching, as you will know, is an operation performed by railway companies whereby one carrier performs the pickup of cars from a customer and hands off these cars to another carrier that then performs the “line haul”, or the majority of the carriage. The interswitching arrangement is made in cases where a shipper has physical access to a single carrier but is within a defined distance to one or more competing carriers.

To ensure fair and reasonable access to the entire railway system, interswitching has been regulated in Canada since 1904 and is a commercial agreement between railway companies whereby one railway company will carry traffic for the other railway company and vice versa, to ensure that shippers captive to the rail system have access at a regulated rate. Railway companies reconcile these costs between themselves on a yearly basis. Interswitching allows shippers to negotiate, through normal commercial processes, suitable terms and conditions of carriage with competing carriers for the line haul portion of the overall car movement.

• (0855)

[Translation]

The Railway Interswitching Regulations set the rates to be charged for interswitching services provided by the terminal carrier, thereby establishing a predictable and fair pricing regime that is applied equally to all terminal carriers providing interswitching services.

Under the Canada Transportation Act, the agency may make regulations prescribing terms and conditions for the interswitching of traffic, as well as determine the rate per car to be charged for performing this operation and establish distance zones for that purpose. The interswitching provisions of the act are considered to be competitive access provisions, allowing the shipper to choose their carrier despite having physical access to only one carrier.

Please note that the agency reviews the railway interswitching costs annually and revises the rates as required or as part of the five-year statutory review of the regulations, which was last done in 2013.

[English]

The new interswitching rate regulations now establish five interswitching zones: 6.4 kilometres, 10 kilometres, 20 kilometres, 30 kilometres, and on a temporary basis for Manitoba, Saskatchewan, and Alberta 160 kilometres from an interchange. The amendment created this new interswitching zone 5 that is applicable to movements for all commodities in those prairie provinces.

The rate for zone 5 follows the pattern established in the current rates, namely that the zone rate will apply to the first 40 kilometres of track distance travelled within the zone, and then a per kilometre rate will apply for each kilometre of track travelled beyond the 40 kilometres within the distance.

[Translation]

After this brief overview, we would like to thank you for your attention. We will be pleased to answer all your questions.

The Vice-Chair (Mr. Luc Berthold): Thank you very much, Mr. Gaspar for this very informative presentation on your role.

I will now give the floor to Ms. Block for an initial six minutes.

[English]

Mrs. Kelly Block (Carlton Trail—Eagle Creek, CPC): Thank you very much, Mr. Chair. I join you in welcoming everybody back from a full summer I'm sure. I look forward to the work that we're going to do this fall, and also want to welcome Mr. Aubin to the committee.

I look forward to the study that we are doing on Bill C-30 and interswitching in particular. I do note that this act was introduced in the House of Commons by the Minister of Agriculture and Agri-Food. It was read for the first time in March. I think what that highlights is the relationship that we often see between different ministries—as we are the committee for transportation, communities, and infrastructure—that exists in developing legislation like this. So I'm wondering what, if any, input the agency did have in developing those sections pertaining to its authority in this legislation.

Mr. Fred Gaspar: You caught me at a bit of a disadvantage as I wasn't there in 2013 when it happened, but I can assure you that there is a pretty robust and ongoing discussion amongst officials. We talk to Transport Canada officials at a working level on a constant basis. Obviously, the work between us is iterative so I'm quite confident that there would have been those discussions. Similarly the legislation enabled the regulatory frameworks and we then developed, as I mentioned, operational terms. All I can speak to is a high degree of confidence that there probably were those discussions because those discussions occur on a regular basis.

Mr. Randall Meades (Chief Strategy Officer, Canadian Transportation Agency): If I can add, Fred, it's also consistent regularly with our mandate because they're operationally driven as opposed to there's been no policy authority or anything like that. It's strictly been operational, which is consistent with what we do.

Mrs. Kelly Block: I'm going to turn now specifically to interswitching. We know that the Emerson report recommends excluding interswitching from the maximum revenue entitlement calculations. I think this is to remove a barrier to the use of interswitching. Can you comment on that? How long would it take to enact this recommendation, and what would be the financial benefit to the railways?

Mr. Randall Meades: I can give you a little perspective on the take-up of interswitching. Our first full year that we have data for is 2015. We have a little bit of data for 2014, but the measure was only in place for six months, so 2015 is our marker. We'll probably have 2016 this time next year to compare. We have about 16 carriers that took advantage of the 30- to 160-kilometre interswitching. That represents about just a little over 2,900 cars. That's the type of input. Again, it's operation and data-driven input that we will provide to Transport Canada that goes into their process in evaluating the recommendations from the CTA review.

• (0900)

Mrs. Kelly Block: I note that in the legislation a new subsection 128(1.1) specifies that the agency can prescribe different interswitching distances based on specific regions or goods. Has the way the regulated interswitching rates are calculated changed since the geographic limit was extended, and could the regulated interswitching rates be set every year?

Mr. Fred Gaspar: My colleague Randall will speak in more detail, but I can tell you that the methodology that we use for determining the interswitching rates as well as for the maximum revenue entitlement, MRE, is pretty prescribed. The MRE is actually prescribed in legislation so I don't think there would be much adjustment to the methodology.

Mr. Randall Meades: In terms of interswitching, as I'm sure you're aware, we have to by law review the interswitching regulations once every five years. As part of our assessment of going from the 30 to the 160, that was the last time that the rate was set, specifically for zone 5 because we did not have a rate for zone 5. At the time a rate was developed with extensive consultation throughout both the shipper and the carrier community.

Mrs. Kelly Block: I also note that Mr. Emerson recommends that the agency be permitted to set interswitching rates annually to better reflect actual costs, and not only when the railway interswitching regulations are reviewed or published, as you've mentioned.

Would that be something the agency would welcome?

Mr. Randall Meades: Anecdotally we've heard from shippers and carriers that reviewing or revising rates only every five years may not be the best practice when you're taking a look at a market-based economy. The transactions are driven by price; that's part of the price determination. In that respect, you would have to balance doing it more often against the benefit, because sometimes there are not great changes year over year, and to put the resources into something that doesn't particularly change would, number one, have to be reviewed.

Number two, we're in a bit of an awkward situation now with the provisions being extended for only one year. From our vantage point here, as an economist I'd like to have the system set and steady, so that I can take a look at it long term.

Mr. Fred Gaspar: While being respectful of the time, I think it's important to note that while we do have the obligation to review them every five years, there's nothing preventing us from reviewing at different periods, and certainly, depending on the outcome—

[Translation]

The Vice-Chair (Mr. Luc Berthold): Mr. Gaspar, you will have the opportunity to continue your explanations later on.

I have to give the floor to a government MP now for a first series of questions.

Mr. Iacono, please go ahead.

Mr. Angelo Iacono: Thank you, Mr. Chair.

I would also like to welcome all the members of the committee. Thank you also, Mr. Gaspar, for your presentation.

Please note, Mr. Chair, that I will share my time with my colleague Ken Hardie.

Mr. Gaspar, I have two related questions.

Since the Fair Rail for Grain Farmers Act was implemented, what are your observations on the effectiveness of the measures and on the transport of grain in general?

Secondly, how many times in the past two years have rail companies had to pay penalties under the revenue entitlement program and what was the total amount of the penalties paid?

Mr. Fred Gaspar (Chief Compliance Officer, Canadian Transportation Agency): I will start with the second question. We will provide the exact figures to the committee later on because we do not have them right now.

As I recall, over the past two years, as regards maximum revenue entitlement, I believe that companies earned more than the limit set by the agency. In these cases, the companies are required to pay a penalty to a grain research foundation. This is not unusual. It makes sense because the companies do not know in advance how much money they will receive to provide the service. We try to anticipate what will happen. Indeed, it is not unusual for this to cause ...

I'm sorry, I have forgotten your first question.

• (0905)

Mr. Angelo Iacono: Since the act was implemented, as regards grain farmers, what are your observations on the effectiveness of the measures and on the transport of grain in general?

Mr. Fred Gaspar: We consider it effective. The interswitching rules are beneficial not only because the companies have the right to use them and can ask the agency to participate in discussions to ensure that they have access to them. That also has an impact on market conditions. If the rail companies know they can give access to their rights, that has an impact on negotiations. In that case—and these things are expected informally only—it creates a more effective climate for negotiations between carriers and clients.

The Vice-Chair (Mr. Luc Berthold): Mr. Hardie, as requested, you have three minutes.

[English]

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): Thank you, Mr. Chair, and welcome back, everyone.

I notice that your mandate is to ensure the transportation system runs efficiently and smoothly. I guess the basic question is whether interswitching promotes or hinders system efficiency and smoothness of operation.

Mr. Randall Meades: If you look at section 5 of the Canada Transportation Act, in large measure, decades ago, decisions were made to privatize the transportation system in general. Section 5 is consistent with that; let the market work. In instances where we have market failure or the market doesn't work, there's perhaps a monopoly situation created, which creates an inefficiency in the system. In simple terms, the market is broken at that point. To the extent that interswitching provides more than one option for a shipper, one could make a strong argument that that is beneficial overall to the market, to the economy, and to the smooth flowing transportation system.

Mr. Ken Hardie: Can you describe the nature of any conflicts between the railways and the shippers that have arisen over the interswitching issue?

Mr. Fred Gaspar: Actually, I would suggest, in reference to my last answer, that it has probably reduced conflict because of what it does to create market balance. On the narrow question of interswitching, knowing that they must provide access and that this is not a debatable point, what it actually does is—and again this is only anecdotal evidence—create better market conditions because it allows the shippers and the railways, when they're negotiating, to understand that there is an option. In effect, it reduces the opportunity for conflict by providing clarity.

Mr. Ken Hardie: We hear quite often from shippers that—whereas they have to pay penalties if they're not ready to use the railcars, or the terminals have to pay penalties if they don't unload the railcars; up to this point anyway—the perception is that the railways get off scot-free if they don't actually perform according to what they promised to do. In your view, has Bill C-30 adequately addressed that and returned a bit of balance between rights and responsibilities of the railways?

