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Thursday, March 27, 2014

Chair

Mr. Larry Miller

Standing Committee on Transport, Infrastructure and Communities

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● (0845)

[*English*]

The Chair (Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC)): I call this meeting to order. We're finally back on track on our rail safety study.

A voice: No pun intended.

The Chair: No, there wasn't any pun intended.

I'd like to welcome and thank our witnesses for being here today, and with no further ado, we'll turn it over to National Steel Car for ten minutes, please.

Mr. Jamal Hematian (Vice-President, Product Engineering, National Steel Car Limited): Thank you, Mr. Chairman, and honourable members.

I will start with an introduction about us. I am Jamal Hematian, the VP of product engineering, and I have Max Vanderby with me. He's our director of production engineering. We run the engineering department of National Steel Car.

National Steel Car is the only railcar manufacturer in Canada. We are over 100 years old. We serve North America and some international markets. Our workforce is about 2,000 people and sometimes goes up to 2,400 people. We design and build freight cars: 12 different cars and 76 models. We have five flexible lines, and our maximum production capacity can go between 12,000 to 15,000 per year.

We are certified to AAR requirements and we are the only railcar manufacturer in North America certified for ISO. We have over 300 patents on different car designs and we spend about $5 million to $6 million on R and D projects every year.

In this slide you can see the variety of railcars we design and build, including tankers. This next slide is important because it shows our AAR certification. You can see in the table that it covers almost every type of railcar, including tankers. We are certified to design and build different tankers, repair them, or refurbish them.

The point about tankers is the rules and the governing bodies. It's very heavily regulated, and there are different organizations that have rules, and we have to obey them and to follow them. If you compare a tanker to another freight car, we don't have that much option of making decisions because everything is in the book and you go by the book.

I summarize major organizations and rules in this slide. There is an Association of American Railroads, which is AAR, and there are different manuals that I summarize over there. There are two important ones, if you take note of them. The third line is CPC-1232, Petition-1577. Also there are more rules from CFR and PHMSA that we have to obey and follow.

On top of that, there are Transport Canada, FRA, ASTM, AWS, and API. You can see that for tankers, it's very well organized and governed, and everybody has to play by the same rules. On top of that, it's well documented. NSC has a certification to design and build tankers. For every order, we have to make a package of drawings and we have to send it to EEC, which is an engineering equipment committee at AAR. They will review it and they give us a certificate for that order with that package. Even during the process if we want to change anything in there, we have to go back through the process and tell them what we want to change. They review it and they get back to us with yes or no. It's a very heavily regulated environment.

There are so many different types of tankers. In total, I think there are over 334,000 tankers in service, but that includes all different types of tankers. They categorize them based on the application of those tankers, on what service they do. They classify them as pressure, non-pressure, jacketed, non-jacketed, insulated, and non-insulated.

● (0850)

When we talk about DOT-111, we are talking about non-pressure tankers. Within this group, we again have subsections. We call them packing groups I, II, and III. What this means is that for the commodities you are moving with these tankers, what's the level of the potential for risk or danger with them? Group I is the highest. It is the most critical one. Group II is a little bit lower, and group III is much lower.

This next slide shows the DOT-111A100W1, which is general purpose, non-pressure, and good for groups I, II, and III. It addresses all of them. Crude oil and ethanol fall into the group I and II packing groups. The first one, at 31,800 gallons, is non-jacketed. The second and third ones are insulated and jacketed. There is another point to that, and we have to be careful. There are two things that we have to consider. We have jacketed with insulation, and we have thermal-protection jacketed. So on the insulation and the thermal protection, they are two different things, and you have to deal with them differently. The design is not so different, but they are two different animals, so we have to be careful with that.

At NSC, we design and build the first two right now. We have the approval to go ahead. We have shipped the first one—I think 25 or 30 tankers right now—and we are building both of them at the same time.

The next point I want to mention is very important. Again, we have all of these discussions about improvements and changes in design. For all of these tankers within DOT-111—I am focusing on this one and not going to any other tanks, because it's going to be endless—for crude oil and ethanol, we have two generations before 2011. They are called legacy cars. The code is HM-251. For this meeting, let's call them old cars.

In 2011, a new package came in to improve the design and make some changes, with about 80% of these changes being about the safety of these tankers, and they called that car CPC-1232. If you remember, when I was going through the rules I said to remember that CPC-1232 is the key. There were changes from legacy cars to these, which they called "good-faith cars". They called the CPC-1232 the good-faith car. So if you hear that, you can differentiate between them.

One major difference between legacy cars and good-faith cars is the gross rail load. When we talk about gross rail load, it means the car body, the truck or bogies and suspension, what you put inside, and how much it weighs all together. The legacy car was 263,000 pounds; we call it gross rail load.

● (0855)

That's fixed in those cars, just split it into two portions, car body and what you put there. What's the car body? We call it light weight. What you put there, we call lading or capacity. If you increase the light weight, you lose your capacity because the sum is fixed at 263,000. If you reduce light weight, you increase the capacity.

So, the legacy car is 263,000 pounds GRL and the new, good-faith car is 286,000. The gross rail load jumped from 263,000 to 286,000. Because of this jump, to increase the efficiency of the system, they had to review the design and determine what needed to be done to improve the car. At the same time, they looked at other incidents that happened with tank cars and put it all into one package. In a circular letter from the AAR regarding the CPC-1232, they said that going forward, we had to follow this. Nobody could design or build the old one.

The Chair: If I could just ask you to wrap up—

Mr. Jamal Hematian: That's it. We are here for the technical part. I have some slides in my presentation, if you are interested I can show you the differences between legacy cars and good-faith cars. If you have any technical questions related to the design and manufacturing of railcars or freight cars, Max and I are here to answer those questions. My expertise is in car body and suspension, Max's expertise is in brakes, safety appliances, and fittings.

The Chair: Okay, thank you very much.

With that we'll move to United Steelworkers, Mr. Boudreault.

You have 10 minutes, please.

Mr. Richard Boudreault (Area Coordinator, District 5 (Québec), United Steelworkers): Thank you, Mr. Chairman and members of the committee, for inviting the steelworkers to discuss our union's perspective on the future of rail safety in Canada as it relates to railway workers and the transportation of dangerous goods.

I'm Richard Boudreault, the steelworkers' area coordinator from Montreal. I'm also the coordinator responsible for our transportation members in the province of Quebec. Since 2005, I am also the chief leader for the negotiations on The Montreal, Maine and Atlantic Railway. The last collective agreement was voted on and adopted by our members in April 2012 and is still in force right now.

The USW, or Syndicat des Métallos, as we are known in Quebec, represents more than 5,000 rail workers across Canada and Quebec, from clerks and intermodal employees to maintenance of rail employees and on-train conductors. As well, I am pleased that also appearing before you today are representatives of National Steel Car Limited, a company that employs members of USW Local 7135 at its Hamilton operation. Indeed, our members have been involved in both manufacturing of rolling stock and railway operations for more than 70 years. We are clearly stakeholders in the future of rail safety.

The Lac-Mégantic tragedy on July 7 involved a railway company that employed our members, including the conductor, Mr. Tom Harding, whose life has changed as dramatically as the families in the community. All were impacted by both government and company decisions that we believe were wrong-headed from the start. For us, a union dedicated to protecting our members and their communities, the Lac-Mégantic story itself can in part be traced to our experience in collective agreements.

In fact, we were in negotiations for 15 months, and I have just a few comments about that. We had a new issue concerning the one-person operation, and we went before the federal government and this item was a deal breaker. We had been told by the federal mediator that we were not the union that would decide if this would be implemented; it was not our responsibility. The responsibility was Transport Canada's to decide if it agreed or not to implement the one-man crew operation at MMA.

In fact, it is important to note that The Montreal, Maine and Atlantic Railway received permission to go with a one-man crew in May 2012 , exactly one month after the signature of the actual collective agreement with our union. MMA was the second company in Canada that received that authorization from Transport Canada; the first one was QNS&L, Quebec North Shore and Labrador.

We are all aware that the volume of dangerous goods shipped by rail across Canada has jumped 30% in recent years. The boom in petrochemical and crude oil shipments is raising new challenges that obviously have not been fully addressed. Otherwise, none of us would be in this room today. We have responded in various ways to questions of rail safety over the years, including on such issues in the Railway Safety Act as the construction or alteration of railway works. This includes the rail lines, structures, signals, and road and utility crossings. This section simply says that the minister or Governor in Council can make regulations that require railway companies to undertake certain actions, such as changing engineering standards.

Our members involved in railway track maintenance report that speed is an issue they often feel threatened by. They often work in very remote areas where trains, including those carrying dangerous cargo, race through a maintenance zone at top speed with workers only a few metres away from the track.

