

IMPROVING BILL C-33 TO ENHANCE SAFETY AND EFFICIENCY

A submission to the House Standing Committee on Transport, Infrastructure and Communities

OVERVIEW

The Railway Association of Canada (“**RAC**”) submits this brief to the House of Commons Standing Committee on Transport, Infrastructure and Communities in support of its study of Bill C-33, the *Strengthening the Port System and Railway Safety in Canada Act* (“**Bill C-33**”).¹

Canada’s railways provide world-class, safe, reliable, and cost-effective service. Rail is the greenest way to move people and goods by land. Despite a global pandemic, extreme weather events, and geo-political challenges, railways have continued to deliver for Canadians.

Consultation with all relevant parties is an essential part of the policymaking process. While railways participated in Transport Canada’s *Railway Safety Act Review* (launched 2017) and Port Modernization Review (launched 2018), there was no consultation on the specific policy proposals in Bill C-33. This lack of consultation was similar during the National Supply Chain Task Force process whereby flawed recommendations were made on many policy subjects without consulting railways.

Policies and regulations overlaid onto complex supply chains must be grounded in facts and aimed at solving well-defined problems. As with the Task Force report, it is unclear in parts of Bill C-33 what problems correspond to proposed “solutions” or what evidence supports legislative changes.

While there are some helpful provisions in Bill C-33, important changes are needed to improve the Bill to enhance safety and efficiency. These are categorized for easy reference below.

RAC RECOMMENDED CHANGES

1. Section 101(2) of *Canada Marine Act*: **Amend the port governance provisions of Bill C-33 to insist on demonstrated experience and capacity in appropriate disciplines (through designated qualifications and user group representation).**

As drafted, Bill C-33 is a missed opportunity to improve port governance by not insisting on demonstrated experience and capacity in appropriate disciplines. Changes to port governance are necessary to mandate that these important roles be filled by individuals with extensive, proven global supply chain and logistics experience. There are requirements in other modes of transport for specific qualifications, like in the aviation sector for example.

Canada is a trading nation that needs world-class ports. Human talent is a fundamental component of supply chain success. RAC recommends that board appointments be based on relevant subject matter expertise and industry experience. This should include, for example, supply chain operators and those with commercial experience gained at terminals, managing railways, or as port customers. NAV Canada has prescribed user-group representation on its board and requires subject matter expertise in its by-laws. This may be a model to consider. The chair of the board should be selected by the board.

2. **Amend Bill C-33 to separate the definitions of “safety” and “security” so that the respective requirements only apply where appropriate within the *Railway Safety Act*.**

Security programs are designed to prevent intentional acts by individuals seeking to do harm or damage. By necessity, measures implemented to address security risks are different than those for safety, and information about them is much more restricted to maintain their effectiveness. Safety requirements already in place were developed to address specific safety risks.

Applying all safety requirements to security without assessing the individual impacts is likely to result in requirements that cannot be met (or conflict), impacts to railway service without benefit, and/or diminish the strength of existing security programs. The definitions must therefore reflect the distinctiveness of security and safety activities.

POLICY CHANGES SUPPORTED BY RAC

1. Creating a new, specific authority under the *Railway Safety Act* to prohibit these activities could help bolster safety and avoid disruptions to supply chains in the event of blockades:
 - a) Interference with railways (adds to Right of Way prohibition)
 - b) Behaviour endangering safety of station, equipment, or individuals.
2. Giving the Minister the option to renew exemptions without triggering a new application reduces administrative burdens which are already significant.
3. Declaring terminals in ports to be in the “general advantage of Canada” provides constitutional clarity and could accelerate projects while enabling TC to require terminals to share information aimed at increasing efficiencies.

VESSEL TRAFFIC MANAGEMENT: IMPLEMENTATION IS KEY

1. *Canada Marine Act*: Proposed changes to clarify the ability of Canadian port authorities to govern traffic management must improve efficiency and throughput. Ports must closely consult with rail, port terminal operators, and others throughout this process. There is a real risk of getting this wrong, which would have major implications for supply chains. Railways would be pleased to further discuss these changes with Transport Canada and others to strengthen the likelihood of positive impacts on Canada’s supply chains.

STRENGTHENING CANADA’S SUPPLY CHAINS

The RAC encourages the Committee to focus – beyond the issues addressed in this brief – on tangible actions to improve supply chain efficiency and capacity.