Mr. Fred Gaspar: I think—being careful to defer to the policy question you're raising because that's in the purview of Transport Canada—in terms of our operational experience, it's important to note that the railways do have some financial exposure. You mentioned that for the legislation, the difference being that they are liable for administrative monetary penalties, any fines they may incur in that case would go to the Receiver General for Canada and would not return to the shipper. I understand that shippers might believe there's an imbalance because costs that they have to pay go to the railway directly, but it's not as though the railways are without any financial exposure at all. They do have some.

• (0910)

[Translation]

The Vice-Chair (Mr. Luc Berthold): Thank you very much, Mr. Gaspar.

I would like to remind you that you promised to provide committee members with the data about sanctions and penalties. We would very much appreciate that.

Mr. Aubin now has the floor for six minutes.

Mr. Robert Aubin (Trois-Rivières, NDP): Thank you, Mr. Chair.

First of all, I would like to thank each of you for your warm welcome to the Standing Committee on Transport, Infrastructure and Communities. I am pleased to be working with you.

I was a member of this committee in 2013 when we talked about service level agreements. It seems like we are picking up right about where I left off.

Mr. Gaspar, do you have an estimate of the number of service level agreements that have been negotiated with rail companies?

Mr. Fred Gaspar: We can provide you those figures later on. We do not have them right now.

Mr. Robert Aubin: As I recall, the discussion at that time revolved around the outstanding bumper crop that year, combined with disastrous weather conditions and a major polar vortex. That was described as an exceptional case caused by the combination of two factors.

You said earlier that the fines were paid not to the public treasury but to research. Did I understand that correctly?

Mr. Fred Gaspar: Yes.

Mr. Robert Aubin: So you are saying that, with innovative farming practices and the fines paid to research, we will be able to further increase agriculture production. So what was an exception in 2013 could now become the rule.

My question is very simple. Should the temporary provision on the 160 km distance not become permanent?

Mr. Fred Gaspar: Perhaps, but that is a policy matter for Transport Canada. I can assure you though that the rail companies are also increasing their efficiency. We have witnessed an increase in the efficiency not only of farmers but also of rail companies, and the link between them under the agreements they reach. In short, there are ongoing developments in this regard. That is why we have to review the regulations every five years.

Mr. Robert Aubin: I would like to go back to the circumstances you explained.

Can the lull or balance that we see in the market right now not be explained by other circumstances, namely, the drop in oil prices? This drop can mean that carriers use more cars to transport grain than they do for oil.

Mr. Fred Gaspar: That could be one of the factors, but I cannot say for sure that is the case. It is like tasting a good soup but not knowing exactly which ingredient makes it so delicious.

Mr. Robert Aubin: Thank you.

I have a bit of time for a final question.

Should the investigation powers of the Canadian Transportation Agency be strengthened as recommended in the Emerson report, specifically as regards quality of service? Should your investigation powers be strengthened or do you feel you have to tools you need to do the job required of you?

Mr. Fred Gaspar: My colleagues and I have the tools we need at this time to carry out our mandate under the act and the regulations. Should the committee or the minister decide to increase our role and mandate, we would of course need additional tools.

Mr. Robert Aubin: I have a final question about the 160 km interswitching distance.

I was not part of the committee when that guideline was set. Can you tell me why it was set at 160 km? Why not 150 km or 180 km?

Mr. Fred Gaspar: In preparation for the meeting today, I talked to my colleagues who are economists and asked them the same question. They said that the research has not identified a magic distance. In other words, they have been unable to determine whether demand would be lower with a longer distance or higher with a shorter distance. It is a continuum. Later on, we can provide the committee the details on how we arrived at this figure. In general, we found that this distance was optimal for access to rail lines.

• (0915)

[English]

Mr. Randall Meades: When we did this as well, we undertook extensive consultations with shippers.

As Fred said, we didn't do a line, we actually did a circle. We did the circle around the interchange points and we determined that there would be over 80% coverage, in some instances 85%...that you, as a shipper, had alternatives to a secondary source. Going out even further would start getting into serious problems because then you're creating almost a different system. So 160 kilometres seemed to provide a good balance between providing access to more than one carrier for the greatest number of shippers.

[Translation]

The Vice-Chair (Mr. Luc Berthold): Thank you very much, Mr. Meades.

Mr. Sikand now has the floor for six minutes.

[English]

Mr. Gagan Sikand (Mississauga—Streetsville, Lib.): Good morning.

In regard to Bill C-30, the bill establishes requirements regarding the minimum amount of grain to be moved by certain rail companies. It sets maximum penalties of \$100,000 a day for rail companies that do not meet these requirements. You made mention of this as well. To me, \$100,000 a day seems like a large number.

Would you agree that for any company, rail or otherwise, that's actually a large number?

Mr. Fred Gaspar: Yes.

Mr. Gagan Sikand: Okay, fair enough.

Would you say that this is an accurate correlation or reflection of what's lost in product per day? Is that why this number is set where it is?

Mr. Fred Gaspar: Yes.

I couldn't speak to that, unfortunately, because I wasn't part of setting that number, but certainly it's intended to disincentivize negative behaviours. We have not had occasion to issue an administrative monetary penalty in that regard to this point, so parties are working to avoid that circumstance. That's what we assume is occurring.

Mr. Gagan Sikand: Okay, fair enough.

Now in regard to interswitching, can you provide at least some ratios or metrics that describe what's saved when interswitching is extended in product or volume?

Mr. Fred Gaspar: Yes, certainly. We can provide you with more detail on that, I think, and Randy can speak to it.

Generally, our experience has been that the use of the extended interswitching has definitely been greater at the shorter distances, and certainly as we got closer to 160, or one year of data—and the caution is one year of data only so far—which demonstrates that there hasn't been a massive use of interswitching provisions as you get closer, between 100 and 160, I think, it's increased by 1%, Randy, if I'm not mistaken?

Again, we shouldn't just rely on what the number shows, because there's also the factor of what its existence does to change the negotiating climate between the shipper and the railway. The fact that they're not necessarily using interswitching doesn't mean that it's not a useful element in the marketplace.

Mr. Randall Meades: Unfortunately, you're going to have to rely on anecdotal evidence because the number of carloads that take advantage of the regulations is really small. We're talking well under 1% of your overall carload. If you're just looking at that as your point of comparison, I would say it's probably a little too small and not robust to draw inferences from. However, I would encourage you to go out and try to get information from shippers to see if the regulations, overall, have modified and changed behaviour so they don't have to rely on the regulations or the dispute process.

Mr. Gagan Sikand: Thank you for that.

It's been said that extending interswitching can actually be pretty complicated. Would you agree?

Mr. Fred Gaspar: I certainly can't do the math, so, yes, it's complicated. We have a team of economists at the agency who do that. As Randy said, it does become an exercise in art, not science, because what you're trying to do is to determine that sweet spot of distance whereby the maximum amount of carriage has access to competitive line rates. Again there's no absolute cut-off point where our data showed that after this distance demand drops off entirely. I think it's going to be the usage and the anecdotal evidence about what the shippers and railways are telling us about what it's done to the negotiating climate that is ultimately going to solve that question. There's no substitute for time.

• (0920)

Mr. Randall Meades: In 2013, when we went out and we consulted during the RIAS process, we undertook extensive consultations to try to fill the information gap because we didn't have the hard data. That was unprecedented in terms of the number of consultations and the amount of time we spent consulting.

Mr. Gagan Sikand: Thank you very much.

If I have any time, I'd like to ask my colleague if she has any questions.

[*Translation*]

The Vice-Chair (Mr. Luc Berthold): You have two minutes left.

[*English*]

Ms. Julie Dzerowicz (Davenport, Lib.): Hi, welcome. Thanks so much for your presentation.

I'm new to the topic, but I have a couple of questions.

How do our interswitching rules compare to similar jurisdictions? Did we look at others, in terms of making them more competitive, whether it's the U.S. or other places? How do they compare?

Mr. Randall Meades: Canada is a little bit unique in terms of our rail structure to start with because we do have the presence of, at best, an oligopoly; there are just two railways.

In general, the U.S. is much more competitive for rail. That's why I indicated at the outset that we as an agency only come into play, or should only be in play, when there is some type of market failure. That's why I indicated at the outset, we only really come into play, or we should only be in play, we, as an agency, when there is some type of market failure. We'll come in and interswitching is one type of regulation that we have at our disposal to try to address that. The other is the dispute resolution. It's a little long-winded, but when you go to a competitive market, for example like the U.S., the need and requirement, just in general and in most instances, are less.

Mr. Fred Gaspar: This is a dynamic that I'm sure the committee has been witness to across a number of different modes, in that it's endemic to Canada's population structure versus its land mass. With a large land mass and a small population base that's dispersed, the infrastructure needs to be massive and the unit costs over which those costs are recovered are fairly limited. You're never going to get the kind of infrastructure availability and duplication that you'll have in a jurisdiction like the United States, which has so many more rail lines.

Mr. Randall Meades: Europe is a little bit different as well because the majority of their rail is passenger related and not freight related. The other thing, just building on Fred's point, is there's no other country that's as dependent on the rail system, for the movement of freight, as Canada. About 68% or 69% of our freight is moved by rail, which, if I'm not mistaken, is tops or pretty close to tops in the world.

[*Translation*]

The Vice-Chair (Mr. Luc Berthold): Thank you very much, Mr. Meades, but your time is up.

We will now begin the second round of questions.

Mr. Badawey now has the floor.

[*English*]

Mr. Vance Badawey (Niagara Centre, Lib.): Thank you, Mr. Chairman.

To all of you, welcome back.

I have just a few questions with respect to transportation overall and the integration of transportation. As you know, the CTA review has just been completed and tabled by the minister. The report says a great deal about economy, the movement of different product, not only within Canada but also throughout the globe and, of course, the need to integrate and get more out of our existing system, whether it be rail, road, air.

How is rail integrating with other forms of transportation here in the country?

Mr. Fred Gaspar: One of the things that's very clear, and this is really not a point of controversy, is that there is a real need to keep working on the connection points between the modes, particularly with regard to provision of infrastructure. Enhancements in the marine and rail connection points in particular would really disproportionately help the efficiency of the system.