● (0900)

Other so-called rules are that the minister may require a company to make or amend rules on just about every aspect of their operations. In doing so they must consult, during a period of 60 days, with each association or organization that is likely to be affected. This has not been done or enforced as rigorously as it should be. Allowing railways the absolute discretion to inform and involve whomever they choose in the process of transporting increased amounts of dangerous goods is the rail equivalent of allowing the fox to guard the henhouse.

As I said earlier, our members not only work in but are residents of communities through which dangerous goods pass on a daily basis. There is no excuse for safety management systems not to include full disclosure to relevant stakeholders, including employees, their unions, municipalities, and possibly others. Raising the spectre of national security or the threat of terrorism is unjustified. If you ask anyone who still lives in Lac-Mégantic, I am sure that they feel they were the victims of a corporate act of terror.

The steelworkers believe that the role of Transport Canada should be, first, to promote and provide for the security and safety of the public and the environment in railway operations; second, to promote and facilitate participation of interested parties in improving rail safety; third, to monitor railway companies to ensure they adhere to the Railway Safety Act and its rules, regulations, and standards, as well as to monitor the overall safety of railway operations through audits, inspections, and data collection; fourth, to promote transparency of their operations and findings as well as data collected; and, fifth, to investigate rail accidents with the full participation of workplace health and safety committees.

The first two recommendations come from the objectives of the railway act, subsections 3(a) and 3(b). Items three and four are gleaned from the Government of Canada website on Transport Canada.

Comprehensive data collection is, or should be, part of the ongoing federal monitoring of railway companies to ensure they are managing their risks related to safety. For workers, there must be a stronger commitment, compelled by Transport Canada, to develop, monitor, and implement safety management systems, in conjunction with our unions, which are ultimately carrying out the companies' bidding. This is even more crucial in cases when railway companies apply for exemptions to the regulations or act.

The United Steelworkers union has always taken our role in health, safety, and the environment very seriously. But the very safety of our members and their communities is being put at risk by a Minister of Transport who grants exemptions to railway companies like handing out Halloween candy to kids.

The union believes that the focus of rail safety has been on the development of management safety systems, reducing worker participation, regulations, and enforcement to a subset of those management systems. It is our view that worker participation, supported by their union, is an independent component of safety in the workplace. It provides a well-needed check and critique of the safety system. This is not a new position and was included in our 2007 submission on rail safety.

We will do no less to ensure that workers, their families, and their communities are protected from disaster. Without changes that allow greater transparency and sharing of information, disaster remains a constant potential in the increasing transportation of dangerous goods. You don't have to take my word for it, just spend some time in Lac-Mégantic.

Thank you very much.

I would be pleased to answer any questions you may have.

● (0905)

The Chair: Thank you very much.

We now move to Mr. Mai for seven minutes.

Mr. Hoang Mai (Brossard—La Prairie, NDP): Thank you, Mr. Chair.

Thank you, witnesses, for being here today.

[*Translation*]

That is very informative. Everything you have raised is quite interesting.

My question is for Mr. Boudreault.

You said that you represent the employees who were with MMA on the ground. If anyone can really know what the problems were, I think you are a good representative.

You were pretty hard on the government with everything surrounding deregulation and that fact that there was only one conductor. Can you tell us about that? What problems did that cause and why do you think, in the Lac Mégantic case, there was only one conductor?

[*English*]

Mr. Richard Boudreault: In fact, there were a lot of things. We think there's a wall between the board of safety and Transport Canada because in 1996, just as an example, there was an accident up here in Quebec with the QNS&L, and the problem was the one-man crew. The report is well known. It's on the Internet.

Also, we have a report here from 2009. The number of the report is R09T0057. It was an accident that happened in southern Ontario, in Hagersville. In the report of the Transport Safety Board of Canada, on February 11, 2009, page 17:

[*Translation*]

> When only one crew member is left to complete train securement tasks at the end of a work shift, the risk for runaway equipment is increased, because there is no opportunity for other crew members to identify and correct any errors.

[*English*]

So you see already in 2009 there was a lot of concern from Transport Canada about this one-man crew operation. Our position is that we don't believe it's safe because when you transport dangerous goods, at least you have to have some people who will double-check what the operator is doing, and if he's doing something wrong, well at least someone can make the appropriate correction.

Also, when this was implemented by MMA, it was with huge lobbying, without any consultation with the communities, with the unions, with the workers. It was made with no education on how it was going to be implemented, how it will be done, how exactly the people will work with that. Plus, if you record the history of that company, MMA, I don't know what kind of inquiry was made before it was...? In fact, I don't know how MMA had the permission from Transport Canada to go with a one-man crew. Because the history was so terrible, that was not supposed to be like that.

● (0910)

[*Translation*]

Mr. Hoang Mai: Given all that, it is quite unbelievable that the government authorized it. You spoke about an exception. You said that there were only two companies in Canada, one of them being MMA.

I will come back to you if I have any time left for more questions.

[*English*]

I have questions for the National Steel Car Limited.

Yesterday I asked a question to the minister in the House. We know that, for instance, CN has said they'll change all their old DOT-111s within four years. Irving have said they would do it within one year. The minister had said 10 years, as mentioned by the U.S., is too long, but the minister right now won't give us a timeline.

What do you think would be a doable timeline in terms of changing the old DOT-111 to the new standard, for Canada, obviously?

Mr. Jamal Hematian: Good question. There are a few things I want to mention.

When we talk about freight cars, we have to look at North America, because it's not that at the border you change the rules or you change your car as they are going between the two countries. There are no boundaries there.

I think CN has only 148 cars. I think there are close to—my number you have to check—100,000 DOT-111s. We have to check the numbers.

My reference is RSI, the Rail Supply Institute. I'm sitting on the tank car task force.

The other thing is what changes we want to make. Then it will answer your question. Are we going to change the whole design? Are we going to retrofit? Are we going to change the brakes? Are we going to change the fittings? Are we going to change the safety appliances? So there are so many aspects in the design. We have to look at it and see how long it takes. How much does it cost?

Mr. Hoang Mai: Just let me ask you this question. Do you manufacture the new DOT-111 according to the new...you call it the legacy—

Mr. Jamal Hematian: CPC-1250.

Mr. Hoang Mai: So do you manufacture them?

Mr. Jamal Hematian: Yes.

Mr. Hoang Mai: In Canada?

Mr. Jamal Hematian: Yes.

Mr. Hoang Mai: How many can you manufacture, let's say, within the year?

Mr. Jamal Hematian: This is the kind of business information we don't usually share publicly, because we have competitors and everyone has a certain capacity.

Mr. Hoang Mai: Would you say it is a competitive market? You say in Canada it's only you, but in the U.S. are there a lot of manufacturers? Or are there in general in the world?

Mr. Jamal Hematian: In North America there are about four or five major tank car builders. The total capacity could be around—and here I'm just going with rough numbers—maybe 20,000 per year.

Just another number, maybe it's interesting to you.... On some other issues we mentioned here, just to give you some numbers, between 2003 and 2012 it's recorded that there have been 14,229,880 tank car shipments just in North America. These are not my data, this is from RSI. It has only recorded 508 individual accidents causing major problems.

Don't go with my numbers, I suggest you look at it. I'm saying that because if you look at the global system in transportation we have on water, in the sky, on rail, on road, and if you want to categorize the efficiency of each of them in big numbers, you can see that after water is railroad. That's the highest efficiency you get.

● (0915)

The Chair: Okay, we'll leave it on that and move to Mr. McGuinty for your seven minutes.

Mr. David McGuinty (Ottawa South, Lib.): Thank you, Mr. Chair.

Bonjour messieurs.

I would like to go back to Monsieur Boudreault.

Monsieur Boudreault, you've given some astounding testimony here this morning, in fact, some astonishing testimony. It's no secret, and I think it's fair to say the government has difficulty managing its relationship with labour in Canada. It's not sure what to make of labour. Some days it's all about union busting, other days it's about inclusiveness. We're never sure where the Conservative Party really is in its relationship with organized labour in Canada.

Can I ask you a general question? In the last eight years, what's your experience in terms of interfacing with Transport Canada and with the minister? Is there a relationship problem here between the government and your union in terms of the recommendations you're making, in terms of the improvements you're trying to put forward? Is there a hearing problem on the government side?

The Chair: Mr. McGuinty, we're talking about rail safety here, so keep your questioning to that.

Mr. David McGuinty: Let me go to the rail safety, Mr. Chair.

The Chair: I look forward to that.

Mr. David McGuinty: I will. If you can't see the question relating to rail safety, I'll explain it to you, Mr. Chair.

This is about the relationship between labour and the Government of Canada regarding rail safety, and it has everything to do with rail safety. It's about managing relationships with industry. It's about managing relationships with your regulators. It's about managing relationships with your unions.

Monsieur Boudreault.

Mr. Richard Boudreault: Mr. Chair and members, we never said we had any problem with the government. What we said was that the government and Transport Canada should take the leadership. They should take the leadership and consult everyone who's involved—the communities, the workers, the union representatives—when they change the safety regulations.

