

Congress of the United States
Washington, DC 20515

June 17, 2008

The Honorable Gene L. Dodaro
Acting Comptroller General
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Dodaro:

On May 29, 2008, the Canadian Parliament's Standing Committee on Transport, Infrastructure and Communities issued a report on rail safety in Canada. We were deeply troubled to read that Canadian National (CN), which traverses the continental United States, was cited several times for not adequately meeting the safety standards set forth by the Canadian government. We are specifically concerned with this report because presently Canadian National is seeking approval from the Surface Transportation Board (STB) to acquire the Elgin, Joliet, and Eastern Railroad (EJ&E), which travels through or near our Congressional Districts around the city of Chicago in Illinois and northwestern Indiana (STB Finance Docket #35087).

The report cited many concerns with Canadian National that were raised during the committee's investigation into rail safety in Canada including:

- "A perceived 'disconnect' between management and frontline workers in understanding management's commitment to safety." (Page 3)
- CN was rated the lowest among its peers for implementing Safety Management Systems—"On a scale of one to five, with five being the optimum level, CN was at level 1 or 2, CP at 3 and Via Rail at about 4." (Page 6)
- "...the Committee heard evidence that employees were reluctant to report safety violations, for fear of reprisals from the companies. This was especially true in the case of CN rail, where employees stated they were working within a 'culture of fear'." (Page 8)

Currently, the STB's Section on Environmental Analysis (SEA) is preparing a draft environmental impact statement, which will evaluate among other things the impact on the proposed Canadian National acquisition will have on safety. Given the concerns raised by the rail safety in Canada report, we ask that the Government Accountability Office (GAO) prepare a report evaluating the safety of railroads operating in the United States—including Canadian National—referencing all safety citations issued by the Federal Railroad Administration, National Transportation Safety Board and other transportation safety agencies. We request that upon completion of this report, the GAO submit all relevant sections that discuss Canadian

National's safety record to the STB Finance Docket #35087 so it can be considered in those proceedings.

Thank you in advance for your consideration of this request. If you have any questions, please feel free to contact us.

Sincerely,

Nelson L. Bern

Peter J. Vindas

[Signature]

Judy Biggart

Shall M. [Signature]

CC: Acting Secretary Anne Quinlan, Surface Transportation Board re: FD #35087

Encl: *Report of the Standing Committee on Transport, Infrastructure and Communities on Rail Safety in Canada*



HOUSE OF COMMONS
CANADA

**REPORT OF THE STANDING COMMITTEE ON
TRANSPORT, INFRASTRUCTURE AND
COMMUNITIES ON RAIL SAFETY IN CANADA**

**Report of the Standing Committee on
Transport, Infrastructure and Communities**

**Mervin Tweed, MP
Chair**

MAY 2008

39th PARLIAMENT, 2nd SESSION



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THE STANDING COMMITTEE ON TRANSPORT, INFRASTRUCTURE AND COMMUNITIES

has the honour to present its

THIRD REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has studied the rail safety in Canada and has agreed to report the following:

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REPORT OF THE STANDING COMMITTEE ON TRANSPORT, INFRASTRUCTURE AND COMMUNITIES ON RAIL SAFETY IN CANADA

REPORT OF THE STANDING COMMITTEE ON TRANSPORT, INFRASTRUCTURE, AND COMMUNITIES

Introduction

Due to the frequency of rail accidents in Canada in the last few years, notably in British Columbia, Alberta, Ontario and Quebec, there is a concern that the rate of accidents is on the rise. The repercussion from these accidents has been severe in terms of human fatalities and environmental damage.

In this context, the House of Commons Standing Committee on Transport, Infrastructure and Communities passed a motion in October 2006 to conduct an in-depth inquiry into rail safety in Canada. The motion reflects the Committee's concerns regarding both the increase in main track derailments and the need for better rail safety generally across the country.

