CLWG Submission to the CTA Review

On February 19, 2015, the Honourable Gerry Ritz, Minister of Agriculture and Agri-Food, announced a renewed mandate for the Crop Logistics Working Group (CLWG). The CLWG brings together agriculture sector experts to provide advice on how to improve the grain handling and transportation system. The CLWG is chaired by Mr. Murdoch MacKay, and includes representation from across the agriculture sector[1].

One of the outcomes of the CLWG is to support agriculture sector input to the *Canada Transportation Act* (CTA) review. Individually, CLWG members have submitted recommendations to the CTA review panel directly from their organizations, and in some cases as part of broader industry coalitions. This submission reflects the recommendations that demonstrate a consensus among CLWG members and highlights the issues perceived to be of greatest importance for the grain supply chain moving forward.

Overarching Policy Position

The market for rail service in western Canada faces structural challenges that provide the Class 1 rail companies an effective natural monopoly. Geographical challenges and the significant investment required to build a rail line have resulted in a western Canadian rail system where most shippers are served by only one carrier. This reality renders most shippers captive to one rail company and subject to pricing and service strategies that are characteristic of monopolistic behaviour. It is not possible to create effective competition among rail service providers within the current structure. It is therefore important to focus on regulatory actions that protect shippers from the effects of this market failure.

As an overarching recognition that shippers are the economic drivers of Canada's prosperity, rather than rail companies, it is recommended that Section 5 of the CTA begin with the phrase "It is declared that it is in Canada's national economic security interests that a competitive, economic and efficient…" This will highlight the importance of structuring the rail system to meet the economic needs of western Canada, including the needs of the grain sector. It will also ensure that the provisions of the CTA are interpreted in a way that considers the impacts of rail service on the country's economic health.

Targeted Recommendations

CLWG members agree upon eight categories of recommendations that, if implemented, will enhance the efficiency and effectiveness of the grain supply chain and provide enhanced protection for shippers from monopolistic behaviour by the Class 1 rail companies. These recommendations are:

1. Enhance Transparency in the Rail Market
2. Enhance CTA Provisions and Processes Related to Commercial Contracts
3. Enhanced Powers of the Agency
4. Continued Assessment of Grain Movement Volume
5. Enhanced Competitive Tools
6. Expand Agency Involvement in the Rail Line Discontinuance Process
7. Expansion of Crops Listed in Schedule II to the CTA
8. Increased Protection and Support for Producer Car and Other Small Shippers

[1] The CLWG consists of 18 members. The members are listed in Annex A.

The context and rationale for these recommendations are outlined below.

In addition, members wish to express their support for maintaining the maximum revenue entitlement for the Class 1 rail companies. The CLWG is examining this issue further and the resulting analysis will be presented under separate cover.

1. Enhance Transparency in the Rail Market

The relative lack of rail service data is a pervasive issue impacting the efficiency of both the grain supply chain and the mechanisms established to help alleviate service level concerns. Supply chain stakeholders and government are not able to identify supply chain bottlenecks and therefore are not able to adjust their operations or respond in a manner that would reduce pressure on the supply chain while it recovers. In particular, members believe that the lack of visibility regarding rail service, especially at an individual shipper or corridor level, effectively mitigates the ability of shippers to counter rail companies' market power through mechanisms such as service level agreements (SLAs) or level of service complaints. Since rail companies hold significantly more information about rail service, shippers have difficulty proving that the service they receive violates their SLA or could be deemed not to be "adequate and suitable" as required by the CTA.

The lack of transparency in the rail market, and the imbalance of information access, also generally affects the ability of shippers and other grain supply chain stakeholders to deliver on customer demands effectively. The level and unpredictability of rail service creates difficulties for shippers in providing customers concrete commitments on product arrival. This can negatively impact the grain sector, as restricted marketing opportunities result in lower returns for the end product.