Right now, we're just trying to find a way so that every Canadian in Canada can say, “Our trains are safe and there's no danger for the community; there's no danger for the people; and there's no danger for our members.” That's all.

In 2007 we presented a report—and we still have the same problem—in which we talked about speed. Look at this report. We were all saying that speed was a problem. The only thing we want is to work together. We don't have any argument with the government.

Mr. David McGuinty: Monsieur Boudreault, why haven't these recommendations been implemented?

Mr. Richard Boudreault: It's because of deregulation. I'm not blaming one particular government, but since 1986 the deregulation favoured some small companies over big companies. Deregulation means that we have one-man crews. The rule about stopping the train on the main track is not the same and it's done, as I said, like handing out Halloween candy to everyone.

With regard to handbrakes, one company has its own system; another company has its own rules. As for the track and how it is and the quality of the track, some small companies do whatever they want. They don't have any inspections.

What we want is the same rules for everyone, and we think Transport Canada should be the one to lead that, in consultation with unions, people, the community, and the workers.

● (0920)

Mr. David McGuinty: So the problem here, you're saying, historically, in fairness, goes back to deregulation, the idea of devolving responsibility to the railways through the SMSs. You said clearly you don't think the SMSs are being implemented. You've also said the SMSs should be fully disclosed, made fully public to everybody, every party, every citizen, every municipality.

Mr. Richard Boudreault: I didn't say that. I'm sorry to interrupt you. We're not asking the railway to disclose any information that could make the public vulnerable. We're asking them to release information so the public can make informed decisions about their safety. That's what we want.

As an example, when this thing happened, if we'd had in Lac-Mégantic a team of first responders who knew how to react and what kind of product they were facing—because, as you remember, they put water on the fire for about a day and a half spreading the crude oil all over the community and in the river, and after a day and a half they found out that they needed some kind of a foam—I don't know the exact name—instead of water to stop the fire.

I'm not saying to disclose all this information to the public, but at least some people in the community need to be informed about what exactly goes through their community, and workers also need to know what they're working with, so we can react safely when an incident or accident happens.

Mr. David McGuinty: I've got your verbatim quote here, you said and you just repeated it: “...by a Minister of Transport that grants exemptions to railway companies like handing out Halloween candy to kids”. That's a very serious allegation, so what has got to happen here to stop ministers of transport from handing these out like Halloween candy to kids?

Mr. Richard Boudreault: They should take leadership. When they implement safety rules, they should at least find a way to check what's going on. Fine, if it's respected. If not, do what they have to do. Take the permit from the delinquent. That's it.

The Chair: Your time has expired.

We'll now move to Mr. Komarnicki for seven minutes.

Mr. Ed Komarnicki (Souris—Moose Mountain, CPC): Thank you, Chair. I certainly appreciate having you attend and address issues of safety.

I'm going to question primarily the area of hauling crude oil and ethanol. I know National Steel Car Limited has been here for over 100 years, you say, and congratulations on that—the only manufacturer and producer in Canada. You spoke essentially about the legacy cars, or the old cars, and the new good-faith cars. Are the new cars being manufactured based on 2011 design standards established by the Association of American Railroads?

Mr. Jamal Hematian: That's correct.

Mr. Ed Komarnicki: Okay.

If I were to say there were approximately 80,000 legacy cars... If one were going to use the present facilities both in Canada and the United States—I understand you say there are four or five major.... If one were to replace 80,000, the manufacturing capacity in North America, if I understand you correctly, is about 20,000 a year.

● (0925)

Mr. Jamal Hematian: That's correct. That's my estimate.

Mr. Ed Komarnicki: That's your estimate. Everybody that currently exists.

So that's about a four-year prospect, would you say?

Mr. Jamal Hematian: That's correct.

Mr. Ed Komarnicki: Could you indicate the difference in safety between the legacy cars and the new cars, if you want to call it that, based on the 2011 design standards?

Mr. Jamal Hematian: We are talking about two types of cars. When we go to CPC-1232, you can have two car types: one is non-jacketed and the other one is a jacketed car. This one just shows the 31,800.

In this slide you see an unjacketed car, the CPC-1232. There are major features in this car.

Mr. Max Vanderby (Director, Production Engineering, National Steel Car Limited): I can tell you about the two areas of differences. I'll refer back to the slides I had up here first.

The two areas are basically the appurtenances that we add to the car and the car itself. The slide I have up here for CPC-1232 shows the appurtenances. We're just focusing on a few items, which I'll quickly go through.

Starting from the bottom of the car, there's an additional skid plate that's a half-inch thick. This skid plate is welded to what's called rebars along the length of the car. It actually truncates at a mechanically fastened area of the valve. The valve is protected within the skid, and a flange is bolted outside the skid. If there were any type of rollover or shear point, it would take off the flange but not affect the actual ball valve that holds the product in the car.

Going to the top of the car, we have a reclosing pressure relief valve. The newer regulations in here are for 27 psi start to release, at 27,000 minimum CFM, which is basically your flow of air outside of the car, or your product or your gases.

In terms of vacuum relief valves, in the past you could actually activate them by stepping on them. That's deregulated now. We have a vacuum relief valve that works on -.75 psi up to about 5 psi, depending on the product and the customer and their preference.

For the two ball valves that are on here, we have a two-inch and a three-inch ball valve. The three-inch ball valve could go up to four inches. That's for your loading and discharging, depending on your system. The two-inch valve is basically for vapour when you're loading it or unloading it.

These ball valves used to be able to be screwed into what's called your fittings plate. Now they're bolted on in place with gaskets so that there's no chance of even loosening it up when you're changing your caps or hooking up your equipment for loading and unloading.

At the end of the car on the 31,800, we have a half head shield added from 2011. It's a half-inch thick and bolted to the end of the car to prevent any, let's say, coupler impacts onto the head of the car.

Going down to the couplers, you have a double-shelf coupler, which prevents couplers from decoupling. It contains them so that you don't have a slip of a coupler going into the head of the car or the car adjacent to it.

Mr. Jamal Hematian: The other thing we have to pay attention to is the difference between legacy cars and this one. At the top you can see the big nozzle around those fittings. We call it rollover protection. If this car is derailed and is rolling, it's protecting the top portion. That's one of the changes.

The other one, which is very critical and important, is the material you use to build the tank. Based on this change, it's now TC-128, which is higher-resistance material: instead of 70 yield, it's 81 yield. The other one is the thickness; on the unjacketed they increased it to a minimum half-inch. If somebody wants to go more than that, they're welcome, but the minimum is half-inch TC-128, half head shield, and again, a half-inch thickness.

All of these things put together make the unjacketed tank car CPC-1232.

● (0930)

Mr. Ed Komarnicki: I'm just going to ask a couple of other questions because my time is running out.

Knowing what it takes to manufacture a new one, if one wanted to retrofit the old legacy car to be the “equivalent of”, in manufacturing cost terms which is easier or cheaper, retrofitting or manufacturing new, from scratch?

Mr. Jamal Hematian: The second part of the story is this. Every car is designed to a clearance diagram. If the material has changed, you cannot do much about it. If you made this one from plastic, you can't just.... You have to scrap it and make it from steel or aluminum or whatever. So that's number one.

The second one is the clearance diagram around it. The size, the geometry, is confined in a clearance diagram. If you want to change it to new rules and be out of this, you cannot do it. It's not just a matter of how much money you pay to retrofit. It's feasibility. Is it possible or not?

We put together a package for AAR, and we think a very small percentage of old tank cars that are in service are feasible for this retrofit.

The Chair: Okay, thank you.

Mr. Watson, you have seven minutes.

Mr. Jeff Watson (Essex, CPC): Thank you, Mr. Chair.

Thank you to our witnesses for being here today. Of course the purpose of our hearings is to conduct a review—a study, if you will—into both the safety management systems and the transportation of dangerous goods, with an eye to both an interim report in June with our findings and then a final report at the end of the year with recommendations to the minister on where improvements can be made. So your testimony today is providing some valuable insight, I think, in that respect.

Mr. Boudreault, let me start with you, with a few questions here. By protective direction, the minister has implemented the two-man crew regulation as a permanent, ongoing one. I take from your testimony today that both you and your members are very supportive of that being a permanent direction for the transportation of dangerous goods. Is that correct?

[*Translation*]

Mr. Richard Boudreault: The union's position is clear: we do not agree with the one-man crew.

Obviously, the minister's position is a good start, but before putting that in place, our people need the necessary training. Trains transporting dangerous goods are getting longer and longer, which requires changes to the safety regulations. We did not have the same concerns about dangerous goods 20 years ago that we have today. For example, crude oil contains a lot of additives we aren't familiar with.

I think our people need to be trained and informed. It's not enough to simply put two people instead of one on a convoy of a mile or a mile and a half long. People also need to know what to do. They need to be trained and ready for any situation.That's important. The union and the members concerned must be stakeholders in decisions involving changes to the rail safety rules.