At the end of December 2006, in an attempt to modernize the *Railway Safety Act* (RSA), the Minister of Transport, Infrastructure and Communities, the Honourable Lawrence Cannon, announced the third review of the RSA, which came into force on 1 January 1989. The Advisory Panel for the *Railway Safety Act* Review, which was appointed on 20 February 2007, released a Consultation Guidance Document on 30 March 2007 to help stakeholders participate in the public consultation process. Beginning in April 2007, the Advisory Panel traveled to selected cities across Canada to consult with stakeholders, including the public, railway companies and their industry associations, railway company employees and their unions, railway customers (e.g., travelers and shippers) and their associations, the provinces and territories, municipalities, aboriginal and environmental groups, and federal government departments and agencies. Consultations concluded in August 2007. The Advisory Panel reported to the Minister of Transport, Infrastructure and Communities with findings and over 50 recommendations. The report was tabled on 7 March 2008 (a brief summary of the Advisory Panel's findings are presented in Appendix B of this report).

During the Committee's deliberations, we heard witnesses from Transport Canada, the unions, the railroads as well as from the Advisory Panel on rail safety. While we endorse the findings and recommendations contained in the Advisory Panel's report, we believe that more needs to be done and there is considerable room for progress to ensure that rail safety meets the highest practicable standards. We believe, after hearing from the witnesses and reviewing the Advisory Panel's report, that in some areas, the Advisory Panel's recommendations can be strengthened. This was particularly evident in the area of Safety Management Systems (SMS) and their implementation.

What was evident from our study was that three major themes were continually raised during our hearings. These were: the governance and regulatory framework; safety management systems; and human factors.

In some instances, there is an overlap between themes as is the case with governance, human factors and the Safety Management Systems. We stress however, that common through all of the themes, is the paramount issue of the lack of communication. We were continually struck by the fact, that while safety and the implementation of SMS were stressed by all stakeholders as being the overriding objective of the railroads and the government, there was a lack of attention to the most vital component of achieving that goal – communication.

These themes are discussed in the following sections of the report along with our recommendations for improving rail safety in Canada.

Governance/Regulatory Framework

Throughout the Committee's hearings we heard evidence that there was a lack of accountability on the part of both Transport Canada and the railroads with regard to rail safety. Witnesses stated that the regulator was not accountable enough in enforcing safety regulations, harmonizing regulations across the regions and conducting safety audits in a timely manner and making audit results public. The railways, for their part, were criticised for the lack of meaningful management-employee consultations, poor crew training and poor prioritizing, implementing and carrying out of safety procedures.

We are particularly concerned with what appears to be a lack of consistency on how the rules and regulations are applied across the regions. While we recognize that there are regional differences, in terms of climate and geography, that might require variations in how rules are interpreted, we believe that there must be overall consistency in how rail safety is treated across the country. The railroads and the employees must have a clear understanding of how the rules are interpreted and applied. To achieve this, the Rail Safety Directorate in Transport Canada must work more collaboratively with the regional offices in developing a national safety framework while, at the same time, allowing for flexibility to meet local needs.

We agree with the Advisory Panel's first recommendation calling for the Rail Safety Directorate to assert its existing responsibility to provide guidance to the regions on the enforcement of rail safety rules and regulations. However, we would like to know how Transport Canada will achieve this goal and how long it will take. Therefore the Committee recommends that:

- 1. Transport Canada report, within one year from the presentation of this report in the House of Commons, to the Standing Committee on Transport, Infrastructure and Communities, on its progress in providing guidance to the regional offices, on the application of safety rules and regulations.**

Railroad employees told the Committee that with regard to the adoption of new rules and implementing safety procedures they participated in only cursory consultations with the companies and were not an integral part of the process. They stated that, especially in the case of CN Rail, there was a perceived "disconnect" between management and frontline workers in understanding management's commitment to safety. It was pointed out, that until recently, CN Rail did not have a senior management official dedicated to rail safety. This issue will be more fully addressed in the following section dealing with Safety Management Systems.

We were also told that the present governance structure lacks sufficient regulatory tools to ensure the enforcement of rail safety. In fact, Transport Canada told the Committee that it had become apparent that the current regulatory framework may not provide the full set of tools to effectively deal with safety enforcement. The department also stated that there is a view that the current framework needs to be modernized and better aligned with safety legislation in other modes of transport in

Canada. This view was also held by the Advisory Panel, which called for the adoption of Administrative Monetary Penalties (AMP) for companies that violate safety rules. We agree with this recommendation. Currently, there is no provision for fines under the RSA.