Randy, do you have anything to add? You were very exposed to that process.

Mr. Randall Meades: It's very much supply chain driven now; the world where you have discrete points. To be perfectly blunt, if I can move my grain from point A to point B on rail and it gets stuck at the port or it gets stuck at an elevator or a ship in waiting, I don't know how that's helpful. It's very much an integrated system. That's the way that customers and shippers view the world, as an integrated supply chain that gets goods from origin to destination.

Mr. Vance Badawey: We're having a conversation today about interswitching. With respect to the bigger picture, both with the economy and transportation, nationally and internationally, do you see an opportunity to further integrate transportation, to take the next steps from the CTA to deal with the many issues that we're dealing with such as interswitching, setting up those gateway areas, those points of contact, by integrating the system?

• (0925)

Mr. Randall Meades: That will be a decision at the end of the day that the government takes. It's a policy decision. Our input will be from our observations that we get from operationalizing the regulations in the act.

The other opportunity we have to provide input into that type of process is through our annual report where our chair reflects on the act and puts forward areas for improvement. That's the best I can offer in terms of responses. It's specifically outside our mandate and jurisdiction. The extent to which we would opine would be through our relationship with Transport Canada.

Mr. Vance Badawey: You mentioned those points of contact earlier. How far are you going right now with respect to using all modes of transportation with the movement of your product?

Mr. Fred Gaspar: Do you mind clarifying?

Mr. Vance Badawey: How much are you utilizing interconnectivity with shipping, with road, ship, water, air? How much are you actually doing, currently?

Mr. Fred Gaspar: We certainly hear from the railways that intermodal connections are critical to them, and they leverage that quite significantly. Members will have seen railcars that move on truck beds and vice versa. The industry itself is seeking out those efficiencies to the degree possible. To your point about the role of enhancing efficiencies in the sector in terms of supporting economic growth as an overall agenda, there is no doubt that for Canada it's disproportionately important because distances to the markets from the source of production are huge. You simply can't ignore the efficiency of the transportation system if the objective is to get more goods to market more efficiently.

Mr. Vance Badawey: Do you find that having in place certain strategic and identified gateway areas throughout the country that offer incentives within those areas, and therefore more infrastructure investments into those areas, whether it be through different modes of transport, infrastructure vis-à-vis rail, road, shipping, to be an advantage as well?

Mr. Fred Gaspar: With all due respect, that is a question ultimately for policy-makers to settle on. I think what we can say is that our experience shows that efforts that you put into ensuring the efficiency and intermodality of the system tend to have rewards. As Randy pointed out, it's an entire supply chain. Spending a heck of a lot of effort on one particular mode and ignoring the touch-points with other modes and the transfer points makes it a less effective exercise.

Mr. Vance Badawey: What role do you see yourselves playing with respect to offering those very incentives to the customer, versus just government offering those incentives?

Mr. Fred Gaspar: From our perspective, going back to our core mandates, one of the services we offer is level-of-service arbitration between the shippers and the railways, and that's very helpful. We're effectively a quasi-judicial body and an economic regulator, so once policy direction has been set, we're there to provide regulatory instruments to make sure it's being applied properly. We don't engage on the policy questions, but we do have mechanisms in place that can catch those hiccups in the system. That's where a provision like interswitching, and the interswitching rates and regulations that we set, do serve to address that. It's basically a way to communicate to all the stakeholders in the marketplace that this right exists, so govern yourselves accordingly.

That's where we see our role, to identify a regulatory framework and an adjudicative framework that can help implement the policy direction set by the Government of Canada.

Mr. Vance Badawey: Thank you.

[Translation]

The Vice-Chair (Mr. Luc Berthold): Thank you very much, Mr. Gaspar.

Ms. Watts now has the floor for six minutes.

[English]

Ms. Dianne L. Watts (South Surrey—White Rock, CPC): Thank you very much. I appreciate your being here.

I have three questions. I just want to go back to the Emerson report for a moment. You're well aware of the recommendation that the 160-kilometre interswitching clause of Bill C-30 be allowed to

sunset...and review. It was also recommended to get rid of the maximum revenue entitlement, and to exempt non-hopper cars carrying grain from the MRE calculation in the short term. That was the recommendation, and I know everybody's aware of that.

I just want to get your comments on the recommendation, the impacts of it, and on whether we should keep the existing legislation.

● (0930)

Mr. Randall Meades: It's a difficult question for us, and it's a difficult question because you're right in the heart of Transport Canada's mandate. The Minister of Transport is in the process of responding to not only that recommendation, but a whole host of them. There's a process that's in place. We are part of that process through our relationship with Transport Canada. That's the extent to which we have a role and a view in this area, and the view is to provide input to both the minister and Transport Canada.

That said, in order to gather more information, our chair has taken the opportunity to have what we call an enhanced outreach program. Unlike in previous years, he's been out meeting with every stakeholder that we have. That's just another way we are trying to bring more information into the discussion and bring our data into the discussion as well.

I think the one problem—and this is a personal view—is the fact that the take-up on a lot of these measures is so small that to draw inference from them based upon the data.... The set is just too small. So it's all about going out there, consulting, talking to stakeholders. That's what I understand Transport Canada is doing, and we're helping to facilitate as best we can.

Ms. Dianne L. Watts: Okay.

Regarding that process, I heard you earlier say that there was significant stakeholder engagement to develop Bill C-30.

Mr. Randall Meades: Right.

If I can, I'll just talk a bit about the CTA review. The data they were using was not based upon 2015, because the data hadn't come in yet for 2015. Looking at what was available in 2014, I think we had in the neighbourhood of six shippers that utilized the interswitching regulations. Six shippers is 600 carloads, which is virtually zero. In 2015, the first full year we have data for—it came out after the report was published and tabled in the House—it's shown to be up a bit, but it's still very small.

What I'm saying is that I think we need a little bit more time. From my own vantage point, we need to get more data so we can make learned observations and learned inferences from the measures.

Ms. Dianne L. Watts: Through that process, will you be making recommendations directly to the minister?

Mr. Fred Gaspar: No, actually Transport Canada sets the policy direction. We answer their questions, when and if they're presented. They're operational in nature or data in nature. They may sometimes reach out to us and ask us what numbers we have or what our experience shows, but we don't have a formal role in the consultation process.

Mr. Randall Meades: The only formal input we have to the minister is through our annual report. The chair makes operational recommendations on how the act can be better used, as you will, and that's done annually.

Ms. Dianne L. Watts: Okay, great.

Thank you.

My colleague has some questions.

Mrs. Kelly Block: Thank you very much.

I heard you state earlier that interswitching is a tool that is used to adjust market failure.

The distances in Bill C-30 were put in to address what would have been some extraordinary things coming together and creating a bottleneck within the system. While you said there hasn't been a lot of uptake on the 160-kilometre distance, would it not be fair to say that it's good to keep that distance in the legislation? If we come up against another set of circumstances that would require that length of interswitching, it would be good to have it there so you wouldn't have to perhaps come together quickly and put in a piece of legislation to address that situation.

Mr. Randall Meades: The only way I would be able to comfortably address that is if I had empirical evidence to substantiate it. We have had anecdotes. As far as the hard data, there's not enough to really make a determination on this—a fair determination.

Secondly, what we're hearing anecdotally is consistent with what you were saying. However, there is no empirical basis on which to base that.

I'm not an accountant, I'm an economist, and I guess that's one step removed. I would be very uncomfortable making any kind of judgment call based on sort of the back of the envelope.

• (0935)

[Translation]

The Vice-Chair (Mr. Luc Berthold): Thank you very much, Mr. Meades.

Mr. Fraser now has the floor for six minutes.

[English]

Mr. Sean Fraser (Central Nova, Lib.): Thank you very much.

To follow up on some of the questions that Ms. Block asked and you just commented on in terms of the need for empirical evidence, do you really need more time under the current framework to understand the impact it's had?

Mr. Fred Gaspar: There's certainly no doubt that the more time, the more dataset you have, the better you are able to provide empirical evidence. I can't say to you definitively that's it's an

absolute requirement in order to be able to affect our role in the system. What I can tell you is that the existence of the provision has had an effect more broadly than just what the evidence shows in terms of the negotiating climate between shippers and carriers.

Again, that's all based on anecdotal evidence, so as long as members distinguish what we're saying, between what the facts say and what inferences we are making.... The two are different.

Mr. Sean Fraser: In terms of the assessment that this has had on efficiency or economic growth, essentially what you're stuck with now is a multiplier of how many cars have actually been used times the value of goods on those cars.

Mr. Fred Gaspar: Yes, and we're not actually even looking at the value per se. We're just looking at what it's done to the movements of grain—

Mr. Randall Meades: —and other commodities.

Mr. Fred Gaspar: —and other commodities. That's right.

Certainly it has had an impact, but there's been a greater impact at the smaller distance levels as opposed to going as you approach 160.

Mr. Sean Fraser: You're saying that the bulk of the people who have used it beyond 30 kilometres are still closer to 30 than they are to 160, for example.

Mr. Fred Gaspar: Yes.

Mr. Randall Meades: Again, I would caution, we have 16 shippers that we're making this inference on. When we break it up and analyze it based upon 10-kilometre distances, we're in a world where we have, quite frankly, a handful at any one particular.... I would be very cautious in drawing definitive inferences from numbers that are so small.

Mr. Sean Fraser: Are you making any efforts to reach out to those who are eligible to use it who may not be using it to get their—at the very least—qualitative feedback on the impact it's had on their operations and their ability to move product?

Mr. Fred Gaspar: There has not necessarily been a formal effort, but there is ongoing and iterative dialogue with both the shipper community and the carrier communities, so we don't lack for informal feedback.

That's where I drew the comment I made earlier about the whole notion of what it's done to the negotiating climate between the shipper and the carrier.

Mr. Sean Fraser: I completely appreciate that when you break up a monopoly it can change the negotiating landscape.

On the rail side, is there any assessment of the actual cost to rail to maintain the 160-kilometre interswitching?