[*English*]

Mr. Jeff Watson: Speaking of safety training, are your members receiving adequate safety training from your employers? If not, how can that be improved?

[*Translation*]

Mr. Richard Boudreault: Let me give you an example.

Yesterday, March 26, I met with the union representative who was investigating MMA concerning a dismissal. The issue in the case was parking on a main track. Basically, a train parked on the main track was hit by another train. We thought that the new Transport Canada rules had resolved the matter. I was told that Transport Canada had established new rules that apply to different railways. Employees were asked to sign a document indicating that they had read the rules. We were given no information about this. And there was no follow-up.

You can see what situation our workers are in. Once again, there are accident risks. The train could have jumped the tracks and gone through a community without anyone even knowing what it was carrying. It is important that Transport Canada take its responsibilities and, if need be, impose severe penalties on companies that do not follow the rules. Transport Canada must also follow-up on training and ensure that its rules are being applied properly. However, that is not the way things are currently.

● (0935)

[*English*]

Mr. Jeff Watson: So the new administrative monetary penalties that are coming in as a result of Bill S-4 and its regulations are an important additional tool of compliance that can be used. In the old way, we had to prosecute a company in order to obtain a fine. The administrative monetary penalties will be an important step forward in enforcement as well.

[*Translation*]

Mr. Richard Boudreault: It has no price. A nightmare like Lac Mégantic must not happen again. In my opinion, Transport Canada must take reasonable action. If that means taking away the licence of a company that doesn't respect the rules, then so be it. Imposing fines is good, but we need to go further, even if it means taking away the licence.

[*English*]

Mr. Jeff Watson: Actually, as a result of Bill S-4, we will have the power to yank licences as well.

One of the questions that's been under some advisement, if you will, is the question of extending emergency response action plans to the Bakken type of crude, if you will, and to aviation fuel and other types of more flammable substances. Is it the position of your union and members that ERAPs for these particular classes of chemicals are an important step forward in improving the safety regime? What's your recommendation to the government on that?

[*Translation*]

Mr. Richard Boudreault: I think teams should be trained. We are talking about the transport of dangerous goods. I think that in these kinds of situation there should be teams of first responders who can step in when there is an incident or accident, in order to avoid catastrophes.

[*English*]

Mr. Jeff Watson: On disclosure with respect to safety management systems, I want to probe maybe one of the specifics. When it comes to a company's safety objectives—and they're required to have them—we know at the end of the year by way of annual reports what safety objectives have been achieved, but we don't know whether they achieved what they set out to achieve.

Would it be your recommendation, for example, that on full disclosure, rail companies should on the front end disclose what their safety objectives are for the coming year? Are there any problems with doing this that you could foresee, Mr. Boudreault?

[*Translation*]

Mr. Richard Boudreault: The position of the steelworkers union is clear. We want the information made public. I understand that in some situations—

[*English*]

Mr. Jeff Watson: But which information? I'm trying to get specifics. I've proposed a specific. I don't know whether that's—

[*Translation*]

Mr. Richard Boudreault: We want to know what is on the trains. We want to know what these railways are transporting. We want to know what the trains contain. We are not asking that the information be given to everyone, but to the people involved so that they can make the right decisions when incidents or catastrophes happen.

We want this information to be given to the first responders—not to the first responders who are members of the steelworkers union—but to those who are responsible for ensuring everyone's safety. They need to be able to make the right decisions.

● (0940)

[*English*]

Mr. Jeff Watson: But that is the new information disclosure agreement signed with the FCM and others: that first responders will be appointed in that respect and will have that information for their consideration.

Mr. Hematian, I have a question for you, because I'm interested in the engineering—

The Chair: Very quickly, Mr. Watson, because you're out of time.

Mr. Jeff Watson: Okay.

On the engineering, you got into an interesting question about clearances and specs, about changes in thickness, for example, of a particular tanker car. I guess I'm speculating about new designs down the road. If you were to change the thickness, it could affect the capacity or the effect of a car on a track, for example, or anything like that. Are there limitations to new design going forward that might have unintended consequences?

If we have thicker, heavier cars, I'm worried about what the effect would be on a railbed or whether that would extend the length of a train. Everything has trade-offs. Can you take us through a little of that?

Mr. Jamal Hematian: I have just a quick answer to that one on whether we should change it or not. In adding one-sixteenth to the thickness of material for the unjacketed car, you are adding about 9,000 to 10,000 pounds to that car. Don't forget the gross freight load. I talked about it. Your top load is 286,000 pounds. If you put 10,000 pounds there, you give up 10,000 pounds on your capacity. On the jacketed, insulated car it's a little bit less; it's 7,000 to 8,000 pounds, so you are giving up 8,000 pounds of your loading capacity.

The Chair: Thank you.

Mr. Sullivan, you have five minutes.

Mr. Mike Sullivan (York South—Weston, NDP): Thank you, Mr. Chair.

I want to thank our witnesses. This is a tough issue, I know.

I'll go first to Monsieur Boudreault.

The mechanism by which the Canadian government regulates safety in the operation of a railroad is something called SMS, safety management systems. How many of the union members, or the union executive, or the union leaders know what's in an SMS? Does anybody except the railroad executives know? We've tried to get it. It's confidential information. They won't show it to us.

[*Translation*]

Mr. Richard Boudreault: With all due respect, sir, I don't know everything. I can't say how many people know what's in the SMS or how many don't. I can't answer that question.

[*English*]

Mr. Mike Sullivan: We've been told it's not available to many people to see. The other issue is that—

[*Translation*]

Mr. Richard Boudreault: I would like to add something, if I may. We are talking about the SMS and the applicable legislation, but I've realized that the safety rules are different in some cases. They are done on a piecemeal basis from company to company.

I'll give you the example of MMA. The one-man crew is not authorized throughout Canada. Two companies in Quebec have this authorization and, as you know, it came as a result of intense lobbying.

You are asking me how many people know what's in the railway safety management system. If we stop incorporating or giving little treats to everyone and small companies so they can operate, maybe we can draft a detailed report to determine what is in the SMS. However, if Transport Canada hands out piecemeal benefits to certain companies, you too will say that no one can know everything.

One thing is clear: Transport Canada must assume responsibility. The rule must be applied to everyone and be the same for all stakeholders, including the unions. We think we have our piece to say about that. We have always been leaders in safety, and we are willing to take leadership to help Transport Canada so that this is done properly.

● (0945)

[*English*]

Mr. Mike Sullivan: And in fact, the law was changed in 2012 to permit the involvement of employees and their collective bargaining agents in the ongoing operation of the safety management system at a railway company, but Transport Canada hasn't enacted the regulations to make that happen. So we have a law that says you should be involved, but Transport Canada hasn't bothered to create the mechanism for you to be involved. So you're still in the dark.

[*Translation*]

Mr. Richard Boudreault: Exactly.

[*English*]

Mr. Mike Sullivan: The other piece of the puzzle is that Transport Canada also has the power to make an executive responsible for the safety management system, and Transport Canada has not done that either. So there is no bottom line. There's nobody who is ultimately responsible for the safety of Canada when it comes to the operation of railroads.

[*Translation*]

Mr. Richard Boudreault: I'll go even further, if I may. Decisions are made by the Transportation Safety Board of Canada. It seems that there is a wall between the recommendations of the Transportation Safety Board of Canada and Transport Canada. The left hand doesn't seem to know what the right hand is doing.

Furthermore, some decisions have been made public. Recommendations were made following serious incidents and accidents in Ontario in 2012 and in Quebec in 2009. However, Transport Canada never implemented those recommendations. If they had been, we would not be here today talking about the one-man crew. In fact, the Transportation Safety Board of Canada has clearly said and recommended that one-man crews should not be used, especially when transporting dangerous goods. The decisions were clear. I understand that the investigations haven't yet been completed but there was an incident in 2013 that clearly involved the same problem.

How is it that the left hand is making recommendations and the right hand is not taking them into account?

[*English*]

Mr. Mike Sullivan: We have noticed as well that the Transportation Safety Board has made recommendation after recommendation after recommendation, including recommendations on the DOT-111 cars, but also recommendations on the safety of the drivers, the safety of the passengers, and the automatic stopping mechanisms. None of them have been implemented by Transport Canada despite all these recommendations.

The Chair: Thank you, Mr. Sullivan.

We now move to Mr. Braid for five minutes.

Mr. Peter Braid (Kitchener—Waterloo, CPC): Thank you very much, Mr. Chair.

Mr. Boudreault, I would just start with a question for you, please. Obviously, safety is a very important focus of our discussions today, and I appreciate your testimony. Could you explain and brief the committee on the steps that you and your union take to enhance safety and to train on safety? What measures and training steps do you take as a union?

[*Translation*]

Mr. Richard Boudreault: Actually, the steps are not very complicated. Our people have been given training for years on various aspects of regulations, both provincial and federal. Our union has people who are experts on those matters.