We believe that at the core of these concerns is the lack of an effective governance regime, both within the railroads and the regulator. We are encouraged that Transport Canada has established an Advisory Council on Railway Safety (ACRS) to provide a forum for the development and assessment of changes to the *Railway Safety Act* (RSA) regulatory framework through collaborative activities and for dialogue on railway safety issues. However, we are concerned that we do not know what kind of power the Council will have and how it will “feed” into Transport Canada’s decision making process.

We were told by witnesses and the Advisory Panel that there needs to be a better understanding of rail safety rules and how they are developed. That there needs to be a more structured and inclusive procedure established for rule making to ensure that all interested parties, especially labour, are included in the process. We believe that the ACRS could provide the appropriate model to achieve this if its mandate is clarified to include a formal process for rule making. Therefore, the Committee recommends that:

- 2. The government mandate the Advisory Council on Railway Safety (ACRS) to be an integral component of the rule making process with participants from all interested parties and ensure that its decisions are formally integrated into Transport Canada’s rule approval procedures.**

We also note that the Minister of Transport, Infrastructure and Communities has tasked a joint Transport Canada – Industry steering committee to develop an action plan to address the Advisory Panel’s recommendations. This steering committee is composed of officials from Transport Canada and the Railway Association of Canada (RAC) but does not have representatives from railway labour. As we have stated earlier, communication is one of the keys to improving railway safety and all participants in the industry must be part of the decision making process. Without labour representatives on the steering committee, full communication is not possible.

Therefore, the Committee recommends that:

3. **The government ensure adequate representation from railway labour organizations be part of the joint Transport Canada – Industry steering committee that is developing an action plan to address the Advisory Panel's recommendations.**

Safety Management Systems (SMS)

The most important area of concern raised throughout our deliberations was the implementation of SMS. Safety Management Systems are not a new concept. They began in the 1990s as a new way to manage safety. SMS regulations were added to the *Railway Safety Act* in 1999 and came into effect in 2001. The Act, as amended, requires the railroads to implement and maintain an SMS, which is defined as a formal framework for integrating safety into day to day railway operations. It includes a safety policy with annual safety targets and initiatives to meet those targets. There must be clear responsibility for safety at all levels of the company and a means to involve employees in safety management.

In addition, as was stated by the Advisory Panel, within the SMS there must be:

- systems for identifying and showing compliance with applicable rules and regulations;
- a process for identifying hazards and assessing and mitigating risk;
- processes and procedures for accident reporting and investigation;
- methods to ensure that employees are properly trained;
- procedures for data collection and analysis and periodic internal safety audits; and
- requirements for monitoring corrective actions and consolidating documentation.

While we strongly agree with the concept of the SMS, we would not recommend that it replace the current regulatory system. As the Advisory Panel stated, the SMS is not intended to replace existing rail safety regulations, rules or standards, but to develop a more comprehensive way of managing safety by complementing the existing regulatory framework. We agree.

We have serious concerns regarding both the delays and the manner in which the SMS has been implemented by the railways and the government. We have heard that: it is difficult to create a “safety culture”; that this requires time and patience; that communications, especially with employees, has been difficult or non-existent; and that the system is “fragile.” It has been almost seven years since the railroads have been required to implement SMS and in our opinion, as well as that of the Advisory Panel, the railroads and Transport Canada have not made sufficient progress in attaining this goal. In fact, as the Chair of the Advisory Panel told the Committee, on a scale of one to five, with five being the optimum level, CN was at level 1 or 2, CP at 3 and Via Rail at about 4. With only one railway at the upper level of the scale, this is not, in our view, acceptable progress. This, coupled with the fact that employees who were at the front line of implementing SMS had, in many cases, very limited knowledge of SMS and what their role in this system was, makes it is inconceivable how SMS can successfully be implemented. Here again, we believe that the lack of communication is at the root of the problem.

We also note that Transport Canada has a key role to play in the successful implementation of SMS. We heard from witnesses as well as the Advisory Panel that the regulator requires a change in its approach to developing a safety culture. The Advisory Panel stated that Transport Canada would have to reorganize its activities to better integrate SMS as the key focus of its oversight role.

