Legislative Summary **LS-632E**

BILL C-13: AN ACT TO AMEND THE CANADA GRAIN ACT, CHAPTER 22 OF THE STATUTES OF CANADA, 1998 AND CHAPTER 25 OF THE STATUTES OF CANADA, 2004

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LEGISLATIVE HISTORY OF BILL C-13

HOUSE OF COMMONS		SENATE	
Bill Stage	**Date**	**Bill Stage**	**Date**
First Reading:	23 February 2009	First Reading:	
Second Reading:		Second Reading:	
Committee Report:		Committee Report:	
Report Stage:		Report Stage:	
Third Reading:		Third Reading:	

Royal Assent:

Statutes of Canada

This bill did not become law before the 2nd Session of the 40th Parliament ended on 30 December 2009.

N.B. Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print.**

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CONTENTS

Page

Page

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BILL C-13: AN ACT TO AMEND THE CANADA GRAIN ACT, CHAPTER 22 OF THE STATUTES OF CANADA, 1998 AND CHAPTER 25 OF THE STATUTES OF CANADA, 2004*

BACKGROUND

Bill C-13, An Act to amend the Canada Grain Act, chapter 22 of the Statutes of Canada, 1998 and chapter 25 of the Statutes of Canada, 2004, which received first reading on 23 February 2009, is identical to Bill C-39, which was introduced in the House of Commons on 13 December 2007 by the Minister of Agriculture and Agri-Food and Minister for the Canadian Wheat Board (the minister), the Honourable Gerry Ritz. Bill C-39 died on the *Order Paper* when the 39th Parliament was dissolved on 7 September 2008. Like its predecessor, Bill C-13 is the culmination of a long and extensive consultation for the purpose of modernizing the Canadian Grain Commission (CGC).

The debate on the need to modernize the CGC goes back a number of years, but the factor triggering the legislative process was the Fourth Report(1) of the Standing Committee on Agriculture and Agri-Food, tabled in the House of Commons on 12 May 2005, in the 1st Session of the 38th Parliament. On 10 May 2005, during consideration of Bill C-40, An Act to amend the Canada Grain Act and the Canada Transportation Act, the main purpose of which was to harmonize the *Canada Grain Act* (CGA) with Canada's international trade obligations, the Standing Committee agreed to amend Bill C-40 by adding a clause requiring "an independent and comprehensive review" of the CGC.

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* Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

(1) Standing Committee on Agriculture and Agri-Food, Fourth Report, 1st Session, 38th Parliament, http://cmte.parl.gc.ca/cmte/CommitteePublication.aspx?COM=8973&Lang=1&SourceId=114687.

A. First Round of Consultations:
Review of the CGC by an Independent Firm

In response to a recommendation of the Standing Committee on Agriculture and Agri-Food, Agriculture and Agri-Food Canada retained the services of COMPAS Inc. in February 2006. The Honourable Chuck Strahl, then Minister of Agriculture and Agri-Food and Minister for the Canadian Wheat Board, tabled the COMPAS report in Parliament on 18 September of that year. To carry out its mandate, the independent firm consulted nearly 500 experts and stakeholders, received written feedback from almost 100, met directly with some 60 individuals, published a discussion paper in May 2006 and, lastly, held public fora in eight Canadian cities in June.

The COMPAS report,[2] which was extensively researched and exhaustive, focused on the following themes:

- the CGC's mandate and governance
- inspection and weighing
- quality assurance
- liability
- security
- dispute resolution
- grain research.

In the report, COMPAS concluded that major changes in the Canadian and global grain sector called for extensive changes in the CGC's structure and operation to adjust to that new environment.

(2) Agriculture and Agri-Food Canada, *Review of the Canada Grain Act and the Canadian Grain Commission*, Public Opinion and Customer Research Survey, COMPAS, 15 August 2006, http://www.agr.gc.ca/index_e.php?s1=info&s2=consult&s3=cgc-ccg&page=summ-res.

B. Second Round of Consultations: Review by Parliament

The Standing Committee on Agriculture and Agri-Food then reviewed the COMPAS report. Following numerous meetings with the principal stakeholders, it tabled its own report(3) in the House of Commons on 5 December 2006. The first of that document's 12 recommendations set the tone for the rest of the report:

> The Standing Committee supports a redefined mandate of the CGC as more in line with the practical reality of the Canadian grain industry and it recommends that any eventual bill clearly protect the interests of grain producers.