Improvements to data would provide government and industry with a solid foundation to monitor supply chain performance and proactively manage future challenges so that Canada can enhance our reputation as a reliable supplier and grow the economy. It would also support industry efforts to collectively identify challenges and work collaboratively to develop long term solutions that promote economic growth and competitiveness.

Given the impact of restricted information availability for all supply chain stakeholders, it is recommended that actions be taken to enhance the level of transparency in rail service. This could be achieved through improved information collection and reporting by the Canadian Transportation Agency (the Agency) and third parties performing monitoring on behalf of the Government. In particular, it is proposed that publicly available information be expanded to include additional metrics and information.

CLWG members are pleased to see the initial weekly and monthly reports from the Grain Monitoring Program. However, not all data is being produced by the rail companies in a way that provides the accuracy necessary for industry to address fundamental supply chain issues. One area of concern is car order fulfillment by corridor, which includes the following information: rail cars ordered; rail cars planned by rail companies; rail cars supplied by rail companies; rail cars cancelled, denied or shortfalled; dwell time at origination and destination; and constructive placement of cars at destination.

CLWG members recognize that within car order fulfillment, the rail car demand presented by the rail companies is restricted and represents orders accepted rather than market demand. The rail companies consider accepted car orders as a measure of demand, but this measure does not consider orders that are

not allowed by rail company car order systems as a result of changes to the systems, or orders that are rejected for other reasons. The new car order systems restrict orders at any location to a maximum of two (2) weeks for Canadian National (CN) and four (4) weeks for Canadian Pacific (CP). This results in a possible fixed maximum number of orders to be in their systems and does not recognize that companies have additional requirements for orders which they cannot enter into their car order systems. An accurate measure of shipper demand would consider all cars that shippers demand, unconstrained by car order systems.

CLWG members request that the Government encourage CN and CP to accurately report car order fulfillment data in a way that is reflective of all railcars ordered by shippers, and is not artificially restricted by the individual railways' car ordering programs. If the rail companies are unwilling to amend their methodology to reflect true demand and to provide this data voluntarily, it is encouraged that the Government amend current transportation information regulations to compel provision of the data required and at a level of detail sufficient to allow for the establishment of adequate measures.

Other information that is required includes producer car-specific order fulfillment; railway costing inputs; commodity and destination specific data; and car cycle times. It is also desired that the timeliness of available information be improved, as information published months or years after it is measured is less useful to stakeholders. Members support making necessary legislative and regulatory amendments requiring the timely provision of necessary information. In combination with the railway data as described above, grain companies are prepared to provide inland loading and port unloading performance data.

In order to improve identification of market demand, it is recommended that a process and methodology be established to allow key stakeholders to report on, and collectively determine, capacity and demand forecasts. A possible approach would be to allow for the creation of a committee of the Agency, similar to the committees established by the U.S. Surface Transportation Board. The committee would bring together stakeholders throughout the grain supply chain. This would allow for better collective identification of forecasted shipper demand and could result in the creation of multi-year forecasts that would assist cooperation between shippers and rail companies towards the servicing of demand. It would also allow for the creation of consistent, credible forecasting of shipper demand that could be used to determine the level of car order fulfillment by rail companies.

The CLWG has also prepared input regarding short term and long term recommendations for the Grain Monitoring Program (GMP). The short term analysis was prepared in response to the review of the GMP conducted by Transport Canada and Agriculture and Agri-Food Canada. The long term analysis presents key considerations identified by CLWG members for future grain sector monitoring. This input is provided under separate cover.

2. Enhance Level of Service Provisions and Process

Adequate and Suitable Accommodation

The National Transportation Policy in section 5 of the CTA and the Agency's decision in the Louis Dreyfus case in 2014 make it clear that it is the financial health of shippers and receivers that is protected by sections 113 to 115 of the CTA and that rail service must accommodate the growth of business and not

impose a constraint upon it. The rail service obligations as currently established in sections 113 and 114 of the CTA require rail companies to furnish "adequate and suitable accommodation" for traffic offered for carriage and to move the traffic "without delay, and with due care and diligence." At present, the wording of the sections governing rail service obligations do not by themselves provide guidance as to how "adequate and suitable" service levels should be established. It is critical that the obligations of rail companies to establish service levels which satisfy shippers' commercial requirements are more clearly identified in this section of the Act, with the base rail service obligations set at 100 percent of demand.