In addition, Local 1976 specializes in transportation and handles most of our unionized rail companies. We provide training in Ottawa with experts. If required, we dissect the regulations for a week so that we are able to provide our members with adequate tools to make sure they are safe.

We have been taking a stand against various situations for a long time. In 2007, for example, we sent to a committee a situation in which trains were travelling at high speed when our members were working right beside. We made representations to the employers about it. Today, we are making a presentation to you. So we do whatever we can to try to work in safety so that earning a living does not cost us our lives.

● (0950)

[*English*]

Mr. Peter Braid: Thank you.

In a similar vein, there's been, and I'm sure you're aware of this, some discussion about the possibility of installing video cameras in the cabs of locomotives to give additional safeguards and additional levels of information should an incident occur. Do you or your union have a particular position on the installation of video cameras in the cabs of locomotives?

[*Translation*]

Mr. Richard Boudreault: We have no objection with that as a security measure. Our union's only fear is that those video cameras will be used for other things. They must not be used to penalize our members by seeing if they are doing their jobs, or to examine workers like you examine a microbe under a microscope. That is what we do not want.

The case law is clear on the issue. When there are strategic points for which the use of cameras is justified and when there are no other ways of ensuring safety, we have no difficulty. However, the cameras must not be used to spy on workers to see whether they are making mistakes or not. That is the position that we have always taken.

[*English*]

Mr. Peter Braid: Thank you for clarifying that.

Mr. Hematian, you spent some time this morning, and thank you, giving us some detail about important enhancements to railcars, to the DOT-111 type of railcar. Could you outline the key enhancements in innovations that your company brings to this particular new model of railcar, and why they're so important?

Mr. Jamal Hematian: As I mentioned at the beginning, tank cars are very heavily regulated. If the AAR says it's TC-128, one-half inch, I cannot change it. I cannot go with less. I can go with more; but I cannot go with less. If they say a valve should be within this pressure, it has to be that. I cannot change it. What we do when we change it is through our detail design. We design railcars based on a 50-year life. It doesn't matter what type. Based on AAR, when you design a freight railcar, it goes for 50 years. That means if they want it to go beyond 50 years, they have to take it out of service, visit it, check it, recertify it for extended life. That's one.

The second one is we design it for fatigue life. To design any freight cars, you have to look at different aspects of design. There's static design, dynamic design, fatigue design, buckling, and model. One of the key design factors is fatigue life. These railcars are under a lot of vibration. It is not like our cars that have very soft suspension and you don't feel the vibration. It's steel on steel so it gets lots of vibration. So on fatigue life for a railcar, again as specified by AAR, it says for interchange cars it has to be a 1-million mile minimum. For cars, a unit, a train service, like intermodal cars, it has to be a minimum of 3 million miles. What NSC is doing with our cars is going beyond that. Our design is for 5 million miles. That is differentiating us from others, and some customers are asking for that, and they pay for that. It doesn't come for free. This is like options on your car; if you want that, it's different.

Generally speaking, on the details, we protect our IP and we make small changes. But on tank cars, it's not big items. The big items are fixed: that's the minimum, you have to meet it.

● (0955)

The Chair: I'll move to Ms. Boutin-Sweet for five minutes.

[*Translation*]

Ms. Marjolaine Boutin-Sweet (Hochelaga, NDP): Thank you, Mr. Chair.

Thank you, gentlemen.

There are really a lot of questions that I would like to ask you. But first I am going to pass on a message from some of my colleagues from the Hamilton region. They told me that they are very happy to see that a local company is manufacturing products of such high quality, that the employees are unionized, and they have good, well-paying jobs. It shows that Canadian companies are capable of producing tank cars that can replace the DOT-111s. It could generate good, well-paying jobs. Congratulations for all that from myself, and from my colleagues who have asked me to say hi to you this morning.

Mr. Boudreault, you said that the communities, the workers and the first responders needed to know what was in the tanker cars. The government says that they did know. The problem is that they found out later.

Usually, people are informed about what is going to go through their communities, about the products in general. But with specific products, they are not informed. That is why the first responders do not know how to respond to the emergency.

Do you think that argument is on track, if you will excuse the pun?

Mr. Richard Boudreault: As I was saying earlier, the first responders are not always members of our union. We have to be careful. People working on the tracks or in trains carrying hazardous materials also have to be aware of what the train is carrying. That seems necessary to me. In any situation, an employee who is not aware can cause anything from an incident to a major accident. In addition, first responders must at very least know which hazardous materials are moving through their communities so that the community can act in a safe and appropriate way when different incidents occur.

Let me give you an example. People are terrorized at the moment. Everyone here keeps up with the news, I am sure. As recently as yesterday, a number of communities in the area around Lac-Mégantic held a demonstration in the town to demand that the government relocate the tracks around the community.

People are afraid, and rightly so. Situations such as the ones we have just gone through must never happen again. Why are they afraid? Because they do not know what is in the trains going through their towns. Imagine! You live in a community, and I am sure that you would like to have the same information, in some fashion, for yours.

Some people will talk about terrorism and will say that, if that kind of information is released, it will open the door to all sorts of crazy people who might do something one day. That is not what we are asking for. No one is asking for the general public to be told what the train is carrying and when it is arriving. That is not so. We are asking that first responders at least be informed about when the train will arrive and what products it is carrying. They are trained and so they will know what to do if an incident or an accident occurs.

Let us not forget that the people in Lac-Mégantic were pouring water on the accident site for more than a day. That had environmental consequences. The oil soaked into the soil and ended up in the rivers and, from there, it spread everywhere. It would have been better to use a foam for an adequate response, but they did not have that equipment at hand. They had a tragic, catastrophic situation to deal with, but they could have avoided having to deal with an environmental disaster as well.

Ms. Marjolaine Boutin-Sweet: Also, these days, we are learning that more and more accidents are not reported.

● (1000)

Mr. Richard Boudreault: That is true.

Ms. Marjolaine Boutin-Sweet: So there are all kinds of things to be afraid of.

My question goes to Mr. Hematian, Mr. Vanderby, or even Mr. Boudreault.

The design standards for the 2011 tank cars were applied in 2013. The industry in general had accepted those standards. Do you think that the standards are sufficient for shipping hazardous material such as crude oil, for example? Do you think we need even tougher standards in order to help in protecting people?

[*English*]

Mr. Jamal Hematian: Okay, good question. No yes or no answers, and I'll tell you why.

In any engineering design, you have to look at a system. A system has different elements in it. You have to look at all the elements, design them, operate them, and maintain them to achieve a certain goal. In this system, if you have spent all your money on one element, you are not going to have an efficient system satisfying your needs. With tank cars, you have car designs. That's one. Here it was said that operation is another part of it. The product you put in there is another part of it. Education is a part of it. You cannot just focus on one element of the system and forget about the others.

Let me put it in a different format. Every one of us drives a car, and we have accidents on the roads. What do we do? Are we going to jump the gun and say, "All these are small cars. We should eliminate them. Everybody should use SUVs because they are safer." Or we go back and look at the data. We root cause the problem, and set up a DOE—design of experiment—and set all these parameters here based on real data. We say, "There are ten factors; these are the results." There is a program within Six Sigma that you can use. It will show you what the effect is of each element on the system, what the effect is of two elements' interaction on the system, or three interactions, and so forth.

So if you ask me if we should go ahead and increase the thickness, I say, "What's the purpose of that?" I'm saying that if you add 10,000 pounds to this car, are you getting the same ratio increase in the safety? No. Based on the fatigue life, static analysis, and dynamic analysis, you get 5% at a maximum.

The other factor I want to add is that when designing the automobiles we drive, everybody's life is in it, and they are moving on the roads, the streets, and outside. Are they going to, based on some accidents, increase the light weight of those cars by 500 pounds just to make it safer? No, they look at what the cost is to address the issue right there.

So we have to be very careful. I'm just coming from my profession.

These new cars, the CPC-1232, the total number from 2011 up to here is only 14,000, compared to almost, let's say, 90,000 DOT-111s. We should go back, look at the data. How many accidents on the legacy cars? How many accidents on the good-faith cars? Then we know which direction we should go. Is this new design not enough, or is it enough? If I add another 16, how long does it take me to get back together here and add another 16, or another half inch to it? We should have a target in our minds.

I'm just coming from pure engineering.

● (1005)

The Chair: Okay. Those are very good comments.

I'm going to have to cut it off there and go to Ms. Young for five minutes.

Ms. Wai Young (Vancouver South, CPC): Thank you so much for your presentations today. This is obviously a very serious matter.

Mr. Boudreault, I really commend you for your passion and commitment to safety. Obviously more needs to be done, and that's why we're here.

I would like to know if you know about Bill S-4 and about all the new regulations and measures in there that we've put into place. You do have a copy of it somewhere, or somebody can get him a copy or something.

I wanted to ask you particularly about the training. What kind of training currently exists for people who are running the trains right now? I mean, we know about the SMS. That's the plan, but what about the actual training?