We are of the opinion that, if more stringent oversight by Transport Canada had taken place, there might have been better results in implementing SMS and the railroads would have been further along in developing a safety culture than they are today. Transport Canada will have to take a much more “hands on approach” in this process if we are to see a favourable implementation of SMS in a timely manner. To be at the stage we are today, after seven years, is clearly not acceptable.

In order to achieve the successful implementation of SMS, we recommend that three initiatives must take place. First, Transport Canada and the railroads must develop an action plan for implementing SMS. This should include the steps taken to date and the future steps required to fully implement SMS and the timeline for full implementation. Second, Transport Canada and the railroads must develop a concrete assessment tool to continuously monitor the progress of SMS implementation. Finally,

Transport Canada and the railroads should report their progress to the Standing Committee on Transport, Infrastructure and Communities within six months of the presentation of this report in the House of Commons.

Furthermore, we agree with the view of the Advisory Panel when it stated that the weakest component in SMS plans appears to be in the management of human resources and organizational factors, rather than the technical or equipment aspects.

Needless to say, we believe that labour has to be meaningfully involved in every step of this process and recommend that the regulator ensures that this takes place. We further suggest that this can be most effectively done through the participation of the railway health and safety committees. Without this, there can be little effective communication among railway employees, railway management and Transport Canada.

Finally, we want to stress, that given the slow and uneven pace of implementing SMS, we do not envisage it replacing a rigorous inspection program, with the appropriate level of resources, by Transport Canada. Therefore, the Committee recommends that:

- 4. Transport Canada and the railroad companies develop, within one year of the presentation of this report in the House of Commons, an action plan for the implementation of SMS, including timelines for full implementation of the system.**
- 5. Transport Canada and the railroad companies develop a concrete assessment tool to continually monitor the implementation of SMS.**
- 6. Transport Canada ensure that union and non union railway employees are meaningfully involved and consulted at every stage of implementing the SMS.**
- 7. Transport Canada and the railway companies report their progress in adopting measures to facilitate the implementation of SMS to the Standing Committee on Transport, Infrastructure and Communities within six months of the presentation of this report in the House of Commons.**
- 8. Transport Canada ensure that a rigorous rail safety inspection process is in place, with adequate resources to properly administer this program.**

Human Factors

During our study, the Committee heard from witnesses that there were critical challenges that need to be addressed which relate to what we term “human factors”. These include non-punitive reporting of safety violations, fatigue management, personnel shortages, and insufficient crew training.

A. Non-Punitive Reporting

With regard to non-punitive reporting of safety violations, the Committee heard evidence that employees were reluctant to report safety violations, for fear of reprisals from the companies. This was especially true in the case of CN rail, where employees stated they were working within a “culture of fear.” While CP Rail was viewed as having a somewhat better approach to safety management, there was still concern that its safety record could be improved. The fear of discipline for reporting safety violations was viewed by railway employees as a major deterrent to reporting such violations.

This experience contrasts with the non-punitive reporting approach adopted in the airline industry in recent amendments to the *Aeronautics Act* under Bill C-7. Indeed, in testimony before the Committee we heard from union representatives that a system of non-punitive reporting was one of the key elements in ensuring that SMS achieves the desired result of reducing accidents and improving employee safety. We agree. Therefore, the Committee recommends that:

9. **The government amend the *Railway Safety Act* to require federally regulated railway companies to include in their Safety Management Systems, an effective process for the non-punitive reporting by employees of safety issues and incidents, violations and non-compliance with safety rules and regulations.**

B. Fatigue Management

We heard from witnesses that fatigue management was a significant problem in the railroad industry. Indeed, the Advisory Panel stated that it was convinced that the operational issue that affects an effective safety culture the most is fatigue management. Witnesses told the Committee that the current Work/Rest Rules do not provide a satisfactory baseline framework for managing the risks associated with fatigue and they should better reflect the current science in this field. We believe that there are lessons to be learned from the trucking and aviation industries and how these sectors handle fatigue. As the Advisory Panel stated, this issue cries out for an effective solution and fast.