However, while the Louis Dreyfus case decision provided a clear and helpful framework for the determination of rail service requirements, previous Agency and court decisions have not always been as favourable to shippers, nor provided such clear guidance.

In our view, it should be made clear that the definition of "adequate and suitable accommodation" is as interpreted by the Agency in its decision as embodied in the Louis Dreyfus decision. The Agency's interpretation can be captured by making the following amendment;

> *"115 (2) For the purposes of section 113 and 114, a railway company shall fulfill its service obligations in a manner that meets the rail transportation needs of the shipper."*

Rail Service Level Arbitration

Rail tariffs impose a wide variety of conditions upon shippers, related to the movement of traffic. In addition to the freight charges assessed by railways, additional terms and charges are applied governing the way in which shippers must provide shipment information and order empty rail cars, and conditions are also applied to the time allowed to shippers to load and unload rail cars.

Rail companies apply charges to shippers who fail to meet the conditions established in tariffs, however rail companies are not subject to any charges for their failure to supply cars or move traffic against a similar set of conditions as those which are imposed on shippers.

Bill C-52 provided for rail service level arbitration by the Canada Transportation Agency. However, the current process as provided for in the Act does not allow a shipper to include financial consequences for non-performance in the terms submitted for arbitration.

In a free market, a supplier who fails to meet commitments or refuses to make commitments loses the business. No such market discipline exists for rail companies. Provisions to allow for penalties or liquidated damages to be assessed to rail companies are intended to simulate the result that the market would otherwise provide; that is, impose a consequence for failing to meet or make commitments. Therefore, amendments are needed that provide for financial consequences for non-performance in SLAs.

In addition, the requirement that the rail company's obligations to other shippers and persons be considered by an arbitrator in determining its decision in a service level arbitration should be removed. There are two primary reasons for this. Firstly, the provision puts the shipper at a distinct disadvantage in arbitration and requires the shipper to engage experts and incur additional costs to argue on this matter, from that disadvantageous position. Secondly, and more importantly, this matter should be irrelevant to an arbitrator's decision, as was clearly established in the recent cases involving Louis Dreyfus, Viterra, and Richardson.

Finally, the recently published *Regulations on Operational Terms for Rail Level of Services Arbitration* includes a long list of circumstances that might excuse a rail company from its service level obligations under a service agreement. This list includes many matters that are under railway control. A better, simpler and less ambiguous way to deal with such matters is through the use of a standard force majeure clause, which allows a party to an agreement to not be held to their obligations in an agreement for matters which are beyond their control. A force majeure clause approach would also obligate the party to take reasonable measures to exercise due diligence to both prevent circumstances that might cause them to fail and to deal expeditiously with any such circumstances if they occur. The CLWG supports as broad and encompassing an approach as possible to defining "operational terms" in SLAs, as provided for in the *Regulations on Operational Terms for Rail Level of Services Arbitration*.

We are of the view that this definition should remain in place permanently, and not expire in 2016. We are also of the view that "commercial terms" or some other such addition that includes both financial consequences and a dispute resolution process, needs to be included along with operational terms as eligible for arbitration.

Level of Service complaints

A number of grain shippers have recently used the Level of Service complaint process. While the timelines for shippers and railways are identified, the timelines for the Agency to render decisions are not specified. Grain shippers who used the process have experienced lengthy periods of time for Agency decisions to be rendered. In two recent situations, on subject matters that were narrow in scope, the final decisions from the Agency were made almost a full year from the initial complaint.