[*Translation*]

Mr. Richard Boudreault: Training is specifically provided on the —

[*English*]

SMS, the safety management system.

[*Translation*]

We also provide training on—

[*English*]

GOI, general operating instructions.

[*Translation*]

Currently, we provide training on the handbrake policy. We also provide it on the legislation and regulations that apply to railways. We give that training to all the members of our union who work on the rails.

[*English*]

Ms. Wai Young: Sorry, go ahead.

Mr. Jamal Hematian: Can I add something here about training? I'm not quite sure about the SMS system. I'm just coming from design and manufacturing. From day one, when we look at the tank car business the first thing we had to do was everybody—not design engineers, not manufacturers—everybody in our company for whom there was a chance they would go close to the tank cars we are building, touch them or see them, had to go to a very specific training called haz-mat. Everybody goes through that haz-mat training and we went through it. There is a test, and you have to write the test and you have to pass. Every one of us on our hardhat has a sticker, a big red sticker, that says this guy has been through the training and has passed the test. That haz-mat training talks about tank cars, it talks about safety, it talks about different commodities, and there are different signs.

When we finish the tank car we put a stencil on it. It tells what this tank car is, the capacity, who built it, when it was built, when was the last time it was inspected, what type of valves are on it, what type of brakes. Everything is on the tank car. He is the expert of stencilling the car. There is another section with signs. So if somebody doesn't know how to read, there is a sign that shows what category of products this tank can move. So in the training for us, for designers and manufacturers, we cannot touch even a piece of tank car without passing the haz-mat test. And the haz-mat has different training levels for different categories.

Ms. Wai Young: Obviously that's a very extensive system. You are the people who build the cars. Then it goes to the companies, obviously. The companies have some training system in place and this is what I want to explore. Because you have something in place and you have built the cars to a level to meet the requirements. You've passed this on to the companies. The companies now are responsible for training the workers. Now what we've heard from Mr. Boudreault today is that this training is either not enough or the training is not sufficient because the workers don't know what product is in the cars and how to handle that product should events happen. Is it correct that the workers are not trained up to the level that they need to be trained?

Is that what we've heard from you today, Mr. Boudreault?

[*Translation*]

Mr. Richard Boudreault: Actually, let me add one thing about the specific case of Lac-Mégantic. A little earlier, I went over the history of the way in which the new rules governing parking trains on the main line came about. We agree that it is unacceptable.

In terms of training, we want people to know exactly what they are working on and working with. That is important in the sense that, not only is it important to know what kind of cars people are dealing with, but also what is in the cars around which the workers, our members, are working.

● (1010)

[*English*]

Ms. Wai Young: Mr. Boudreault, thank you very much and I think that we all agree here. The question then, and that's why we're here today and doing this study, is where is that falling down? Obviously the people who build the tank cars give the specificity of the tank cars in terms of how to keep those places safe. Now you're telling me that the workers do have some training, but are you saying that the gap is because they do not have information on the product that they are transporting and how to respond to that product if something happens? Where is the training missing and who is...?

[*Translation*]

Mr. Richard Boudreault: Employers often fail to observe safety rules. Employers often make changes to safety systems and various ways of working and do not obey the rules.

We have to put up with it. We are simply asked to sign at the bottom of a form and get back to work. Someone has to take some leadership in safety matters and we think that it has to be Transport Canada. I am not blaming anyone, but Transport Canada has a leadership role to play. They have to make sure that companies strictly enforce the law in health and safety matters, for Canadians in general, as well as for the workers. If that is not done, I do not see why a railway company should be able to keep prospering in Canada when it is not obeying any laws and when it is complying with regulations in any way it likes.

[*English*]

The Chair: Thank you, time has run out.

Mr. Toet, you have five minutes.

Mr. Lawrence Toet (Elmwood—Transcona, CPC): Thank you, Mr. Chair.

I think it's really important that we have a clear understanding that everyone here is very concerned about safety and wants to see improvements. That's also why we're going forward with what we're doing here right now. The testimony today has been very helpful to us. We're looking for gaps, we're looking for the things that need improvement, and the testimony that's brought forward today is helping us to find some of those gaps, and it's going to be up to us to come up with recommendations that will close those gaps. Thank you so much.

I wanted to start with National Steel Car. I had a question regarding the 80,000 to 100,000 DOT-111 cars currently in North America. Of those, how many are the new version? Do you have an idea?

Mr. Jamal Hematian: The new version numbers about 14,000. When we say new version, it's the CPC-1232. Based on RSI data, this is recent, I think it's about a month old. I think it's about 14,000. I ask that you double-check whatever numbers I give you.

Mr. Lawrence Toet: Yes.

This gives us a bit of a sense of where we're at. Somewhere between 10% to 15% of the fleet is updated and new.

The other question I had is in regards to you giving us quite a bit of detail about the design of the tank cars. On page 6 of your deck, you gave us information on all of the different tank car regulations, and all of the different people who have input into the setting up of those standards that you have to meet. As a manufacturer of these tank cars and with your engineering background, you have a lot to bring to the table. Is there any input from the manufacturers as they go through this process—do you have the ability to interact with them on some of these regulations and have your input on that?

Mr. Jamal Hematian: The short answer is yes.

Max is sitting on the safety task force. He has contributed immensely to putting together the new FRA safety rule S-2044. I really want to emphasize that one.

NSC is the most active team in North America. I was sitting on M-976, which is about bogies and suspension, and now I am contributing to the tank car task force. Max is on the safety task force. We have another person on the coating and painting team. We have another person who is very high level in AWS, the association of welding. So, we are contributing there. We also have really key members on the fatigue task force.

The way it works, AAR or FRA invite expert people from different sectors in the industry. They sit together, put a title down, and they work around it. It may take about six months to a year. When they come to a conclusion, they put it in a circular letter and send it to all other people asking for feedback. After that, it will be a rule and coming up. It is not a group of people sitting there behind closed doors and making rules for everybody else to follow. It's back and forth.

● (1015)

Mr. Lawrence Toet: Thank you.

Mr. Boudreault, I want to touch on the safety management systems. I know that in regard to your testimony today one could walk away with the impression that there's absolutely no input on the safety management systems within the rail lines from the union perspective.

I actually had a fairly different experience when touring a fairly large rail facility in my riding with both the president of the company and the national president of the particular union representing the workers there. Both of them were talking very much about the safety management system and their collaboration on that, and how they work together. Is my experience there completely unique? Or is there some collaboration that maybe needs improvement? Or is there really just absolutely none?

[*Translation*]

Mr. Richard Boudreault: Earlier, I focused on deregulation and I said that, in some cases, companies were making substantial changes to regulations, to the SMS, consulting no one and providing no choice. One example I gave was that MMA had permission to have a one-man crew.

In that case, it was clear from the outset that we had no say in that and that we were not going to be making that decision. However, we were in the process of negotiating a collective agreement. It was none other than the federal mediator who told me, after a year and a half of negotiations, that he did not know why I was making such an issue about it, making it a deal breaker, because the decision was not mine to make, it was Transport Canada's. In the eyes of a person running the negotiations, it was clear that we had no say.

You say that there are good situations too, and I am sure that is the case. But I am not talking about the good situations, I am telling you about my concerns. For companies like MMA, it is like getting candy at Halloween. They do what they like with the regulations. They enforce and change them unilaterally without consulting anyone.

In 2014, after the events that occurred in Lac-Mégantic, I think it is important for me to tell you that. Then the committee can provide the government with the recommendations needed to make sure that it never happens again, even if that means imposing really clear penalties on the delinquent companies. If that means taking away their licence, then let's do it. The current situation makes no sense.

[*English*]

The Chair: Okay. Thank you.

Mr. Boudreault, did I just hear you say that you don't care about hearing about good examples?

[*Translation*]

Mr. Richard Boudreault: No, that is not what I said. I said that I was not talking about—

[*English*]

The Chair: So the answer is no, then. Okay.

Mr. Richard Boudreault: Okay.

Mr. Jeff Watson: That's not what the translation says.

The Chair: Yes, that's not what the translation said.

Mr. Richard Boudreault: What I just said was that we can have across Canada a good experience and that the train company respects the law, but we do have concerns about some of the—

● (1020)

The Chair: The floor is not yours. I asked you.... The interpretation came through that you said, “I don't care about hearing about the good examples”. So I asked you, and the answer is no.

Mr. Mai, you have five minutes.

[*Translation*]

Mr. Hoang Mai: Thank you, Mr. Boudreault.

We can see your passion for this issue as you talk about it. I can understand that. You represent people on the ground, for whom this is a daily reality and who are clearly frustrated at the government's inaction.