That recommendation, another on the protection of farmers' interests and, lastly, one concerning optional inward inspection and weighing of grain delivered to transfer and terminal elevators, are now central to the bill. This bill stems from the modernization proposals made in the COMPAS report and from the review of that report, which led to the report of the Standing Committee on Agriculture and Agri-Food. Few bills have emerged from such an extensive analytical framework and consultation.

DESCRIPTION AND ANALYSIS

Bill C-13 makes a number of technical amendments and clarifications to the present CGA, but some major trends may be distinguished. It clarifies and provides a better framework for the CGC's mandate, which will now be twofold: on the one hand, to protect the interests of all Canadians through grain quality standards and to ensure reliable, competitive grain handling; and on the other hand, to protect producers' interests by ensuring that the system for delivering grain to elevators, for grading and dockage of grain and, lastly, for allocating producer railway cars is fair and efficient. The proposed statutory changes will also modernize the definitions of certain technical terms respecting the inspection, handling and transportation of grain. Lastly, with regard to innovation and the modernization of the CGC, the changes will result in more flexible operations, reduce regulation and, consequently, improve competitiveness in the grain industry in Canada.

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(3) Standing Committee on Agriculture and Agri-Food, *Report on the Review of the Canada Grain Act and the Canadian Grain Commission Conducted by COMPAS Inc.*, http://cmte.parl.gc.ca/cmte/CommitteePublication.aspx?COM=10464&SourceId=185698&SwitchLanguage=1.

A. Provisions Respecting the *Canada Grain Act* (subclause 1(1) to clause 63)

1. Definitions (subclauses 1(1) to 1(9))

The first part of the bill concerns the modernization of certain terms and definitions in order to improve the accuracy of the terminology used in the grain sector.

One of the most important amendments to terminology concerns terminal elevators, which will now include all terminal and transfer elevators. This change in definition was made necessary by the elimination of the legal requirement for inward weighing and inspection. The new definition of terminal elevator also makes it necessary to further clarify the term "lawfully" to reflect this combining of elevator categories (subclause 1(5)).

Also of note are changes to certain definitions: the French term "appellation de grade" now becomes "nom de grade," and "foreign grain" (subclause 1(8)) is replaced by the more accurate expression "imported grain" (see also clause 12). The bill also clarifies the definition of "official sample," specifying that both the sampling device and the person using it must be authorized by the CGC. This amendment takes into account new technologies such as the "black boxes" already used in countries that no longer rely on Kernel Visual Distinguishability to analyze and grade grain. Lastly, subclause 1(3) amends the definition of "contaminated" for the purpose of greater harmonization with the *Food and Drugs Act* (FDA); it is not clear, however, how replacing the conjunction "and" in "unfit for consumption by persons *and* animals" with the conjunction "or" is necessary in order to make the definition really more accurate.

2. Objects and Accountability (clauses 2 to 4)

Since the grain appeal tribunals will no longer exist, clause 2 deletes any mention of them in the CGA and eliminates the possibility of determining the compensation of their members.

Clause 3 makes a significant amendment to the present CGA by defining the objects (mandate) of the CGC as twofold. The CGC's mandate will be, first, to protect the interests of the entire grain sector and, second, to act in the interests of grain producers as recommended by the Standing Committee on Agriculture and Agri-Food in its report tabled in

December 2006 (Recommendation 1),[4] particularly with respect to deliveries to elevators and grain dealers, the allocation of producer railway cars (Recommendation 12) and the obligation for the CGC to determine grade and dockage of grain.

The CGC's twofold mandate to protect the interests of grain producers and the industry has raised fears among some producer groups, which have interpreted it as a weakening of their protection within the CGC. When he appeared before the Standing Committee on Agriculture and Agri-Food, the new Chief Commissioner, Elwin Hermanson, reaffirmed that "farmers need to be reassured that producers will continue to be protected under the *Canada Grain Act*."[5]

Clause 4 of the bill repeals section 15 of the CGA, which provides that the Commission shall report on its activities for each crop year. This form of accountability will no longer be necessary because the CGC is deemed to be a department within the meaning of the *Financial Administration Act* and must therefore report to Parliament through the minister by tabling a Report on Plans and Priorities and a Performance Report.

3. Grain Samples (clauses 5 to 12)

Most of the bill's clauses clarify the relevant definitions of samples, in particular by grouping the various expressions under a single term: "standard samples."

Clause 5 repeals paragraph 20(2)(*b*) of the CGA, thus obviating the need to appoint a chair to the Western Standards Committee, which will no longer exist. Clause 8 deletes references to "western red spring wheat" and "western amber durum wheat," in keeping with current CGC practices. Canada's grain exports used to consist almost solely of those two types of wheat; that is no longer the case today.