The value of a favourable decision is mainly in the correction of the behaviour that resulted in the poor service in the first place. Therefore, the value diminishes with time, meaning that the longer it takes for a decision to be provided, the less relevant or applicable the decision is to future service levels. The CLWG is of the view that the Agency must be allocated proper resources to provide Level of Service decisions within some reasonable time parameters.

The current powers of the Agency under Section 116 do not allow the Agency to award damages to a shipper in cases where a rail company has not fulfilled their service obligations. The Act should be amended to permit the Agency to award damages upon finding a breach of the level of service obligation. Damages should compensate a person for all losses that flow from a breach not just out-of-pocket expenses.

On August 1, 2014 the provisions of Bill C-30, amending both the Canada Grain Act and the Canada Transportation Act, came into effect. The Canada Grain Act amendments were permanent (producer penalties required in grain company contracts), while the Canada Transportation Act amendments expire on July 31, 2016.

Bill C-30 included a provision which would allow the Canadian Transportation Agency the ability to order a railway company to compensate any person adversely affected for any expenses they incurred as a result of the railway company's failure to fulfill its service obligations. This amendment was made in section 116 of the Canada Transportation Act, and therefore only applies to Level of Service complaints. It does not apply to a railway's failure to adhere to the terms of a Service Level Agreement. In addition,

the term “expenses” may include items such as added labour costs, the legal community understands and operates on the term “damages.”

The CLWG supports the retention of the above clause, and the word “expenses” should be changed to “damages.” The Agency should also be allowed to make this award not only regarding a decision from a Level of Service complaint, but also pertaining to a railway company’s failure to adhere to the terms of a Service Level Agreement.

Final Offer Arbitration

Although the Final Offer Arbitration process can work and may provide an incentive to reach a negotiated agreement, it can be very costly and cumbersome, particularly for small shippers. To make the process more efficient, transparent and accessible, it is recommended that alternative dispute resolution options or voluntary mediation services that might resolve disputes more effectively or fairly are considered. This could include establishing multi-party Final Offer Arbitration, which incorporates the principles of full confidentiality and commonality of issues. In addition, rail companies should be prevented from raising items in Final Offer Arbitration other than those raised in the shipper’s submission.

3. Enhanced Powers of the Agency

Currently, the Agency carries out investigations pursuant to complaints filed by shippers or other stakeholders. Where the Agency sees trends in service failures, it would be useful for the Agency to have the authority to undertake investigations on its own initiative. The Agency is in the best position to recognize such trends and shippers may be reluctant to bring complaints forward for fear of retaliation and because of the costs and uncertainty of outcome.

Allowing the Agency to independently address rail service issues would facilitate greater investigative efficiency by utilizing the Agency’s general knowledge of rail service issues, rather than relying on each shipper to generate evidence in support of a complaint. Agency initiated investigations would also reduce the fear of repercussion, and allow the Agency to address service issues before they have a substantive impact on the sector or economy. This new authority would be supplemented with an authority for the Agency to impose measures to remedy identified rail service issues.

To support this recommendation, it is further suggested that the Agency be provided with the resources to carry out an expanded mandate. The Agency would also require the regulatory backing to permit it to require provision of all necessary data, and publicly release relevant information to ensure their investigatory role remains open and transparent. To provide general support for the identification of rail service issues, it is also recommended that rail companies be required to provide annually to the Agency an inventory of power, crews and cars that are operational or available on short notice, and contingency plans for cold weather events and cyclical surge capacity requirements. The Agency must have the personnel and funding necessary to carry out ongoing monitoring of rail issues, which it currently does not have the capacity to do.

Part of the Agency’s investigatory role could be carried out in part by the formation of a committee of the Agency focusing on grain transportation issues, which could be similar in nature to the committee referenced under recommendation 1.

The Agency should also take a direct role in the regulation of ancillary charges applied by rail companies. Shippers have little ability to negotiate ancillary charge rates, and unlike the rates charged directly for traffic movement, are not regulated under the CTA. The Agency is in the best position to ensure these charges are applied fairly.