We realize that there are many issues surrounding fatigue management, such as crew scheduling, suitable away from home rest facilities for crews, and collective bargaining agreements. However, the overriding issue should be to ensure that employees have the proper rest periods to ensure their safety and to provide for the safe operation of the railroad. We believe that there needs to be a collaborative effort between the employees and the railroads to develop effective Work/Rest Rules based on current science and the operating experience of the railway employees. Railway companies should have precise fatigue management plans and these should be carefully monitored by Transport Canada. Therefore, the Committee recommends that:

- 10. The government mandate the railway companies to work with their employees to develop Work/Rest Rules and fatigue management plans based upon the current science and operating experience of their employees.**
- 11. The railway companies file their fatigue management plans with Transport Canada and the department monitor the effective implementation of such plans.**

C. Training

We were told by some witnesses that limited training was provided by CN Rail for newly hired employees. This was occurring because of a shortage of employees to operate and service trains due to the difficulty recruiting and retaining employees resulting in these shortages. While we understand that there may be a tendency to rush

new employees through training to deal with staff shortages we believe that training cannot be compromised. Transport Canada must stringently monitor the railways' training programs to ensure they meet the proper training guidelines. Therefore, the committee recommends that:

- 12. Transport Canada monitor the railway companies' training programs for new employees to ensure they meet the highest practicable standards.**

D. Resources

We were told throughout our hearings that more resources were required by Transport Canada to advance railroad safety – especially when it came to monitoring and auditing the implementation of SMS. We have stressed this point in recommendation number 8 in an earlier section of our report. In the Advisory Panel's view, the department has inadequate financial and human resources to carry out its many responsibilities in the area of railway safety. We agree with the Advisory Panel and strongly urge the government to adopt its recommendation number 54 to give Transport Canada more resources to fulfill its mandate as inspector, auditor and monitor of the railway safety system.

Railway Technologies

We heard from witnesses that there are constantly evolving technologies that can be utilized to improve railway safety. These include systems for detecting rail flaws, hot box detectors, digital imaging and advanced train signal control systems. We also note, as did the Advisory Panel, that while the railways are investing in these technologies there is room for more innovation. This is especially true in the area of railway crossing safety. There is a need to increase the focus on scientific and technological advancements to improve safety in this area. As the Advisory Panel pointed out, crossing safety can be significantly improved with the use of moderately priced scientific innovation and technology to mitigate accidents. We believe that Transport Canada can play a leadership role in this area and provide the necessary guidance for implementing new technologies especially as they apply to railway crossing safety and track and wheel maintenance. Therefore, the Committee recommends that:

- 13. Transport Canada provide the leadership to implement new technologies for improving safety, with particular emphasis on railway crossings and track and wheel maintenance, and report its progress, within one year of the presentation of this report in the House of Commons, to the Standing Committee on Transport, Infrastructure and Communities.**

Conclusions

As we stated in the introduction of this report, we concur with the findings and recommendations of the Advisory Panel. However, we want to stress that there needs to be a more proactive approach in addressing the issues raised by the Advisory Panel and the ones we have highlighted in our study. As stated earlier, we believe that much more progress should have been made during the past seven years in implementing the Safety Management Systems.

Some witnesses have said that the rail systems are fragile and safety improvements take time. We do not entirely agree with this view. The system was not too fragile to introduce new technologies, operate longer trains and establish new services to the heartland of North America. Surely it is not too fragile to introduce new safety measures and regimes in a more timely manner. We believe that the lack of action has come about for two reasons – that it was not a high enough priority for the railroads and the government and that there has been a critical failure to communicate among the stakeholders on how safety issues must be addressed and how the SMS can be properly implemented. These failures are hampering the development of a “safety culture” in the Canadian railroad industry.

The government must recognize the importance of rail safety and that its advancement and the proper implementation of SMS will require more resources and more commitment by the regulator. The railroad companies will have to place a much higher priority on these issues than has previously been the case and all stakeholders must make a significant commitment to better communicate with each other. We cannot overly stress how important we believe that better communication is the key to improvements in railway safety. Until we have a clear indication of how the SMS is being implemented and working it may be necessary to increase the regulator’s oversight role.