Mr. Fred Gaspar: They may characterize it as lost opportunity, by virtue of having to make their track available for another carrier's goods they're not able to set price, but we don't have any data in terms of what that would be. They might be tracking it that way.

Mr. Sean Fraser: Sure, I think it would be helpful to understand what the actual cost would be to the players before we make a change.

I will just change tack to the intermodal forms of transportation. You commented earlier about how there could be investment in getting things from the rail to ports, for example. Have you highlighted any priority areas that the Government of Canada could be investing in to more efficiently move these products?

Mr. Fred Gaspar: We haven't, no, because it's not really our role to do so. Again, anecdotally, I don't think I'm telling any tales out of school—you've probably heard it as well—but certainly where rail meets marine infrastructure in this country could obviously use more efficiency and more supply. But in terms of whether there is a critical point that I can look at and say that port at that facility needs to be fixed before next year, no, it's nothing like that.

Mr. Sean Fraser: Sure.

The focus on interswitching, specifically, seems very much to be a western Canadian grain farmer issue. Is this not a tool that could be useful elsewhere in the country where there might be a rail monopoly? I'm from Nova Scotia, and we have essentially one rail line from the tip of the province to the opposite tip. Is this not a tool in other situations where there is a monopoly that would also be useful to promote efficiency?

Mr. Fred Gaspar: Academically, the answer would probably be yes, logically, if it works in one place it should work in another place. But the circumstances are different, both in terms of the volume of product that is produced in western Canada—particularly grains—and the challenge in getting it to their markets. I don't know enough about the specifics of the Atlantic Canada market to dismiss what you're saying. It might be the case, but certainly we have not received any indication from Transport Canada or others that there's any desire to move in that direction.

● (0940)

Mr. Randall Meades: And part of the interswitching was to mitigate a supply problem that there was, to bring more supply, specifically targeted at grain. There's not a supply issue on the east coast or even in central Canada from what we can determine.

Mr. Sean Fraser: Thank you.

[Translation]

The Vice-Chair (Mr. Luc Berthold): Thank you very much, Mr. Fraser.

Mrs. Block, you have the last five minutes.

[English]

Mrs. Kelly Block: I want to talk a little bit about the interswitching rate that you referenced in your opening comments, and then again later in a couple of answers. And I want to talk specifically about the difference between the commercial rate set by the railways and the interswitching rate that's set by the agency. And of course we've heard a lot about the Parrish and Heimbecker dispute and the rate difference of \$12 between the regulated rate and the commercial rate.

What is CTA's target relative to the commercial rate? And is \$12 your target?

Mr. Randall Meades: We don't base the rate on commercial rates. First off, there is no one commercial rate, there are all kinds of contracts that go back and forth, and price is determined on a transaction-by-transaction basis. These are effectively shipping

contracts between a shipper and a carrier, and they vary from commodity, from time...there are a number of aspects. In determining what the rate is, we take all of the costs into account of what it would take to move over a particular distance. So you have things like depreciation, cost of fuel, you have all the costs that a railway would undertake and, to be fair, we add in profit as well, because companies have to make a profit.

So there's a very complicated determination using a great number of variables, but we do it from the bottom up, and that's what we determine the rate on. And again, that rate is part of the interswitching regulations, which is something that we can review on an as-needed basis as well.

Mrs. Kelly Block: What is the average difference between the commercial rate and the rate that you set? Have you had any conversations with the railways about the difference between the rates?

Mr. Randall Meades: It's very difficult for us to get information on rates, because, as I indicated, we're talking about commercial rates and that's proprietary information, that's tort law, that's a contract between parties, and we don't have access to private information like that. We do get some information, but that's on a proprietary basis, and we're unable to share it. For example, when we do a lot of our costing associated with railways we get proprietary information from the railways that we're unable to disclose. It's effectively not our data.

Mr. Fred Gaspar: The key point is that we don't set our rates as a function of the commercial rate, because there is no one commercial rate.

Mrs. Kelly Block: So interswitching distances have been enacted since 1904. It started with four miles and now we have a number of different distances in the legislation. I'm going to go back to the 160 kilometres. What would be problematic about leaving the 160 distance in legislation in case six shippers needed to use it?

Mr. Fred Gaspar: I guess I could answer by saying it wouldn't be problematic. We're a regulator. We're here to serve the Government of Canada as per direction received. From our perspective, we would be prepared to support that mandate or any other if it were given to us.

Mrs. Kelly Block: Thank you.

[Translation]

The Vice-Chair (Mr. Luc Berthold): Thank you very much, Mr. Gaspar. Thank you very much, Mr. Meades. I would also like to thank your whole team who has been here assisting you in your presentation before the committee.

We will suspend our session for a minute to let the other witnesses take their seats.

Thank you.

• (0945) _____ (Pause) _____

• (0945)

The Vice-Chair (Mr. Luc Berthold): Let us resume. I invite you to take your places, please.

The Standing Committee on Transport, Infrastructure and Communities will now continue its study of the various provisions of the Fair Rail for Grain Farmers Act.

Our next witnesses represent the Canadian Federation of Agriculture, Cereals Canada, and Grain Growers of Canada.

Our chair, Mrs. Sgro, has had conversations with each of these groups. Each group has seven minutes to make its presentation. Please try to respect that time limit so the MPs have the time to ask you questions after your presentation.

We will begin right away with the representative of the Canadian Federation of Agriculture.

Mr. Banack, are you ready?

[English]

Do you want to start now?

Mr. Humphrey Banack (Vice-President, Canadian Federation of Agriculture): Thank you very much for giving me the opportunity to come this morning to speak to the committee about Bill C-30. My name is Humphrey Banack. I'm vice-president of the Canadian Federation of Agriculture. I'm a grains and oilseeds farmer in central Alberta. Transportation is critical to our family operation there. We farm 7,000 acres of grains and oilseeds. Today it's very difficult for me to leave the farm. We're harvesting wheat. Yesterday afternoon I got the combines running and left them in my wife's and my brother's hands and away I went. So for me to leave the farm at this time of year is a challenge, but transportation is key to our moving forward.

As I said, our organization represents farmers right across Canada, and I think it's very important to have the farmer's view here today. Bill C-30 has several key objectives. This act amends the Canada Grain Act to permit the regulation of the contracts relating to the arbitration of grain disputes, respecting the provision of those contracts. It also requires CN and CP to move minimum amounts of grain specified under the Canada Transportation Act by the order of the Governor in Council.

I hope by the time I'm finished here today you will recognize the importance to farmers of achieving these objectives of transportation of our product and fully appreciate that when we talk of shippers we're talking of grain companies. But it's ultimately farmers who will pay these bills. All of these objectives are covered and closely related to the Emerson report, which is soon going to be coming before the House and to the minister's table.

Before I go into specific reasons why Bill C-30 needs to be maintained, let me briefly explain our position in the industry. Farmers in western Canada sell or export 70% of the wheat we produce, 50% of the canola, and 25% of the coarse grains because of a small Canadian marketplace for our product. Western Canadian grain on average has to be transported 1,500 kilometres while most of our major competing countries around the world have a much

shorter haul in the range of 300 to 400 kilometres. At least 94% of those exports are moved by rail to Canadian port positions and to final destinations in the U.S. and Mexico, unlike our competing farmers in the U.S. who in contrast use trucks and barges to transport 50% of the grain they export. This provides viable transportation competition to railways. Canadian farmers have no other viable transportation opportunities.

Consequently, between 35 million and 40 million metric tonnes of western Canadian grain is captive to rail monopoly annually. In the 2014-15 year, Canadian farmers paid \$1.4 billion in freight charges to export their grain. This was not paid by the shippers. The shippers are sent the bill but the freight is paid by farmers who have no way to recoup these charges outside of markets. In this equation, grain companies are little more than service providers with farmers paying the entire bill. Farmers pay for the lack of grain movement. They pay all the freight for moving the grain. They pay for disruptions. They pay for delays. They even pay the penalties charged by shipping companies when their vessels have to wait in port, for demurrage.

This is acknowledged in the Emerson report that says that if service is unreliable or unpredictable contract penalties, lost sales, and lost premiums ensue. Shippers bear these costs, which are significant, and pass them back to farmers. Our livelihood and even our monthly cash flow depends on the timely, dedicated, and concentrated efforts of the two railway companies that basically have a monopoly. Farmers' ability to manage their grain movement—and by extension their cash flow and their ability to pay their bills on time—is captive to a transportation system that is a monopoly focused solely on cutting costs and maximizing returns.

On managing the volume of grain moved by the railways, the minister must maintain the legislative authority to mandate the volumes of grain needed to be moved at any given time. The success of the Canadian grains and oilseeds industry is contingent on finding international markets, providing a competitive price for those markets and getting the product to the market in a timely fashion. All those conditions cannot be left to the vagaries of the railways that are focused on high return commodities and cutting costs and increasing returns. Because farmers have no alternatives for access to export markets and because farmers need competitive freight rates, volumes of grain need to be moved in a timely manner, especially during times of bumper crop conditions and high demand in the international markets.

In my opening remarks I said we are in the midst of harvesting our wheat crop today. It is the largest wheat crop I've ever grown on our farm, and across western Canada we're hearing huge numbers.

● (0950)

We're going to have another very big crop in western Canada, very similar to the one in 2013. The government needs to maintain the authority to regulate volumes through an order in council by a request to the transport minister to ensure the railway system does not neglect the grain industry. We cannot afford to let down our international markets. When well-established markets to customers are lost because product is delivered late or not at all, it is very difficult to get those markets back. Financial success and even the survival of our farms is contingent on our being able to sell our grain to pay hundreds of thousands of dollars in production costs.

It is important to note that if volumes are regulated, it needs to be done in a way to prevent unintended negative consequences. In 2014, when the volumes were regulated, the railways, in order to increase the volumes to meet the demand, left areas with longer haul distances and logistic challenges plugged with grain. Northeastern Saskatchewan is one point to take in.

The regulated volumes imposed only applied to export grain. That is where the largest issue was and is. The railways moved the necessary infrastructure and met most of those targets.