As you said—and I think we have to be very clear on this—deregulation exists; it is a fact. I know that people on the other side will talk to us about Bill S-4. Penalties are established and licences can be withdrawn. However, the Auditor General of Canada has pointed out that, for 70% of the problems, there is no follow-up because Transport Canada does not have the necessary resources. We are told that regulations are in place and that everything is going well, but we know that Transport Canada actually does nothing. The DOT-111s are a specific example. Since the accident in Lac-Mégantic, for example, the TSB has made recommendations. You say that Transport Canada listens to the TSB, sort of. The department hears what the TSB has to say, but does nothing about it.

For at least 20 years, the TSB has been saying that there are problems with the DOT-111s. With the accident in Lac-Mégantic, we know full well that the issue was the old DOT-111s. Today, once again, the rail companies and the oil companies are going ahead with timelines, but the government is not in a position to do so. We understand your frustration and we continue to press forward with this issue. It actually seems that the safety of people in the communities is not a priority. The government is doing nothing. In the last budget, not a cent was set aside for rail safety. That is unacceptable and incomprehensible.

[*English*]

I have some questions again for National Steel Car Limited. Right now you're talking about 20,000 more or less per year that can be manufactured across North America when we talk about the new DOT-111, and that's according to the regular demand, regular companies asking for new....They're taking their time in terms of changing and getting rid of the old DOT-111 since they're not forced to do it.

If the government actually thought about public security first, and forced the companies to change and to get rid of the old DOT-111, do you think that would increase the manufacturing capacity? Or would it force the manufacturers to increase their capacity or increase production of the new DOT-111?

Mr. Jamal Hematian: Right now, all of our manufacturers are at the highest capacity ever. This is what it is. If you come to NSC and put in an order for a car, you have to wait until 2015. With other car builders, it's getting to 2016. So we are talking about a big backlog right now.

Mr. Hoang Mai: But if the government was to send a signal saying this is our intention, think about increased productivity, think about what you can do to increase manufacturing, wouldn't that create more competition? And wouldn't that create a drive to make sure that we can do more, and we can produce more? At least it would send a signal that the demand would be there, and the companies that are doing that would know they have a certain timeline to actually make a lot of money in terms of selling the new DOT-111.

Just quickly, would that send a signal?

Mr. Jamal Hematian: I'm not on the marketing side to see how we can react. But just to the improvement of the productivity, I think NSC is one of the highest efficiency companies and leaders in lean manufacturing and using all of the tools available. We do all the Kaizen, lean manufacturing, Six Sigma, Shainin. You name it, we do all of them.

I was talking to a friend and said, “If you come to talk to us, I won't have five minutes to spend, because everything is structured, and we have to get certain things done.”

● (1025)

Mr. Hoang Mai: I see. It's great to know that you're in Canada—even better.

The Chair: Mr. McGuinty, you have five minutes.

Mr. David McGuinty: Thank you, Mr. Chair.

Mr. Hematian, I want to go back to your comments about timing. I think we're all aware of the practical hurdles in the manufacturing of new cars. You've talked about four to five major tank car builders in North America. My colleagues just reiterated you've talked about all these companies together might be able to manufacture 20,000 per year.

Mr. Jamal Hematian: I don't have exact numbers. What I'm telling you is just based on what I'm thinking because everybody's keeping it to themselves. Our competitors are not going to tell us how much they can build. I'm just going with rough numbers.

Mr. David McGuinty: Okay. Presumably, that would be one of the most important questions that Transport Canada should have answered by now: what is the capacity of the four or five manufacturers in North America to manufacture on an annual basis?

Mr. Jamal Hematian: I'm not sure I can answer that because most of these companies, like us, are 100% private, so we don't report to anybody and they don't know our market forecast.

Mr. David McGuinty: Okay, so Transport Canada—

Mr. Jamal Hematian: I don't know if they—

Mr. David McGuinty: Okay.

You talked about the difficulty of achieving this transition to new rolling stock, new cars, because of our integrated freight and transport system with the United States. Correct?

Mr. Jamal Hematian: That's correct.

Mr. David McGuinty: That's a hurdle we have to overcome. It's something we have to work on in pincer movement together, you're suggesting.

Mr. Jamal Hematian: I'm saying it's not a problem we have to consider; whatever we have is interchangeable between the U.S. and Canada.

Mr. David McGuinty: Let's be practical. When the TSB issued its unprecedented release in partnership with the American NTSB, never been done before, effectively calling for the urgent transition to new cars, presumably the American regulators are seized with this, are as concerned with this as we are. I'm sure Lac-Mégantic transcended our border, and all kinds of other incidents, as our colleague from the union mentioned, have led people to focus their minds on this. But is there anything practical stopping Canada now from saying that we're going to move to a higher standard of car for operations in Canada? After all, we're still a sovereign state.

Mr. Jamal Hematian: I understand, I know that.

I'll tell you a story. It's a very good story.

Mr. David McGuinty: As long as it's short.

Mr. Jamal Hematian: Sure. I want to make it a little interesting, not too technical.

When I landed in Canada in 1997, I landed in Montreal. When driving I saw I had to stop at right-hand turns. When I moved to Ontario, the same car, same country, but you can turn right. So with the railcar system, you can have the same car, but you can put in different operational rules. There is nothing wrong with that. You can say in Canada your maximum speed on the tracks—we classify tracks from one, two, three, four, five six, seven—a passenger car is six, and freight cars are five—so Canada can say for class 5 maximum speed in this area is 40 miles per hour. There is nothing wrong with that. But what I said was about the design of the car. I don't think we can have two different car designs. That was my point.

Mr. David McGuinty: But your understanding as a manufacturer, what you're basically saying is, whatever the regulators decide, tell us and we will commence to adjust. We will adjust, we will adapt, we will manufacture according to what the standards are. That's not difficult. What I'm trying to get here is nothing would preclude your company from moving immediately to try to adjust to a new standard brought in by a Conservative government. Your company would say that they hear you, they're moving forward.

Mr. Jamal Hematian: We are doing it right now. Our tank cars are to the latest regulations.

● (1030)

Mr. David McGuinty: I understand that, but if the regulations were increased, if they were changed, if they were amended, if they were improved, if they followed the TSB and the NTSB, your company would say “absolutely”.

Mr. Jamal Hematian: There is no issue with that.

Mr. David McGuinty: There is no issue with that, so what's the delay?

The Chair: Mr. McGuinty, he can answer the question this time.

Mr. Jamal Hematian: What's the delay in what sense? For NSC delaying it?

Mr. David McGuinty: What's the delay in the government from your perspective? What's the delay in adjusting to the TSB and the NTSB requirements?

The Chair: Mr. McGuinty, he can't answer something about the government. You've been around here longer than I have so I'm surprised you would ask a question like that.

Mr. David McGuinty: I think we should have a conversation offline, Mr. Miller, later on. We'll have a chat about what we can and can't ask here. I don't think we should be doing this publicly.

The Chair: Well, come on. You know what you asked and they can't answer that.

Mr. David McGuinty: That's the third time in two meetings, sir, that you've interrupted my questioning.

The Chair: Well, you're out of time anyway.

Mr. David McGuinty: That I appreciate, Chair.

In terms of the substance, no....

The Chair: Mr. Watson.

Mr. Jeff Watson: Thank you, Chair.

A question of phase-out depends on what we're phasing to. It seems obvious.

I hear “phase-out“ but it's not clear from the opposition whether they want to phase out the old DOT-111s in favour of the new DOT-111 standards. Or whether, as the TSB has suggested, maybe there is a new standard. If there is a delay, the question is what is the new standard?

I think what we're hearing, Mr. Hematian, is that even from a design perspective, a new standard of car would be a complex engineering question in and of itself, let alone a decision of.... A lot of different players who own these cars would have to replace those cars on two sides of the border if you're actually going to have a comprehensive solution to it. It's not as simple as simply saying, “let's just phase out”.

What are we phasing to?

Mr. Jamal Hematian: Let me elaborate on that one.

Let's for a minute forget about the accidents. I'm not saying it's not, I'm saying from an engineering point of view.

When you want to make changes you have to have a reason for that. What are the reasons for change, based on our experiences, based on data? It's not what you or I think, or this and that.

You collect data, let's say over five years. You record it, do a root cause analysis, figure out what's going on, and then you put your money where you will get the best value.

We had the legacy cars, we have good-faith cars. As you said, where do we go from here?

If we don't make our decisions based on real fact data nobody can guarantee when the new rules come in, how long it's going to last. You may come back again in two years and want to change it.

Mr. Jeff Watson: By comparison, in the auto industry, if you want to come up with a new vehicle platform, that's actually a five- to eight-year process. It involves a lot of different engineering. It involves a lot of different questions about supply chain. I would suggest that the supply chain is a little more vertical and less horizontal for the rail industry. But having said that, there is development and lead-up time. Even in setting a new standard there has to be some consideration about what that looks like.

Bottom line, Mr. Hematian, it's not a simple snap your fingers and we have a new standard, right? There are a lot of moving parts to this that have to come into play.

Mr. Jamal Hematian: Absolutely.