4. Elimination of the Grain Appeal Tribunals and Combining of Various Terms Concerning Grain Handling Facilities (clauses 13 to 18 and 32 to 35)

As subclause 1(3) of the bill states, as a result of the elimination of mandatory inward inspection and weighing, the term "terminal elevator" will now include all facilities classified under that designation, as well as transfer elevators. Clauses 17, 23, 27, 29, 30, 31, 32 to 35, 43, 55 and 57 and subclauses 60(1) and 60(3) make amendments that enable various terms to be combined.

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(4) Throughout this section, the links between the recommendations of the Standing Committee and the provisions of the bill are indicated by citing the number of the relevant recommendation.

(5) Standing Committee on Agriculture and Agri-Food, *Evidence*, No. 22, 2nd Session, 39th Parliament, Ottawa, 13 March 2008.

Clause 15 allows "any person," shippers and terminal elevator operators, to appeal to the CGC respecting the grade or dockage assigned to grain upon its delivery to a terminal elevator. Clause 16 states the duties of the chief grain inspector in the event of an appeal, and a new subsection of the CGA provides that the chief inspector's decision is final and conclusive and not subject to appeal. Furthermore, according to that same clause, the chief inspector may delegate authority to a third party to reinspect and review the grain that is the subject of an appeal and thus assign it the appropriate grade. Although the bill gives the chief grain inspector for Canada more authority, that position is rather inadequately defined in the CGA and the bill does not specifically state to whom the position reports.

Clause 18 enhances the CGC's administrative flexibility by granting it the authority to establish new licences for the operation of elevators falling within the prescribed definition, but not those classified as elevators under section 42.

To protect farmers from wrongful decisions concerning grain grading, the Standing Committee on Agriculture and Agri-Food recommended the creation of an independent arbitrator position (appointed by the minister) with functions that would amalgamate those of the arbitrator in a proposed Office of Grain Farmer Advocacy (Recommendation 3). Bill C-13 does not create such a position, but by enabling the industry to determine what inward services are necessary and, especially, by giving it the option of contracting with a third party for those services and for weighing, it strengthens the CGC's position and makes it more independent, because it will no longer need to judge itself and will be better placed to defend grain producers' interests.

5. Termination of CGC's Producer Payment Security Program (subclause 19(1) to clause 21 and clause 48)

Subclauses 19(1), 20(1) and clause 21 terminate the producer payment security program. Applicant dealers wishing to obtain a grain dealer's licence or a licence for a terminal elevator will no longer be required to provide security. The CGC will continue to issue licences to support the grain quality assurance system and to protect producers. In its report tabled in December 2006, the Standing Committee on Agriculture and Agri-Food made a recommendation on this subject, in which it asked the federal government to report back to it on the various models that could replace the existing payment security program (Recommendation 11). In its

response[6] to the report, the government included, in Appendix A, a detailed analysis of the models in effect in Canada. The present producer payment security program administered by the CGC is outdated, because the federal government does not require such guarantees in other sectors. Furthermore, it was the grain producers who bore the cost of that program for years.

The program's termination would cut costs and remove barriers to new entrants into the grain merchandising industry, while clearing the way for producers to develop a commodity clearinghouse or other tools to manage risk. However, the bill does not set out how the transition might be made from a security system to another type of risk management, or the time required for that process. In its report tabled in December 2006, the Standing Committee on Agriculture and Agri-Food recognized the concept of a clearinghouse (Recommendation 11) and asked the government to submit potential terms and conditions to it. In its response to the report, the government cited examples of mechanisms that could protect producers in the event of non-payment for delivered grain.

6. Mandatory Weighing of Grain at Primary and Process Elevators (clauses 22 to 25 and 36)

The mandatory weighing of grain immediately before or during receipt currently applies to all elevator operations. As noted above, this requirement will no longer apply to terminal elevators, except where so required by the person causing the delivery to be made or by the CGC. Clauses 25 and 36, however, restate the requirement that primary elevator operators shall weigh grain before or during receipt.

The Standing Committee on Agriculture and Agri-Food had made a recommendation to that effect (Recommendation 4).