The domestic markets, both for human consumption and for animal feed, were put in peril, as both were well below accepted input storage levels for an extended period of time. From reports received, a flour mill in eastern Canada was hours away from being unable to supply flour to Tim Hortons, and feed mills in the Lower Mainland of B.C. had feeding operations on restricted deliveries. While a shortage of our daily Tim Hortons' order may be devastating personally, a barn full of birds without feed would be an industry nightmare.

As we have learned from past experience, every action has a reaction. Steps should be taken to ensure that when grain movement volume is regulated, it is done in a balanced fashion, in order to ensure that problems solved in one area do not create problems in another.

Interswitching has been a huge topic around the table this morning. It gives shippers the opportunity to shop for lower freight rates and is extremely important, and expanded distance should be maintained. It is critical that railways work within the rules and the spirit of interswitching objectives. Interswitching is a simple mechanism facing competition in what is otherwise a monopoly. People even say that interswitching isn't working. We've seen some smaller numbers; Jean-Marc showed me some numbers, such as 4,500 cars moving here. It may not be a lot, but it's important to make sure it's always there. Pulse Canada has said that where expanded interswitching is available, the freight rate has been cut by about 20%.

Thank you very much for your time this morning. I'm getting a signal from the front, so we'll leave the last couple of pages to put in at the end.

Thank you. I hope my time off the combine is well spent.

Voices: Oh, oh!

● (0955)

The Vice-Chair (Mr. Luc Berthold): Thank you, Mr. Banack. We appreciate your presence at the committee.

[*Translation*]

I will turn it over to Mr. Ruest now, who is from Cereals Canada.

Mr. Jean-Marc Ruest (Vice-Chair of the Board of Directors, Cereals Canada): Thank you, Mr. Chair and members of the committee.

My name is Jean-Marc Ruest and I am the vice-chair of the board of directors of Cereals Canada.

[*English*]

Cereals Canada is a value chain organization that includes representation from farmers, crop development and seed companies, and shippers, exporters, and processors. The brief that has been circulated to members includes additional background on the organization.

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 a reputation as a reliable supplier. Failure to reform our regulatory framework will negatively impact the entire value chain, including farmers, grain handlers, and exporters.

In order to properly speak to the provisions of the Fair Rail for Grain Farmers Act, I would like to start by saying a few words about the review of the Canada Transportation Act itself. The review of the act was accelerated because of the 2013-14 grain transportation crisis. This crisis impacted the entire value chain, and damaged Canada's brand and reputation as a reliable supplier of agricultural products. The crisis cost farmers, grain-handling farms, exporters, Canadian value-added processors, and the Canadian economy as a whole. Canadian agriculture and the Canadian economy cannot afford for this to happen again in future.

The CTA review report, referred to as the Emerson report, did not fully address the fundamental problem of railway market power and the impact it has on the availability of rail service to meet the needs of Canadian grain shippers. The report is built on a basic assumption that there is a competitive transportation environment in Canada. This assumption does not apply to western Canadian grain sectors. 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 mimics a competitive environment.

Cereals Canada has recommendations for immediate action and long-term requirements that will help accomplish our common goals for a successful grain transportation system. Looking first at the provisions of the Fair Rail for Grain Farmers Act and specifically to extended interswitching provisions, the current extended interswitching distance of 160 kilometres should be extended indefinitely. This provision is proving to be an effective tool to provide additional competition between the two Canadian class I railways as well as with at least one other North American carrier. Its very existence provides eligible grain shippers an extremely useful competitive tool to access in negotiations with rail service providers. This competitive provision is of benefit, is being used, and it must be retained.

Turning now to the minimum volume requirements, the Fair Rail for Grain Farmers Act allows the government to set minimum required grain volumes that must be moved by the railways. Cereals Canada is recommending that these provisions of the act be retained beyond 2017. These provisions should be extended until legislation is enacted that will introduce true commercial accountability to all system participants. The 2016 crop will be of similar size to the crop of 2013 that preceded the transportation crisis. These levels are not an anomaly but the new normal.

Our production is diverse, and is destined to between 100 and 200 countries around the world. If we do not meet our contractual commitments in each of these markets, our reputation as a reliable supplier will suffer irreparable harm. Retention of the minimum volume provisions will allow for rapid and decisive response from Canada if past transportation failures begin to recur.

With respect to longer-term requirements, Cereals Canada believes the issue of commercial accountability must be addressed. A hallmark of modern commercial relationships is that parties are held accountable to each other for their respective performances. Grain shippers have long been bound to performance standards with financial penalty through tariffs unilaterally set by the railways. However, there is no mechanism for shippers to hold railways commercially accountable for their level of service to the shippers they serve.

In practice, because of the imbalance in negotiating power between railways and captive shippers, railway penalties for non-performance cannot be commercially negotiated. Railway accountability requires a legislative backstop. Without this, little can be done to systematically address service failures, and there's almost no way for shippers to hold the railways accountable for inadequate service. Accountability for service commitments is a prerequisite to preventing another grain transportation crisis.

•(1000)

Secondly, we also need to better define what constitutes adequate and suitable rail service under the transportation act. The railway service obligations are set out in the Canada Transportation Act as "adequate and suitable accommodation" of traffic. This term is not well defined and has been the point of dispute between railways and shippers for many years.

The CTA review report or Emerson report recommends changes to the definition that we believe would dilute the current definition of obligation and negatively affect grain sector shippers and those in other sectors from accessing the competitive provisions within the

Canada Transportation Act. Instead, Cereals Canada recommends enshrining in law the principle that rail service provision be demand-driven as opposed to supply-driven. The nation's economy cannot be expected to fully capitalize on global marketing opportunities when the ability to provide the goods to international customers is governed by one's domestic rail service provider.

Thirdly, we must review the powers of the Canadian Transportation Agency. The Emerson report recommends that the CTA be given the authority to act on its own motion to investigate railway service issues and that it be given the power to issue *ex parte* orders in situations requiring urgent attention. This power would relieve shippers of carrying the sole burden for challenging railways in circumstances in which service is inadequate, by empowering the agency to investigate systemic issues and to take action where necessary. This is one recommendation from the Emerson report that is supported by Cereals Canada.

[Translation]

The Vice-Chair (Mr. Luc Berthold): Does that conclude your remarks, Mr. Ruest?

Mr. Jean-Marc Ruest: That is what I wanted to say this morning.

The Vice-Chair (Mr. Luc Berthold): Thank you very much.

Ms. Cook, from the Grain Producers of Canada, you may now take the floor.

•(1005)

Ms. Fiona Cook (Executive Director, Grain Growers of Canada): Thank you, Mr. Chair.

[English]

My thanks to the members of the committee for the opportunity to appear today and to comment on certain provisions of Bill C-30, the Fair Rail for Grain Farmers Act.

My name is Fiona Cook and I'm executive director for the Grain Growers of Canada. The Grain Growers of Canada acts as a national voice for over 50,000 farmers across Canada, who actively grow and care for a variety of crops, including wheat, durum, barley, canola, oats, corn, soybeans, peas, and lentils.

We welcome the government's decision earlier this year to extend certain provisions of Bill C-30 for an additional year, effective until the end of July 2017. Today I would like to focus on the extended interswitching distance of 160 kilometres for the prairie provinces. I am here to tell you why this measure is so important for individual farmers and why we believe it should be made permanent.

On an annual basis, roughly 50% of Canada's grain crop is exported, with 94% of it moving by rail. Of these exports, 77% are exported by rail to port; 17% are direct rail, for example into the U.S. and Mexico; and approximately 5% are by road. Close to 70% of our wheat is exported, and some commodities are even more dependent on export. Over 90% of Canadian canola, including seed, meal, and oil, is exported annually. Over 90% of Canadian oats is exported to the U.S. Canadian pulses are a big success story—they're exported to over 150 countries. In fact, we are the world's largest exporter of lentils and peas.

It's not just about the exports. We have value-added domestic processors that also need access to reliable and consistent rail service: wheat millers, canola crush plants, oat millers, and barley malters are critically reliant on domestic shipments of raw product via the rail system. In many cases, they also depend on rail to transport the finished product to Canadian as well as export markets. Many of these facilities operate very lean production lines, employing just-in-time delivery, with smaller amounts of raw and finished product moving in and out on a timely basis. Most of these operations, like the grain elevators, are captive to one railway. They are therefore essentially operating in a monopoly-like environment.

Interswitching is an effective regulatory tool that can address captive situations and encourage behaviours in the rail industry that market forces would normally drive in a competitive environment. The extension of interswitching rights to a 160-kilometre radius was put in place in August 2014. It commits a rail carrier to pick up cars from a shipper and move product to a junction with another railway. Increased access to the lines of competing railways is good for farmers. It provides new options for grain handlers and processing operations in routing, as well as a new tool in negotiating with the railways better service, rates, and terms and conditions.

Extending the radius to 160 kilometres better reflects the large expanse of the prairies and the nature of grain transportation in western Canada. The original 30-kilometre radius was intended for urban centres and moving product at port. It encompassed very few grain-loading facilities: 6% had access at 30 kilometres. Now at 160 km, 92% have access.

When grain handlers and processors experience rail service issues, this directly affects the farmer's ability to sell grain and generate cash flow for their operations. It also negatively affects the price grain handlers pay for Canada's grain, oilseed, and specialty crops.

Every order for grain hopper counts. In a complex supply chain spanning an average of 1,520 kilometres, the ability of the railways to get agricultural products to an export position is crucial to every player in the value chain, especially the farmer. When the grain handlers or processors can't move product, the result is reduced orders and lower prices to farmers, to act as a signal to reduce the amount of grain they put up for offer. This means lost revenue to farmers when they have to sell grain outside peak periods. It can also

affect future sales through a loss of confidence in Canadian shippers and their ability to deliver on time.

Rail interswitching provides grain producers with alternative options for rail services. The rule has already made for more competitive freight rates and service, and has directly benefited farmers. Not only have farmers noted reduced costs, they have also gained more leverage in getting rail capacity where needed.