It is recommended that, upon application of a shipper, the Agency be allowed to review all freight tariff charges and conditions, including those applying to only one shipper. To aid in the identification of inappropriate charges by shippers and the Agency, rail companies should be required to publicly disclose ancillary charges applied outside of confidential contracts, and to conduct a review of billing systems to ensure accurate invoicing.

4. Continued Assessment of Grain Movement Volume

Shippers are becoming increasingly concerned about the level to which shipper demand is being met. Actions by rail companies to encourage shippers to conduct their business in a way that results in efficiency gains for the rail companies have left certain shippers with infrequent and unpredictable service. This is particularly true in years of high crop volume, and has an especially profound effect on small shippers, producer car shippers, shippers located away from the main lines, and other shippers who the rail companies deem to be inefficient.

Industry has heard from our customers that recent transportation challenges have resulted in negative impacts to Canada's reputation as a reliable shipper of quality grains, oilseeds, and pulses. There is a need for the entire sector to ensure that the challenges with grain shipments do not happen again. The negative impacts on Canada's reputation would be very detrimental. Going forward, rail service should be adequate and suitable to meet the requirements of all shippers.

While the Order in Council (OIC) establishing minimum volumes of grain to be transported by the Class 1 rail companies was an important step to alleviate the backlog following the large harvest of 2013, it had some unintended consequences as a result of the railways' operational plans to meet the requirements of the OIC. The railways chose to ship to destinations that handle high volume shipments (western ports – Vancouver, Prince Rupert, and Thunder Bay when it is open) and quick cycle times to meet their minimum volume requirements.

One commodity that faced challenges related to minimum volume requirements was oats. Along with other crops, Canadian oats were produced in record numbers in 2013/14. Unlike others, however, the level of oat exports fell not only below expected levels, but against the 5 year average. While other crops still faced challenges moving, oat movement came to a near-standstill. January 1 to February 16, of 2014 saw only 86,000 tonnes of oats exported, compared with 161,300 tonnes from the same period of 2013. This led to American oat customers turning to Sweden and Australia for supplies. Canadian farmers had to turn elsewhere, and oat exports to the United States by truck went up 69%, adding strain to an already overworked system. The lingering effects of the crisis have mostly worn off, and oat movement through Week 34 of 2014-15 is up slightly against the 5 year average. However the American corridor remains underserved. According to the Ag Transport Coalition, nearly every other corridor has seen over 90% of their 2014-15 orders fulfilled (excluding Vancouver Transload). However, the USA/Mexico corridor has only had 78% of orders fulfilled.

Another crop affected by the requirements of the OIC was flax. In 2013-14 the U.S. had emerged as Canada's second largest importer of flaxseed, taking 28% of total shipments, a trend that was expected to

continue. Growth in the U.S. market was placed in very serious jeopardy last year when rail cars were cut back in the north-south corridor, placing U.S. flaxseed users at risk of dealing with no Canadian supplies. As a result, the one important U.S. customer was forced to import a full cargo of 25,000 tonnes of flax from Kazakhstan last October. This required flaxseed to be shipped via Russia where it was loaded on vessel and moved to New Orleans. The flaxseed was then barged up the Mississippi to their plant just South of Minneapolis. Not only was this a serious blow to Canada's reputation as a reliable shipper but producers could risk losing the U.S. market entirely if adjustments are not made to better accommodate access to this crucial nearby market.

The Government recently decided not to renew the OIC. While this removes the additional incentive for the rail companies to boost volumes by shipping from points close to large ports, rail companies continue to favour providing service to more efficient, and more conveniently located, shippers. To help alleviate this challenge, it is recommended that steps be taken to ensure that rail companies provide service and capacity levels in all corridors that is adequate to meet current and future demand. This includes requiring the rail companies to provide the necessary information to ensure that transparent monitoring occurs, and monitoring performance by corridor to assess whether rail companies are meeting the needs of shippers.