7. Delivery Procedures (subclause 26(1))

This amendment was needed in order to reflect new delivery practices. Previously, farmers delivered their own grain to primary elevators; that is now less often the case, particularly because the abandonment of certain secondary railway lines has resulted in the disappearance of many primary elevators. Farmers use commercial trucking businesses, and the Act will consequently reflect that fact. The person delivering the grain on behalf of a producer will therefore be able to agree on the grade and dockage of the grain, and request a sample so that the CGC is able to review the decision made at the primary elevator.

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(6) *Government Response to the Fifth Report of the Standing Committee on Agriculture and Agri-Food,* "*Review of the Canada Grain Act and the Canadian Grain Commission Conducted by Compass Inc.*," http://cmte.parl.gc.ca/cmte/CommitteePublication.aspx?COM=10464&Lang=1&SourceId=213393.

8. French Terminology (subclause 26(2) to clause 30)

Subclause 26(2) and clause 28 make terminological amendments to the French version of the CGA, in particular by replacing the term “pesage” with “pesée,” which is more exact.

9. CGC’s Obligation to Set a Payment Date (clauses 31 and 39)

Sections 68.1 and 82.1 of the present CGA allow the CGC to set a date on which an elevator operator shall pay a producer in full. The issuing of a delivery receipt and a cash purchase ticket are the two indicators for the payment period.

In practice, the CGC has not set a producer payment date since 1 August 2003, and no problems have arisen as a result. In 2004, the CGC made a regulation terminating its obligation to set a payment date,[7] but the Standing Joint Committee on Scrutiny of Regulations noted that that obligation was included in the CGA and, consequently, that a statutory amendment was necessary. These provisions of Bill C-13 thus reflect Parliament’s intent to implement the Joint Committee’s recommendation.

10. Dockage of Grain and Accuracy of Weighing (clauses 36 to 38)

These clauses contain the necessary amendments to require process elevator operators to weigh grain before or during receipt. In addition, clauses 36 to 38 amend the issuing of the cash purchase receipt or grain receipt, with the aim of providing producers with faster information and better access to binding decisions by the CGC respecting grade and dockage of grain on delivery not only to primary elevators, but also to process elevators. Previously, producers sometimes saw their grain “downgraded” between primary and downstream elevators, without being able to access all the information. This new provision corrects a deficiency in the CGA that was often cited as a major irritant in producer consultations.

11. Transport Issues (clauses 40 to 44)

Clause 40 eliminates the statutory restrictions on the transport of grain from foreign countries, but enables the CGC to regulate certain conditions respecting grain movements, including the possibility of prohibiting them. In addition, all restrictions on transport between the eastern and western regions of Canada are eliminated.

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(7) Regulations Amending the Canada Grain Regulations, *Canada Gazette*, Vol. 137, No. 17, 13 August 2003, http://gazetteducanada.gc.ca/partII/2003/20030813/html/sor284-e.html.

Under clause 41, an inspector may no longer suspend the discharge of grain into a non-compliant conveyance, but may still check and report on the condition of a conveyance. Although the amendment in this clause is logical in the context of loading in a port, where the inspection will be conducted by the CGC, the question of monitoring transport downstream from the system remains unclear. In amending inspectors' level of transport authority, clause 42 is necessary so that "no person" may discharge or "permit the discharge of" grain into a conveyance if that person has reason to believe that the conveyance does not meet the conditions prescribed by regulation. Despite the necessity of this clause, the use of the words "no person" is questionable because it does not clearly indicate which person may in fact prevent a discharge of grain.

Lastly, under clause 44, an inspector may make the customary checks by entering an elevator or premises that may be operating without the licence required under the Act. By relaxing certain regulatory aspects, the bill will enhance competition in the grain market and also provides for mechanisms to prevent freeloaders from operating outside the CGA.

12. False Statements (clauses 45 and 50)

Clause 45 repeals subsection 89(2) of the Act, but clause 50 replaces it and further clarifies the provisions prohibiting the making of false statements, either to the CGC or to an inspector. This provision is important to the extent that it will allow for greater flexibility.

13. Period of Detention of Documents and Proceedings (subclause 46(1) to clause 49)

Subclause 46(1) of the bill amends section 90 of the CGA by enabling an inspector, in specific cases of offences under the CGA, to retain the power of inspection, particularly in cases of inaccurate weighing, and to seize documents or records related to the inspection.

In addition, the period during which the documents seized by an inspector may be detained is increased from 30 to 180 days. The present 30-day period makes it difficult to prosecute and is also shorter than those provided for in other comparable federal statutes such as the *Feeds Act* and the *Seeds Act*.