In fact, the greatest use of interswitching has been a passive one. Some elevators operationalize the right to interchange by applying for an interswitching rate, while others use it as a leverage in negotiations with the railways. The mere existence of the option can provide shippers with the necessary leverage to obtain better terms and conditions. Shippers report that after using interswitching and the alternate line to move shipments, the originating carrier has often come forward to offer better rates and terms of service.

● (1010)

According to the grain monitoring program, for the crop year up to May 20, 2016, interswitching resulted in savings of almost \$4 million and almost 1,300 additional railcars put into service.

Canadian grain production has seen steady growth of about 3% per year for more than a decade, a trend we expect to continue. It's been confirmed by my colleagues here this morning. Future production is not only contingent on a farmer's ability to access and utilize new technology, but also our ability to capitalize on growing opportunities and established and new export markets, many supported by Canada's active trade agenda. The 2015-16 crop year is expected to be another big one, with estimates ranging from 70 million to 75 million tonnes. Canada's 2013-14 crop year was recording-breaking, with over 90 million tonnes harvested. We expect these trends to continue.

In conclusion, the new interswitching provision has proven itself to be an effective tool, and for this reason we believe that it should become permanent.

Thank you very much.

[Translation]

The Vice-Chair (Mr. Luc Berthold): Thank you very much, Ms. Cook.

We will now move on to the first round of questions.

You have the floor for six minutes, Mrs. Block.

[English]

Mrs. Kelly Block: I want to welcome our witnesses to this discussion that we're having today.

To put it into context, I'm a member of Parliament from Saskatchewan. The riding I represent stretches east and west, north and south. It shares a boundary with nine of the other 13 ridings in the province and it is 29,000 square kilometres, which is half the size of Nova Scotia, or six times bigger than Prince Edward Island.

You can imagine that, when you drive across it, you might see a diversity of crops being grown, and also a diversity of conditions that they are being grown under. I've heard from the producers in my riding that this crop year is going to be an exceptional year, and, as you've pointed out, probably becoming the norm.

I'm very engaged in the conversation that we're having today, coming from a landlocked province where many of my constituents rely on the provisions in this piece of legislation.

I want to ask any of you to answer this. Would you say that on the whole you have greater confidence that grain will reach port in a timely manner today than you did three years ago?

Mr. Jean-Marc Ruest: I think so. We've heard statements from the railways saying that they are prepared to move the crop. They've been advised of the size of the crop, and we fully expect them to be prepared to do so.

I think the circumstances are somewhat different than they were in 2013. The demand for shipping of other bulk commodities has declined. Therefore, there ought to be more capacity available for grain. We don't know, at this point in time, how cold the winter will get. It gets cold every year in Canada but we're optimistic. We hope that the pieces will be in place to move this crop.

If I may add one comment. One of the differences between this crop versus 2013—the magnitude is similar—is that we're seeing a difference in quality in the crop; it is a much less homogeneous quality crop, which makes it a tough crop to move. A hundred railcars of wheat isn't just a hundred railcars of wheat. If they are of different quality or have different characteristics because of the regions, they cannot just be thrown together. Sequencing and precision of rail movement is going to be very important this year.

Mr. Humphrey Banack: I believe that we will see better logistics this time around. I think it's a matter of time. Everyone throughout the grain transportation and grain value chain here learned from 2013, from Richardson and the grain companies, understanding what grain we need at the ports to meet those demands, to the railways making sure we get there. I think we can expect more. If we can't learn from past experiences...and I'm sure that people throughout the value chain have learned...the railways, too, are there. As Jean-Marc said, we're seeing good shipping today. Our off-combine shipments

have been good today. We just hope that they continue through the year.

Weather will be a challenge here. Who knows what the weather will bring over the winter? If you're from northeastern Saskatchewan, you will have truly understood the challenges there were in 2013 from some of the farthest shipping points in western Canada and the volume-related process we went through, as I noted in my remarks. If you lived in western Alberta, there were points there that had more shipping than ever because it was the shortest distance to port, and that's where the railways move the grain from.

• (1015)

Mrs. Kelly Block: Thank you.

I know you've mentioned some of the benefits of the measures existing in Bill C-30 up until now, but can you speak to whether the changes introduced in the bill change the way shippers time their requests for pickup in order to maximize the price they get?

Mr. Jean-Marc Ruest: That's a tough question. I don't think it has changed the timing because that timing is always based on market signals and market demands and customer demands, etc. I don't think that has changed. It may have changed the frequency with which the railways have responded to those demands. As we've heard this morning from the witnesses from the CTA on behalf of shippers, we believe that the interswitching provisions in particular have been beneficial to increase the level of service and the reliability of service.

Mrs. Kelly Block: Okay.

One of the recommendations made in the Emerson report was to exempt containerized grain from the maximum revenue entitlement. I'm just wondering whether the shippers you represent would take up this opportunity if the railroads could offer it.

Mr. Jean-Marc Ruest: The shippers that are members of Cereals Canada are all bulk shippers, and we operate networks of grain elevators and port terminal elevators that are built for bulk shipment, and virtually 90%, 95% of at least the western Canadian crop is moved through bulk movement. It's the most efficient movement.

Whether individual players might want to invest in their systems to participate more fully in containerized movement, possibly, but it's not an inexpensive proposition, nor do I think it necessarily adds efficiency to the system. The system efficiency is based on moving as much grain as you can as quickly as you can.

[Translation]

The Vice-Chair (Mr. Luc Berthold): Thank you very much, Mr. Ruest.

I will now turn it over to Mr. Iacono for six minutes.

Mr. Angelo Iacono: Thank you, Mr. Chair.

[English]

Thank you, members of the panel for coming here today.

I'm sharing my time with my colleague Julie.

This question is addressed to all three of you. The quickest and cheapest way to ship prairie grain crops to the international market is via the west route, mainly through the Port of Vancouver, but as there seems to be a problem with congestion and availability for this route, is it possible to ship a portion of the grain via the east route, to the Port of Montreal, for example, which already handles a certain volume of grains?

Mr. Jean-Marc Ruest: It truly becomes a question of economics. If you have more capacity to move through other ports, but the cost of doing so because of vessel logistics, etc., surpasses the commercial price.... We are sellers to the international world. The international customer is pricing Canada against other jurisdictions, so our price has to be competitive, and in that come all the elements of transportation—vessel, rail, etc.—so there are points where it makes commercial economic sense to go east versus west, and others where it doesn't. What we have seen is with lower vessel freight rates, which is, to a shipper, a benefit of a downturn economically worldwide, that line where it makes commercial sense to go east versus west has gone further west. It used to be in eastern Saskatchewan. Now it is moving, and it makes more and more sense to go further west to go east, but there does become a point in time where it is not commercially feasible to go east from western destinations.

Mr. Angelo Iacono: What's the volume you have so far going to the east?

Mr. Jean-Marc Ruest: I'm sorry, I don't know.

Ms. Fiona Cook: I can find out for you, if you like.

Mr. Humphrey Banack: I guess for us it's important. As Jean-Marc said, we are great growers of grain and providers to the grain companies, and it's really their commercial decision to move east or west. From our perspective, as Jean-Marc said, we're competing in a world market. We have to provide these products to the end market at a fair price, so whichever way makes the best sense, I guess, is the best sense, in my pocketbook, in western Canada.

• (1020)

Mr. Angelo Iacono: With respect to extended 160-kilometre interswitching limits being an important negotiation tool, what if it's not there anymore? How will this affect negotiations?

Mr. Jean-Marc Ruest: I guess we'll go back to the status quo of the previous environment that existed prior to Bill C-30 being adopted. We'll go back to limited interswitching being used because there are very few connection points between the grain elevators that currently exist and a connecting railway 30 kilometres.... I don't know what the numbers are, but I would say probably 6% of the grain shippers would have access to an interswitching spot, so you lose the ability to actually interswitch and you lose the ability to use that as a point of leverage in negotiations on rates and service with rail carriers.

Mr. Angelo Iacono: That's it. Thank you.

Ms. Julie Dzerowicz: I'm in downtown Toronto. There are 13 kilometres of railway tracks that go through it. So, that's interesting to me. I have a quick question. It seems like all of you are very much in favour of interswitching, but longer term, given the rapid pace of competition, things changing worldwide, and climate change, do you think it's the only solution, or are there other solutions that we should be considering?

It seems obvious that interswitching is beneficial for grain and for moving cereals. Is it also beneficial for other commodities? Do you have any comments on that?

Ms. Fiona Cook: I can answer the latter part of your question about other commodities. It would be beneficial, but for the other commodities produced in western Canada, it would need to be extended even further. The limit wasn't extended enough for a large portion of fertilizer companies, or petrochemical companies, that operate in that area. We talk about 160, but for coming back to grain, ideally, we would like to see it go to 250, because then all the grain elevators would have access to an interchange. It definitely benefits other commodities, but longer distance would be required.

Mr. Jean-Marc Ruest: Regarding your first question, is it the only measure, I would say no, it's not. As I said in my comments, the issue that we are dealing with is the lack of competition. As a captive shipper, your ability to negotiate fair rates and a reasonable service that would otherwise be expected in a commercial relationship are absent because you don't have the ability to switch suppliers. The extended interswitching provides you with at least one of those tools, the ability to move to another competitor, so you create a regulatory legislative lease in that competitive marketplace.

The other part, as I mentioned in my comments, is the ability to negotiate service agreements, because rather than being under the constant threat of moving service, we would rather be in a position to negotiate service agreements that replicate what would be in a commercially negotiated competitive type of agreement. Those are the other types of provisions that we believe need to be provided.

[Translation]

The Vice-Chair (Mr. Luc Berthold): Thank you.

Mr. Aubin, you have the floor for six minutes.

Mr. Robert Aubin: Thank you, Mr. Chair.

I would like to thank the witnesses for being here today and sharing their expertise with us.

I would also like to return to 160 km of interswitching distance. My question is for the three witnesses and I would like as specific an answer as you can provide.

Can you estimate by how much this provision reduces the price of rail services?

Mr. Jean-Marc Ruest: Canada's main grain exporters have begun keeping track of the number of times this provision has been used. This information is gathered by a grain monitor who reviews and analyzes the rail transport data.