In summary, to achieve increased safety and the efficient implementation of SMS there will have to be better communication among the stakeholders, more resources for the regulator and a higher priority given to railway safety by the government and the railroads. This must be done as quickly as possible. Therefore, the Committee recommends that:

- 14. Transport Canada report to the Standing Committee on Transport, Infrastructure and Communities, within two years of the presentation of this report in the House of Commons, on its progress and that of the railway companies in improving railway safety and the implementation of the Safety Management Systems and report annually thereafter.**

APPENDIX A

LIST OF RECOMMENDATIONS

1. That Transport Canada report, within one year from the presentation of this report in the House of Commons, to the Standing Committee on Transport, Infrastructure and Communities, on its progress in providing guidance to the regional offices, on the application of safety rules and regulations.
2. That the government mandate the Advisory Council on Railway Safety (ACRS) to be an integral component of the rule making process with participants from all interested parties and ensure that its decisions are formally integrated into Transport Canada's rule approval procedures.
3. That the government ensure adequate representation from railway labour organizations be part of the joint Transport Canada – Industry steering committee that is developing an action plan to address the Advisory Panel's recommendations.
4. That Transport Canada and the railroad companies develop, within one year of the presentation of this report in the House of Commons, an action plan for the implementation of SMS, including timelines for full implementation of the system.
5. That Transport Canada and the railroad companies develop a concrete assessment tool to continually monitor the implementation of SMS.
6. That Transport Canada ensure that union and non union railway employees are meaningfully involved and consulted at every stage of implementing the SMS.
7. That Transport Canada and the railway companies report their progress in adopting measures to facilitate the implementation of SMS to the Standing Committee on Transport, Infrastructure and Communities within six months of the presentation of this report in the House of Commons.
8. That Transport Canada ensure that a rigorous rail safety inspection process is in place, with adequate resources to properly administer this program.
9. That the government amend the *Railway Safety Act* to require federally regulated railway companies to include in their Safety Management Systems, an effective process for the non-punitive reporting by employees of safety issues and incidents, violations and non-compliance with safety rules and regulations.
10. That the government mandate the railway companies to work with their employees to develop Work/Rest Rules and fatigue management plans based upon the current science and operating experience of their employees.

- 11. That the railway companies file their fatigue management plans with Transport Canada and the department monitor the effective implementation of such plans.**
- 12. That Transport Canada monitor the railway companies' training programs for new employees to ensure they meet the highest practicable standards.**
- 13. That Transport Canada provide the leadership to implement new technologies for improving safety, with particular emphasis on railway crossings and track and wheel maintenance, and report its progress, within one year of the presentation of this report in the House of Commons, to the Standing Committee on Transport, Infrastructure and Communities.**
- 14. That Transport Canada report to the Standing Committee on Transport, Infrastructure and Communities, within two years of the presentation of this report in the House of Commons, on their progress and that of the railway companies in improving railway safety and the implementation of the Safety Management Systems and report annually thereafter.**

APPENDIX B

The Advisory Panel for the *Railway Safety Act* Review Report

The report of the Advisory Panel entitled: *Stronger Ties: A Shared Commitment to Railway Safety* set forth a number of concerns and recommendations for improving railway safety in Canada. The Advisory Panel stated in its report that while the safety record of Canada's major railways is among the best in North America, there has not been sufficient improvement in their safety performance since the *Railway Safety Act* was last amended in 1999. With the exception of accidents and incidents involving dangerous goods, main track accidents have shown an upward trend in recent years. This needs to be addressed. In addition, the report noted that accidents in railway yards and on spur lines are occurring far too frequently.

Generally, the Advisory Panel found that the *Railway Safety Act* and its principles are fundamentally sound, but that a number of improvements are needed. The Advisory Panel goes on to say that the regulatory framework is founded on performance-based regulations and railway operating rules, and requires attention to ensure that it is implemented properly and effectively. Some areas that the Advisory Panel believes require improvement are set out as follows:

- The difference between rules and regulations needs to be better understood. A more structured and inclusive process needs to be developed for rule making and for consultation to ensure the involvement of all interested parties.
- There is a need to determine the baseline safety requirements that must be met before a company commences operations, and for this to be recognized through the issuance of a Rail Operating Certificate.
- The regulatory framework needs to make provision for the regulator to be better equipped with a broader range of enforcement tools, including an administrative monetary penalty scheme.
- The Act needs to be updated to clarify the basis upon which railway safety inspectors exercise their current powers and to better reflect the changing nature of the railway inspector's job to that of an auditor, a change brought about by the implementation of SMS a number of years ago.