The Committee should urge the federal government to find a solution in collaboration with the Port of Vancouver and other stakeholders enabling grain to be loaded onto vessels in the rain at port. Vancouver port terminals do not load grain in the rain in a city where it rains 165 days per year on average. While railways set records for grain movement, trains get stuck at port because their grain cannot be loaded onto vessels in inclement weather – creating backlogs. Structures could be created where grain can be safely loaded out of the rain at port. Similar ports, like Prince Rupert to the north and Seattle to the south, are moving grain in the rain.

Port dwell times increased throughout the pandemic. In 2022, average rail terminal dwell times remained stable at below eight hours. Port dwell times averaged 157 hours in 2022. Railways welcome collaboration and federal leadership in reducing marine dwell times, including advancing projects or initiatives to increase trade capacity. Declaring port terminals to be in the “general advantage of Canada” via Bill C-33 is a positive step.

Parliament should immediately repeal extended regulated interswitching. Extended interswitching allows U.S. railways to solicit Canadian traffic without reciprocity for Canadian railways. It puts unionized Canadian jobs and investment at risk, introduces inefficiencies, adds costs, increases emissions, and reduces capacity. Please see [RAC’s submission to the House of Commons Standing Committee on Finance](#) for more details.²

CONCLUSION

Canada's railways urge the Committee to ensure the recommendations raised here are reflected in Bill C-33. Detailed study and consultations are needed to improve Bill C-33 to meet its objectives.

For every railway and every railroader, safety is priority number one. Rail is the safest mode of transport over land. Canada's railways are industry leaders in North America and among the safest in the world. Canadian Class 1 railways have a lower average accident frequency rate than U.S. Class 1 railways and continue to improve.³

Canada's railways have invested more than \$20 billion over the past decade back into the 43,000 km Canadian rail network. These investments include innovative, safety-enhancing technologies like wayside detectors, predictive analytics, track geometrics, machine visioning, and more. They also include capacity-enhancing investments like a combined \$1 billion investment by CN and CPKC in new, high-capacity hopper cars that helped achieve record grain transportation last crop year.

It is critical that Canadian transportation policy foster a supportive environment that allows for proven innovation and private investments to augment safety and increase supply chain efficiency, capacity, and throughput.

Sincerely,



Marc Brazeau

President

Railway Association of Canada

ABOUT RAC

The Railway Association of Canada (“**RAC**”) represents close to 60 freight and passenger railway companies. The RAC also counts a growing number of industrial railways and railway supply companies in its associate membership. As part of the fifth largest rail network in the world, RAC members are the backbone of Canada’s transportation system.

ANNEX A: ADDITIONAL RAC RECOMMENDATIONS FOR CONSIDERATION

3. Section 19(5) of *Railway Safety Act*: **Amend Bill C-33 to reverse the broadening of ministerial consultations during rulemaking to potentially non-relevant parties or, at the very least, define “relevant party.”**

Railway safety rules are developed collaboratively by industry and government, in consultation with labour and other parties with rail safety expertise. Rules must be approved by Transport Canada. They are complementary to – not a replacement of – the myriad of regulations governing rail safety as well as Safety Management Systems. The rulemaking process is intended to allow for safety-enhancing innovation and to consider the complexity of rail operations. Opening ministerial consultation to “any other relevant party” (outside those with rail safety expertise) could slow down the timeline for approving industry rule revisions that may be required to bolster safety. It is unclear what level of detail on a proposed rule would be shared with third parties. Given that proposed rules sometimes change substantially before being approved, there is a risk of slower rules approval delaying safety improvements.

4. Section 6.2(4) of *Canada Transportation Act*: **Urge the government to clarify the intent of the electronic systems provision of Bill C-33 and create a framework for the remotely conducted inspections it enables.**

The use of electronic systems will enable remote inspections and likely increase their numbers and frequencies. The government’s intent for this change is unclear. A comprehensive framework for remote inspections is needed. Railway operations are routinely and vigorously inspected by Transport Canada inspectors. This is an important oversight function. Inspections must verify safe practices, support innovation, and avoid unnecessary disruptions to vital rail operations.

ANNEX B: CLARITY ON GOVERNMENT INTENT REQUIRED

1. *Canada Marine Act*: Changes concerning inland port activities, security clearances, and advisory committees, among others, require clarity.

¹ Online: <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-33/first-reading>.

² Online: https://www.railcan.ca/wp-content/uploads/2023/05/RAC-Submission_FINA_April-27-2023_FINAL.pdf

³ Based on U.S. Federal Railroad Administration train accident rate.