According to the report we received—and which Ms. Cook referred to earlier—, 4,800 cars were interswitched as a result of this provision. Grain exporters and grain carriers report that this saved approximately \$5.2 million. Very broadly speaking, that is not a huge amount relative to the total cost of transportation, but it shows that this provision, which is still very new, is being used and is effective in achieving savings.

• (1025)

Mr. Robert Aubin: From what I understand, it is in large part used as leverage in bargaining. Moreover, interswitching allows you to achieve what you could not necessarily have achieved through a service level agreement with rail companies in the past.

Is that correct?

Mr. Jean-Marc Ruest: Yes, absolutely. As we said, this tool gives us bargaining power that we did not have before. It is not as good, however as a clear, specific, and long-term agreement. From one request to another, it is really transactional in nature, but it is very important all the same.

Mr. Robert Aubin: In your presentations, you all mentioned the quality of this year's harvest.

[English]

Mr. Humphrey Banack: I'm not getting any translation here.

[Translation]

The Vice-Chair (Mr. Luc Berthold): I will send someone to help you with that right away.

Mr. Robert Aubin: In your presentations, you all mentioned the quality of this year's harvest. You also said there would not likely be a problem.

Is it a cyclical thing that there is no problem in 2016? We know that crops that seemed outstanding to you in 2013 will become the norm, and that is a good thing. However, is grain transport a sure thing because other natural resources sectors will be using less rail service in 2016? If that is the case, we have not solved the problem. When both sectors of the economy are in full swing, we will have the same problem again.

Mr. Jean-Marc Ruest: Exactly.

First of all, in the agriculture sector, I think we have always been eternal optimists, and we are at the beginning of the season.

Moreover, as you said, demand from other sectors is lower than in 2013 owing to the current economic climate. I think our sector has learned from what happened in 2013. I hope the rail companies have made the necessary investments to better meet the demand this year. Grain companies have also improved their systems.

[English]

Mr. Humphrey Banack: Where I live in central Alberta, it's very much an oil-dependent part of the province and the country. We've seen huge infrastructure developments by the oil and gas industry to ship by rail—100 or 120 car loading spots to ship oil. Those are not

built inexpensively without a lot of planning for future use, so I expect to see that as our economy turns around—and it will turn around—we will see an increase from the other sectors, and we will get a higher demand for the infrastructure from the railways. We're hoping that it can be balanced, because as we saw in 2013, there was a lot of infrastructure that we believe moved to other commodities in the time that we needed it. I think there's enough infrastructure there to move everything, but we have to make sure that no commodities are left behind.

Our grain industry is captive. We have 30 or 40 million tonnes a year to move by rail. Sometimes the railway just takes time to move it on their timelines rather than when we need it to be moved.

[Translation]

The Vice-Chair (Mr. Luc Berthold): Mr. Aubin, you have 30 seconds left.

Mr. Robert Aubin: I would like to ask Ms. Cook to talk about service

[English]

“just in time” .

[Translation]

That is something an MP from eastern Canada has not really thought about.

What percentage of our main Canadian clients would you say are repeat users of rail services

[English]

just in time

[Translation]

Is it 10% or 20% of clients?

Ms. Fiona Cook: I would have to check the automotive sector...

[English]

just in time.

[Translation]

I can't give you an exact figure today, but I can send you the data later on.

The Vice-Chair (Mr. Luc Berthold): Thank you very much, Ms. Cook.

I will turn it over to Mr. Fraser now.

[English]

Mr. Sean Fraser: Thank you very much.

I'll start on the issue of demand in the export market.

I know that you're dealing with the largest export market that we have in our country, but where are the areas of growing demand that you referred to during your remarks? Where is the biggest demand internationally for Canadian grain products?

• (1030)

Mr. Jean-Marc Ruest: We're definitely seeing growth in the Asian markets, the developing worlds, as their economies improve. One of the first things that improves is the quality of their food, and Canada supplies very high-quality food products that are in much demand around the world. The areas of growth are primarily in those Asian markets.

Mr. Sean Fraser: Are we adequately served on the Pacific side with marine transport infrastructure to connect the rail transport to our ports to get the products to the Asian markets?

Mr. Jean-Marc Ruest: If you look at the parts of the network that grain shippers operate, the grain terminals, specifically in the ports of Vancouver and Prince Rupert, there is surplus capacity available. We are still able to meet even crops of this size, and increased crops going forward.

There are issues with respect to infrastructure in Vancouver, and rail infrastructure servicing primarily the north shore terminals, that would need to be addressed going forward. There's talk of a third terminal being built on the north shore of Vancouver, and there are serious questions about whether the infrastructure is adequate to accommodate a third terminal. Those are areas that need to be addressed or considered.

Mr. Sean Fraser: If we have another year like we did in 2013—and by all accounts it seems like on the crop side it will be—and if we have a bad winter, then maybe we'll be in the same situation. Will we be left with product that's stored indefinitely, or will it eventually get to market?

Mr. Jean-Marc Ruest: It will eventually get to market, and that's historically been the lesson that we've learned. The difficulty with it eventually getting to market is that we are not taking advantage of the peak pricing periods. In any commercial relationship, a willing buyer and a willing seller are critical parts of it, but equally critical is providing a product at the time when the buyer wants it. If that is our level of satisfaction, that eventually it will move, then that's not good enough. We have to be able to meet the demands of quality, quantity, price, and time of the buyers.

Mr. Sean Fraser: Absolutely. Just quickly, I'm going to be splitting my time.

It seems like the greatest benefit is not that people are using interswitching as much, but they're using it at the negotiating table. Is that the primary benefit for suppliers?

Ms. Fiona Cook: From what I've heard I would say, yes. Hopefully, that will build a better commercial relationship in the longer run, as well.

Mr. Sean Fraser: Thank you very much.

I want to share my time with Mr. Sikand.

Mr. Gagan Sikand: Thank you.

Mr. Ruest, you said earlier that most interswitching happens outside the 30-kilometre limit. We heard from the previous panel, the CTA, that people using the provision are closer to the 30-kilometre limit than 160, so which would be true?

Mr. Jean-Marc Ruest: Yes. I'm not sure what numbers they are looking at, but they are the regulator and they do have sound data.

The data I am aware of measures the use of extended interswitching, and that's anything beyond 30 kilometres. I'm not sure what's being used inside of 30 kilometres. What I do know is that there aren't a whole lot of shipping points that are inside of 30 kilometres. There are a few and presumably they make good use of the existing 30-kilometre interswitching. When we get to extended interswitching, the information that I have is that for the 2015-16 crop year, which is August 1, 2015, to August 1, 2016, 4,795 rail cars have been moved through interswitching outside of 30 kilometres. The longest distance in those areas was 125 kilometres and the minimum distance was 33 kilometres, so those are just outside of that 30 kilometres.

Mr. Gagan Sikand: Ms. Cook, in your opening statement you mentioned \$4 million in savings due to interswitching. Could you elaborate on that?

Ms. Fiona Cook: Yes, and we've since updated that statistic.

Mr. Ruest, I think you're more familiar with this.

Mr. Jean-Marc Ruest: From that same data that's been collected by Quorum Corporation, which is the grain monitor from the shippers—and they're self-reported numbers by the shippers—the shippers have reported savings of \$5.2 million. That is from what they have seen as being the rates that were offered initially compared to what they ultimately got as a result of using the interswitching provisions. The savings resulted in \$5.2 million.

• (1035)

Mr. Gagan Sikand: Thank you very much.

[Translation]

The Vice-Chair (Mr. Luc Berthold): Thank you very much.

To begin the second round of questions, we will start with Mr. Vance Badawey.

[English]

Mr. Vance Badawey: Thank you, Mr. Chairman.

I want to expand on the questions that I had for the Canadian Transportation Agency in looking at the bigger picture with respect to the economy, as well as using infrastructure related to transportation to try to boost our economy.

You made the comment earlier that we are competing on a world market, and to some extent we're having a tough time doing that simply because we may not have the proper infrastructure in place to have you as an enabler to that economy. It was disturbing this morning when I heard that the Canadian Transportation Agency made the comment “that's not our mandate” when it comes to being a steward of an economic strategy that you folks are a part of. Having said that, one of the things I'd like to see moving forward is to change that and utilize the Canadian Transportation Agency in having an expanded mandate with respect to being a steward of an economic strategy.

Where I'm going with this is, do you feel that's the direction we should go into? Quite frankly, we do not have anyone that is a steward for economic strategy, from that strategy making proper policy, from that integrating a more integrated transportation system, and from that driving proper infrastructure investments that are based on those areas that are strategic in strength with respect to the economy and the transportation attached to that in the immediate and long term. I need to hear your thoughts on that, because I'm sure you folks often come up against that wall, where you don't have anyone that can be a steward, and ultimately what your needs are that then drive the overall national economic agenda.

Mr. Jean-Marc Ruest: We are absolutely an export-dependent country, and we sometimes look as a grain industry, for example, a little bit myopically at the environment. So we, for example, say it's good news for us that we're going to get lots of rail supply because other sectors are down. That's not a good-news story for Canada generally. We should be hoping that other sectors rebound and that they are successful as well and that we have adequate rail capacity, transportation capacity, to meet all of those sectors' demands. We should all be looking forward to the good-news stories. A large crop should not be a bad-news story. That should be a good-news story. We have to find a way by which rail supply and transportation supply generally, transportation infrastructure, is not the governor of our Canadian economic output. We have to find a way, when we talk about adequate and suitable accommodation, that it is adequate and suitable to be able to meet the demands of all of those sectors, so that they can all be successful and hitting on all cylinders and not simply in a constant rationing of rail supply basis based on what the rail carriers decide they're going to offer.

Whether that's through the Canadian Transportation Agency having the powers that we talked about, to be able to unilaterally go forward and review systemic issues or other fashions...but you're right, there needs to be a means of ensuring that all shippers in all sectors are successful.