In preparation for the case where rail company performance be determined to be inadequate, a mechanism that allows for the reinstatement of minimum volume requirements must be retained. To this end, it is recommended that the amendment to the CTA in the *Fair Rail for Grain Farmers Act* allowing for minimum volume requirements to be imposed through an OIC be maintained. Furthermore, it is also recommended that any use of this authority is supported by penalties that are sufficient to provide adequate incentive for the rail companies to take action. Any reinstated minimum volume requirements must also be established by corridor, and for all commodities on all rail lines. A return to general minimum volume requirements, without a more granular level of specificity could serve to recreate the unintended consequences noted above.

5. Enhanced Competitive Tools

Various tools in the CTA exist as protections for shippers against the abuse of market power by rail companies. These include interswitching, running rights, and competitive line rates (CLRs), among others. Unfortunately, these tools would not effectively simulate competition if restrictions on their use were removed. In fact, negative collateral impacts on rail infrastructure and transportation efficiency are possible if their use is significantly expanded. A truly competitive market for rail service, or one where the existing service providers consistently and adequately provide service would be preferred to a major expansion of these mechanisms. Unfortunately, a truly competitive market is not realistic in the short term, and therefore these tools are important for shippers to use as backstops in negotiations with the Class 1 rail companies.

Interswitching is an effective competitive tool in that it prevents rail companies from holding captive shippers who are close to a competing rail line. However, there are a number of barriers that make the use of interswitching difficult, including:

- Shippers are often too far from a competing line to make use of this tool
- Rail companies rarely transport cars being interswitched from a competing line unless they have no cars on their own line to transport

- The physical infrastructure at interswitching points is often not sufficient to hold the larger car blocks that might entice better service by a competing rail company
- Rail companies have discontinued interswitching points when a facility with the capability to increase traffic on the competing line is built
- The responsibility for capital investment to improve interswitching capacity is not clear, as rail companies are reluctant to spend money for the benefit of a competitor

To enhance the applicability of interswitching it is recommended that the 160 kilometre limit for interswitching distances, as enabled by Bill C-30, be made permanent. Other suggestions to enhance the effectiveness of interswitching include: ensure physical switches are operational, and clarify who is responsible for crew maintenance and siding scheduling; require publicly available information on interchange sizes; define minimum levels of service, particularly regarding service timing; have the Agency create a resource to facilitate negotiation of interswitching agreements; and require rail companies to list and notify proposed interchange closures while empowering the Agency to review and approve closures.

Another recommendation to improve competition in the market for rail service is to empower shortline railways to operate trains and solicit traffic in situations where the Class 1 rail companies cannot efficiently provide service. These situations would include providing short haul service between the shortline and an interswitch point, where the shortline is not currently allowed to solicit traffic from the shipper since the shipper is located on a Class 1 rail line. In cases like this, the Class 1 rail company would have to commit capacity and resources to providing service to a shipper who only needs to move their product to an interswitching point. The shortline is often better equipped to provide this service due to lower logistical pressures on their capacity, and fewer shippers competing for their service. In general, the only barrier to shortlines being able to solicit traffic on Class 1 rail lines should be the operational and financial fitness of the shortline, not regulatory constraints or one-sided agreements with the Class 1 rail companies.

6. Expand Agency Involvement in the Rail Line Discontinuance Process

The discontinuance of rail lines by Class 1 rail companies has significant economic impacts that extend throughout the economy. Not only are shippers on those lines left without rail service, but producers now have more limited options for delivering grain, the communities along the lines lose economic activity, and economic activity begins to center around the main lines. Unfortunately, discontinuance is not always conducted in a fair and transparent manner. Some rail lines face *de facto* abandonment through ceased service rather than the prescribed discontinuance process, when the Class 1 rail company abruptly stops serving the line, temporarily or permanently. This challenge puts the health of the western Canadian economy at risk, and shippers and producers suffer particular damage.