With regard to SMS, the Advisory Panel supports this approach to managing safety but stresses that there are implementation challenges. Railway companies need to make a concerted effort to communicate what SMS is and how it can improve safety, and to do so at all levels of their organization. Furthermore, the regulator must make safety management systems the key focus of its oversight activities. The regulator also needs to collaborate with the industry in developing meaningful performance indicators and to improve its capacity and approach to auditing railway SMS.

In terms of overall safety culture, the Advisory Panel stated that, from their point of view, passenger railways, and VIA Rail have a commendable safety culture. CP has made great strides in improving its approach to safety management and in developing a healthy safety culture in its company. On the other hand, in the Advisory Panel's opinion, CN's strict adherence to a rules-based approach, focussed largely on disciplinary actions when mistakes are made, has instilled a "culture of fear and discipline/ and is counter to an effective safety management systems. CN needs to acknowledge this openly and take concrete steps to improve.

In relation to human resources to monitor rail safety, the Advisory Panel recognizes that Transport Canada is facing significant financial and personnel challenges. With the rail traffic growing there are increasing demands on the regulator for ongoing monitoring and auditing of the SMS. This means that the regulator must be adequately funded if it is to maintain effective delivery of its regulatory oversight program. Transport Canada must enhance its financial and human resource capacity to perform its safety oversight role.

The Advisory Panel sums up its findings by concluding that Canadian railways are safe but could be safer. It recognizes that there is a need for the railways and the regulator to take more action in certain areas to improve safety. They believe that they are missing opportunities to do so – such as having better data for measuring and analyzing safety performance, encouraging participation at all levels in implementing effective SMS, and taking steps to enhance the regulator's capacity to perform its safety oversight role.

APPENDIX C

LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
Department of Transport Luc Bourdon, Director General, Rail Safety Marc Grégoire, Assistant Deputy Minister, Safety and Security	2007/12/11	7
Department of Transport Douglas Lewis, Chair, Advisory Panel for the Railway Safety Act Review Tim Meisner, Executive Director, Railway Safety Act Review Secretariat Sheila K. Smith, Director, Planning & Liaison, Railway Safety Act Review Secretariat	2008/03/13	17
Department of Transport Luc Bourdon, Director General, Rail Safety Marc Grégoire, Assistant Deputy Minister, Safety and Security	2008/04/01	18
Canadian National Paul Miller, Vice-President and Chief Safety Officer	2008/04/03	19
Canadian Pacific Railway Glen Wilson, General Manager, Strategy, Planning and Regulatory Affairs Brock Winter, Senior Vice-President, Operations		
National Automobile, Aerospace, Transportation & General Workers of Canada John Burns, Vice-President and Coordinator, National Health and Safety Jim Wilson, Coordinator, National Health and Safety	2008/04/08	20
Teamsters Canada William Brehl, President, Teamsters Canada Rail Conference - Maintenance of Way Employees Division Mike Wheten, National Legislative Director, Teamsters Canada Rail Conference - Local Engineers		

Organizations and Individuals	Date	Meeting
United Steelworkers Todd Cotie, Coordinator, Health and Safety, Local 2004	2008/04/08	20
United Transportation Union Garth Bates, Vice-President and Legislative Director Robert McDiarmid, Chair, British Columbia Legislative Board		

APPENDIX D

LIST OF BRIEFS

Organizations

Canadian Pacific Railway

Department of Transport

Department of Transport, Advisory Panel for the Railway Safety Act Review

National Automobile, Aerospace, Transportation & General Workers of Canada

Teamsters Canada

United Steelworkers

United Transportation Union

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings (Meetings Nos. 7, 17, 18, 19, 20, 21, 22, 24, 27 and 28) is tabled.

Respectfully submitted,

Mervin Tweed, MP
Chair