Mr. Humphrey Banack: An issue that we've identified through our organization is the fact of the long-term viability of—and as you said, stewardship of—the transportation system. Whether it's replenishing the hopper cars that are there today, or maintenance of short lines and sidings that we can use for producer car loadings, all those things are integral to a strong transportation system for grain out of western Canada. I know that we have a number of short lines; I believe there are 13 short lines in Manitoba and there are 14 or 15 or 16 across the Prairies. Those are all part of the transportation system. They may be a small part, but they provide the producers in those areas the opportunity to get there.

And whether it's the CTA or some overarching organization someplace, someone has to have the mandate to make sure that the infrastructure is there in the future to manage this. We can't say, today we're short of railcars and by the time we realize it it's too late to build a railcar for next week.

Mr. Vance Badawey: Great, thank you.

Mr. Ken Hardie: Very quickly. Nobody's mentioned Churchill. We've lost Churchill it seems. Is that important to you? A short answer, please.

Mr. Jean-Marc Ruest: A short answer, yes.

It's not significant from a grain shipper perspective. The size of the facility and the limited shipping season is such that it's not a significant facility in the grain-handling network.

• (1040)

Mr. Ken Hardie: Okay.

Ms. Cook, you mentioned that cost competition is one of the results of interswitching, but you also mentioned capacity. Will interswitching actually promote more capacity? And again, a short answer, please.

Mr. Jean-Marc Ruest: Yes, because there is the opportunity to access other rail carriers from the U.S. that bring in more capacity.

Mr. Ken Hardie: Thank you, Ms. Cook.

Voices: Oh, oh!

Mr. Ken Hardie: Actually, Mr. Ruest, I want to give you one more shot at this one. Very simply put, I asked a question of the CTA about this imbalance of commercial accountability. If the shipper's ship isn't there on time, they get dinged by the railway. If you haven't got your goods ready to move by the time the cars are there, you get nailed by the railway. But if the railway fails to perform, I get the sense that there is really no consequence to that, certainly not covered by Bill C-30. Is that correct?

Mr. Jean-Marc Ruest: Correct.

[*Translation*]

The Vice-Chair (Mr. Luc Berthold): Thank you very much for this brief answer.

I will now give the floor to Ms. Watts for six minutes.

[*English*]

Ms. Dianne L. Watts: Thank you very much and I'll be just brief in my comments.

We had just spoken about the proposed grain terminal in north Vancouver and some infrastructure in terms of that. Is the current capacity inadequate or growing the sector inadequate, when we look at the need for another grain terminal?

Mr. Jean-Marc Ruest: What we've seen through 2013 and onwards is that the terminal capacity on the west coast is sufficient. Now whether any individual players decide that they want to own and build their own assets, that's a commercial decision that they make based on their needs. But from an infrastructure standpoint on terminal capacity, what exists is we believe sufficient.

Ms. Dianne L. Watts: Yes, that was my question.

Mrs. Kelly Block: I'll ask a question. What do you think “compensatory and fair” to the railways means in terms of the regulated interswitching rates, and what percentage of the commercial rate is compensatory and fair, in your opinion?

Ms. Fiona Cook: It's very hard to comment on rates, because most of that information is negotiated confidentially. I'm afraid I don't have an answer for that one.

Mrs. Kelly Block: Okay. Thank you.

[Translation]

The Vice-Chair (Mr. Luc Berthold): You have three minutes left.

Since some of the witnesses have travelled a great distance to attend this meeting, I suggest that we let a representative of each party ask one final question in conclusion. That would mean ending the meeting a bit earlier than scheduled, but it would give a representative of each party one or two minutes to ask a final question. Are the members of the committee in agreement?

Some hon. members: Agreed.

The Vice-Chair (Mr. Luc Berthold): That being the case, Mr. Badawey can begin and I will then turn it over to Mr. Aubin.

[English]

Mr. Vance Badawey: Thank you, Mr. Chairman.

Fiona, you never had a chance to respond with respect to the overall economic strategy. Of course, utilizing you folks is part of that economy, but infrastructure investments have to be made to be an enabler for you to actually participate more in that economy.

Ms. Fiona Cook: As you know, Canada suffers from low productivity growth. We are victims of our own natural land base and long distances, but we do need to have a transportation system that will allow us to compete. As an agri/agrifood industry, we're looking at feeding an extra two billion people by 2050. Canada has the natural capital and the innovative farming industry to do that, but we need to get those products to market.

As to the agency and its role, we just submitted comments to Transport Canada on the next transportation strategy. It's very important that the agency have an investigative capacity and be able to go out on their own accord when they see problems with the transportation system. Right now, the way it works, shippers have to go and make a formal complaint and go through the legal system.

Mr. Vance Badawey: That's what I'm driving at.

Ms. Fiona Cook: In the U.S., the Surface Transportation Board has more investigative authority and can act on its own.

Mr. Vance Badawey: We also have to be stewards of the overall strategy and therefore make recommendations that the strategy be invested in. That's what I'm driving at.

•(1045)

Ms. Fiona Cook: Perhaps we need to work with one of the economic departments as well.

Mr. Vance Badawey: Right.

Great. Thank you.

Thank you, Mr. Chairman.

[Translation]

The Vice-Chair (Mr. Luc Berthold): Thank you very much.

You have the floor, Mr. Aubin.

Mr. Robert Aubin: Thank you, Mr. Chair.

I think we have realized the effectiveness of the 160 km distance in these negotiations. Without this provision, the rail companies would have a near monopoly.

Do you have other suggestions to make for more equitable negotiations between the rail companies and the farmers you represent?

Mr. Jean-Marc Ruest: We suggested that we might be able to or have the right to negotiate service agreements directly with the rail companies, agreements that include aspects of mutual financial accountability when the negotiated obligations are not met. Under the current act, we can take part in these negotiations, except the adjudicator cannot impose financial penalties in the case of obligations that are not met. That is where the problem lies.

The agreements should be valid for a longer term. The negotiation process to produce the agreements is complex and I think for them to expire at the end of one year is too short a period.

[English]

Mr. Humphrey Banack: We agree. We support a solid service-level agreement process from the shippers and our grain companies. We need to manage the guys dealing directly with the railroads. Because of their small volumes, our short lines have a real challenge to come up with good service-level agreements. Right now, it's a one-way street with penalties and payments. The terminals in our area get their cars, and if they don't load them and have them cleared in 24 hours, they lose their bulk shipper rate. Those cars may sit there for three days afterwards. A company may have gone through a lot of work and time and cost to make sure they get that 24-hour load. But there's no penalty if the railroads don't come through. If they say they're bringing you cars on Wednesday, and they don't show up until Friday, there are no penalties back to railroads for that poor service. That's critical. It costs the grain-handling system dollars, and ultimately it costs me dollars as a producer.

[Translation]

Mr. Robert Aubin: Thank you.

The Vice-Chair (Mr. Luc Berthold): Thank you very much.

Mrs. Block, you have the floor.

[English]

Mrs. Kelly Block: Thank you very much.

I want to follow up on the conversation that we had about rates. I recognize that both you and the agency said that there is no data available because those rates are proprietary. I think it's interesting, though, that Emerson actually addresses this in his report. There's a recommendation around the methodology that the agency uses when setting its rates. It's interesting to me that nobody really has an opinion on the difference between the commercial rate and what the agency is setting.

I will ask you to comment on the further recommendation that the agency be permitted to set interswitching rates annually to better reflect actual costs, and not only when the regulations are reviewed and published. What are your thoughts on that recommendation?

Mr. Jean-Marc Ruest: On the first part with respect to nobody having opinions on it, I'd like to clarify. I don't have an opinion because I'm not the person who knows the differential. There may be people with an organization or company, etc., who do have that knowledge, but I don't personally.

With respect to the agency setting the rates on an annual basis, I think that is valuable because of the volatility of costs, etc. We're not working in a static environment, things do change, and I think that ought to be taken into account so that all players are competitive. For the railways, the cost of their operations ought to be properly reflected, as with shipper costs. Having that done in a transparent, timely, regular fashion, I think is beneficial.

Ms. Fiona Cook: I would add that I think transparency is the key word here, whether it be rates, or the actual regulations and how they work, because they are quite complex. I think the more transparency you can get, the better for the market.

Mr. Humphrey Banack: Truthfully, I think that everyone within this grain value chain here realizes that there needs to be a profit.

If the rates are set when legislation is put in and then the costs go up and railways are losing money moving that grain, that's a challenge to us. We can't have any part of the chain in a negative position because it will break the chain. To have those rates set, whether annually or biannually—at a regular time—I think is very important to making sure that no part of the chain is left in a weak position.

• (1050)

Mrs. Kelly Block: Thank you.

I have one final question.

Do you support maintaining the revenue cap?

Ms. Fiona Cook: Yes, we do for now, until the service issues are addressed.

Mr. Humphrey Banack: We look at the revenue entitlement; it's what they can charge us to move grain. It isn't a cap. It's based upon

volumes moved per year and volume miles moved per year. It's not truly a cap on revenue; it's an entitlement they have to move the grain that we produce to export position. We support that fully into the future, and we would push for a costing review to see that the revenue entitlement is at the level it needs to be to be fair to both sides of this equation.

Mrs. Kelly Block: Thank you.

[*Translation*]

The Vice-Chair (Mr. Luc Berthold): Mr. Iacono, you have time for a final, brief question.

[*English*]

Mr. Angelo Iacono: Do U.S. rail companies allow Canadian rail companies access to their rail lines using interswitching, and what are the rules regulating this?

Mr. Jean-Marc Ruest: I don't know what the rules are in the United States.

I know that the Canadian carriers do carry railcars into the U.S., but I don't know the extent to which they do it over their own rail lines versus other peoples' rail lines. There is interswitching that occurs, but I don't know the process by which that works.

[*Translation*]

The Vice-Chair (Mr. Luc Berthold): Thank you.

Many thanks to the witnesses for being here today and for answering the committee members' questions.

Thank you very much, Mr. Banack, for making this sacrifice and interrupting your harvest to come join us today. We know how important it is for you to be there at this time of the year.

I would like to thank my colleagues very much for their valuable input. It was a good meeting. The study will continue at a later date.

The meeting is adjourned.

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