It is recommended that the Agency be permitted to investigate cases of rail line abandonment. It is also recommended that the Agency be permitted to intervene in the discontinuance process to ensure that prospective buyers are given the proper opportunity to preserve the infrastructure and ensure continued service. Allowing the Agency to become more involved in the process will ensure that, at a minimum, the existing process is followed, as well as promoting full consideration of economic impacts and assessment of options to maintain use of the rail line.

Recommended details regarding how to implement this increased involvement include: allow the Agency to request an outline for soliciting business from a rail company and commence the discontinuance process if it fails; allow the Agency to proactively investigate *de facto* abandonment strategies by rail companies that preclude preservation opportunities, and compel rail companies to take steps to provide these opportunities; allow the Agency to proactively investigate whether a rail company has genuine interest if other buyers have expressed interest and have the line put up for sale if no genuine interest exists; and allow the Agency to monitor rail line sales agreements to ensure no misuse of market power.

7. Expansion of Crops Listed in Schedule II to the CTA

The crop mix in western Canada undergoes continuous evolution as genetic and technological advancements allow for a wider range of crops to be grown across the Prairies. Recently, production of crops such as soybeans and chickpeas has grown significantly. The crops listed in Schedule II to the CTA are regulated under the CTA. In particular, those crops are subject to the Maximum Revenue Entitlement, among other key regulatory effects. The crops listed in Schedule II reflect those crops grown extensively at the time Schedule II was implemented. Unfortunately, this list is out of date.

It is recommended that soybeans and chickpeas be added to the list of crops in Schedule II to ensure they have the same regulatory protection as other western Canadian crops. Furthermore, it is proposed that Schedule II be periodically reviewed to ensure that it captures all crops grown extensively in western Canada.

8. Increased Protection and Support for Producer Car and Other Small Shippers

Increasingly, small shippers, including producer car shippers, face difficulties in receiving adequate rail service when the grain industry is trending towards consolidation of infrastructure and handling and transportation efficiency. These shipping methods provide alternatives to the general grain handling and transportation system, and allow stakeholders to take advantage of a wider range of marketing opportunities. Without enhanced legislative and regulatory protections, these shippers will gradually receive less service until such point that they are no longer economical. More specifically, the continued ability to ship producer cars and for other small shippers to receive adequate service needs to be recognized and ensured.

While it is important to provide protection for these shippers, it is also important that they continue to take steps towards becoming more efficient, so that service provided to them does not unnecessarily burden the general efficiency of the system. Any amendments should be designed to support continued innovation, diversification and investment by small shippers.

It is recommended that the following specific actions are taken to help protect and support producer car and other small shippers: ensure capacity is closely linked to shipper demand; harmonize the producer car loading site closure process with the process for metropolitan rail sidings and spurs; provide both large and small shippers with better mechanisms for communication with rail companies; ensure cost-effective shipper protection provisions are available to all shippers, large and small; and empower the Agency to require that rail companies establish a network of producer car loading sites that service demand.

Annex A – List of CLWG Members

The CLWG is chaired by Mr. Murdoch MacKay, Canadian Grain Commission, and the following organizations participate as members:

- Ag Transport Coalition
- Agricultural Producers Association of Saskatchewan
- Barley Council of Canada
- Canadian Canola Growers Association
- Canadian National Millers Association
- Canadian Oilseed Processors Association
- Cereals Canada
- Flax Council of Canada
- Grain Growers of Canada
- Inland Terminal Association of Canada
- Keystone Agricultural Producers
- Manitoba Agriculture, Food and Rural Development
- Prairie Oat Growers Association
- Pulse Canada
- Saskatchewan Ministry of Agriculture
- Saskatchewan Shortline Railway Association
- Soy Canada
- Western Grain Elevator Association

The following organization participates as an observer:

- Alberta Agriculture and Forestry

The CLWG was assisted by the following organization, as a resource:

- Quorum