Mr. Jeff Watson: Okay. That's fair enough.

Maybe the opposition will want to clarify what standard they would like to move to if they are talking about a phase-out.

On the question of consultations, the minister has said on the public record that there are consultations with advisory councils here. She has a counterpart in the United States she's engaged with on the question of new standards. In the United States they have their own domestic internal process to arrive at a standard that involves a lot of players. It's not just rail companies, it's lease companies, it's a number of others. Presumably that includes manufacturers.

I'm going ask whether you've been consulted by Transport Canada in its process regarding possible new standards.

Mr. Jamal Hematian: I told you I'm sitting on the task force for tank cars. This is the U.S.

This is about 50 to 60 key people in the industry, as you said, from railroads, shippers, car builders, all different sectors. Transport Canada is there too. It's a part of a collection of all the people talking about different aspects of it.

Mr. Jeff Watson: In the auto industry, in order to abate the costs of changeover in different products moving from an old bumper standard to another, for example, a harmonized standard is a desirable thing because it allows them to abate their cost over an entire North American market rather than having segmented markets.

Is a harmonized approach to a new standard actually the right way to go?

● (1035)

Mr. Max Vanderby: Can I add one thing?

In regard to the safety appliances on cars, on the safety task force, Transport Canada has been heavily involved. That's basically a harmonized standard that they will adopt at the same time as the FRA and the AAR. Just as an example we do have standards that have been done already.

Mr. Jeff Watson: Just as a professional opinion in terms of a new standard, is it your position that there should be a redesign of DOT-111s into some sort of a new car, or in other words, a fresh approach on that? Or is it a further refining of the design that would produce an improved safety result? What's your professional opinion on that, Mr. Hematian?

Mr. Jamal Hematian: I think we have to look at it as a system. It's not just the car design operation. Other elements come into it. The best way to make a decision is to go based on data, to collect data. A university in the U.S. has collected data over 10 years. I'm not sure if it was Illinois or.... I'm not sure about the name. I can get it for you. They investigated all the incidents that happened. They did a good job. It's not perfect, but it's something to start building on.

Mr. Jeff Watson: Are they collecting data on the new DOT-111 design?

Mr. Jamal Hematian: On all tank cars, it doesn't matter, they are collecting it. That's where I got my data. I cannot give you details of it because of confidentiality for that meeting. I'm just letting you know that you can access that data and figure out what the data is. I'm saying that—

Mr. Jeff Watson: Maybe our analysts could find that, Mr. Chair.

Mr. Jamal Hematian: Yes. Based on the data, we know where we have to go.

Mr. Jeff Watson: Thank you.

The Chair: Your first five minutes are up. You have another one if you care for it. Okay? No more questions. We've exhausted the rounds.

An hon. member: We have 10 minutes left.

Mr. Mike Sullivan: Can I ask one question, just one question?

The Chair: Okay. I went over here.... If they want to give you the five minutes, fine.

Mr. Mike Sullivan: I'm not going to take five minutes. I just have one question.

The Chair: Well, I have a couple of clarifications as well that I have the right....

Mr. Boudreault, in your opening marks, you said that there should basically be.... You were talking about the fact that there was one conductor on the train. I'm not getting into whether that's correct or incorrect, but you basically said that you needed another guy there to make sure the other guy was doing his job right. Now, I hope you don't really believe that, from that standpoint. Have you ever heard of the term "being able to work independently"? Have you heard that term? If—

[*Translation*]

Mr. Richard Boudreault: I have no—

[*English*]

The Chair: —you're interviewing a potential employee, quite often you'll ask them, "do you think that you can work independently?", or something to that effect. So you've heard that term?

[*Translation*]

Mr. Richard Boudreault: Well, I have no—

[*English*]

The Chair: Yes or no?

[*Translation*]

Mr. Richard Boudreault: My answer has to be a little more than yes or no. I think the question deserves—

[*English*]

The Chair: No, it's my time. I didn't interrupt you when you had your 10 minutes. I'm just asking if you've heard that term. No? So you—

Mr. Richard Boudreault: I'm not going to say the answer you want me to answer.

The Chair: It isn't about wanting—

Mr. Richard Boudreault: The thing is that Transport Canada, Mr. Chair—

The Chair: No—

Mr. Richard Boudreault: Transport Canada, okay—

[*Translation*]

Mr. Hoang Mai: Point of order, Mr. Chair.

[*English*]

The Chair: Mr. Boudreault, you're out of order.

Mr. Richard Boudreault: The safety board pronounced on that themselves—

The Chair: I'm asking you—

Mr. Hoang Mai: Point of order, Mr. Chair.

The Chair: I'll get to you when I think it's a point of order.

I asked something specifically because you said that in there, and the reason that I'm asking this.... Whether you agree with one or two or whatever is not the point that I'm getting at here. In all early reports on the Lac-Mégantic thing, and God only knows none of us ever want to see that happen again.... But there were rules put in place...that if the gentleman who was looking after that train had put on the 11 brakes that he should have under the laws that were there, it probably wouldn't have happened. You know, we'll never be able to probably judge that completely—

● (1040)

Mr. Richard Boudreault: Mr. Chair, there is no conclusion, okay?

The Chair: No, no. That's right, I never—

Mr. Richard Boudreault: This is your conclusion, okay? This is not the report of the BST right now.

The Chair: True. I never—

[*Translation*]

Mr. Richard Boudreault: The report has not been—

[*English*]

The Chair: I'm not suggesting that it was.

I'm just saying that probably it wouldn't. I think we could all say that.

[*Translation*]

Mr. Richard Boudreault: That is your opinion, Mr. Chair.

[*English*]

Mr. Hoang Mai: On that point of order, Mr. Chair?

[*Translation*]

Mr. Richard Boudreault: That is your opinion.

[*English*]

The Chair: You had a point of order, Mr. Mai?

Mr. Hoang Mai: Yes. With all due respect, Mr. Chair, I think that so far since I've come to this committee, having sat on the finance and justice committees, I find it a bit surprising coming from the chair to be as partisan and, quite frankly—

The Chair: It's not partisan, Mr. Mai.

Mr. Hoang Mai: —to ask a question to a witness and tell him or her, "Answer yes or no". We've never done that even as partisan—

The Chair: It is a yes or no answer. It doesn't need an explanation —

Mr. Hoang Mai: I'm sorry, Mr. Chair, but to be honest, to be quite frank, I am a bit surprised, and hopefully we'll.... You know, coming from the chair, I think it would be great if it would be less partisan in terms of—

The Chair: It wasn't a partisan thing at all. I wanted clarification. It was a yes or no answer.

Mr. Jeff Watson: On a point of order, Mr. Chair, I find the charge spurious. There was nothing partisan about it. I didn't hear any reference to the Conservative Party or the government or anything else. It was a member asking a particular question.

Second, as somebody who has been on this committee since 2007, I would say it has been a regular practice of the chair to ask questions, not just this chair but previous chairs. Committees are the masters of their own destiny. They can take it in different ways if they choose to. Maybe that's not been your experience with the justice or finance committees, but I can tell you as the ranking member on the committee here, it's been that way since 2007. Chairman Tweed did that quite frequently. You can check the record if you don't take my word on it.

The Chair: In any committee that I've ever sat on, the chair always has that right for clarification or whatever, or even to ask questions. I don't exercise that right very often. I did today.

Mr. Braid.

Mr. Peter Braid: I was just going to add, Mr. Chair, that in fact you were fully within your rights and discretion as the chair to periodically ask questions. It's been my experience, I might also add, that in committees chaired by opposition members, that right of the chair is fully utilized.

The Chair: Do you have a point of order, Mr. McGuinty?

Mr. David McGuinty: Yes.

Mr. Chair, I also think you have the right to ask questions and probe and carry forward some unfinished business. I think that's absolutely your prerogative, but now that we've opened the door, I think my colleague from the Conservatives said he didn't hear the words “a political party” uttered. Well, at the very last meeting, one of your closing comments to the minister on television was that you had spoken to a senior member of the Liberal caucus, and you were giving testimony, hearsay, about how that member had said to you that they were in favour of a certain policy one way or the other.

That was entirely inappropriate, as I would expect it to be if the chair here were an opposition member, and they made such a reference to a Conservative member. I'd say the same thing. So I think there is a line here and we've opened the door. But I think my colleague is right in saying there's a need for you to exercise judicious tone. You've always been very good at this, Mr. Chair, with great respect, and I mean that sincerely. I just think there have been a couple of occasions recently on which you've perhaps crossed that line.

Ms. Wai Young: On a point of order, I wanted to say that I did take that as a point of clarification. In fact I had tried to get some of that information from the witness. It was not clear whether or not the report from the Lac-Mégantic accident had been tabled and whether it had been determined that one or two people were required or if that was the root of the issue. So I appreciated your clarification on this.

The Chair: Thank you very much for being here today. I appreciate that.

The meeting is adjourned.