14. Kernel Visual Distinguishability, Compliance and Fines for False Statements (clause 51 and subclause 58(4))

If Kernel Visual Distinguishability (KVD) were no longer required in the grain industry, it would be essential to implement provisions for imposing harsh penalties for false statements. Although the Canadian grain industry still operates in an environment in which

KVD is authoritative for wheat, Bill C-13 lays the groundwork for the time when this requirement is no longer necessary. Clause 51 will raise fines for an individual from $9,000 to $50,000 on summary conviction, and from $18,000 to $200,000 on conviction on indictment. For a corporation, the present fines of $30,000 and $60,000 will be raised to $250,000 and $500,000. Lastly, as the KVD system could be replaced by a declarations-based quality assurance system, the CGC may, under subclause 58(4), make regulations respecting the making of declarations by licensees or by persons who sell or deliver grain.

The changes proposed in the bill with respect to declaration compliance and related penalties are necessary to enable the grain industry to operate without KVD and follow from a recommendation in the report of the Standing Committee on Agriculture and Agri-Food (Recommendation 7).

15. Offences and Facilities (clauses 52 to 54)

As the CGA will be subject to the *Agriculture and Agri-Food Administrative Monetary Penalties Act*, clauses 52 to 54 of the bill contain the necessary amendments so that the employees of a grain dealer who participate in an offence under the Act are recognized as parties to the offence. In that case, clause 53 provides that a court may prohibit any continuation or repetition of an offence. Lastly, the period within which proceedings may be instituted as a result of an alleged offence is increased from two to three years (clause 54).

16. Registration and Receipts (clause 56)

This clause repeals sections 113 and 114 of the CGA respecting the registration and cancellation of terminal elevator receipts, as there will no longer be any regulatory inward inspection and weighing requirements at those types of elevators.

17. Imported Grain, Definition of "Adulterated," Termination of Payment Security, and New Section 116.1 on Required Documents (subclause 58(1) to clause 59)

Subclause 58(1) replaces the expression "foreign grain" with the stock expression "imported grain." The other changes concern minor amendments to the CGA resulting from the deletion of inward inspection requirements and repeal the regulatory measures for determining types of insurance, which are no longer necessary since the payment security program has been terminated. Subclause 58(3) provides a framework for current practices based on electronic

documents, whereas the CGA was drafted in the context of printed documents. Subclause 58(6) stems from the bill's earlier clarification of the term "contaminated" and, in that context, enables the Commission to take measures by regulation to define the term "adulterated."

Lastly, subclause 58(7) repeals subsection 116(2) of the CGA, which however is immediately restored by the new section 116.1 under clause 59 of Bill C-13. Legislative drafters considered this technical amendment necessary because section 116 of the CGA concerns regulations – which is not the case with the new section 116.1, which concerns the CGC's power to permit, in writing, the use of forms or systems in addition to or in place of those prescribed by regulation.

18. Inspection, Weighing and Reporting
(subclause 60(2) and clauses 61, 62 and 63)

Subclause 60(2) grants the CGC the authority to require terminal elevator operators to have grain weighed or inspected and to compel the weighing or inspection by order. Clause 61 of the bill repeals section 120.1 of the CGA concerning review and the need to report by the CGC, because the CGC is considered a department within the meaning of the *Financial Administration Act* and must therefore report to Parliament through the minister by tabling a Report on Plans and Priorities and a Performance Report (see clause 4 of Bill C-13). Lastly, clauses 62 and 63 of the bill make terminological amendments to the French version, replacing the terms "appellation" and "ordonnance" by "nom" and "arrêté" respectively.

B. Provisions Respecting Chapter 22 of the Statutes of Canada – *An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act* (subclause 64(1) to clause 71)

1. Licences and Abandonment of Special Crops Programs
(subclause 64(1), clauses 65 to 69 and 71)

On 4 December 1997, Bill C-26: An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act, was introduced in the House of Commons; it received Royal Assent on 18 June 1998. That bill amended the *Canada Grain Act* to permit the separation of licensing and security provisions for special crops dealers. It had been argued to that point that the inability to separate these two activities was the primary impediment to the development of an insurance plan for the special crops industry of Western Canada. By requiring such a separation in law and by putting the administration of a voluntary insurance plan under the CGC, the legislation aimed

to relieve special crops dealers of the need to post costly security against the possibility of their defaulting on payments to special crops producers. Furthermore, by repealing the *Grain Futures Act*, Parliament wanted to facilitate non-grain futures trading on the Winnipeg Commodity Exchange.(8)

Subclause 64(1) and clauses 65 to 69 and 71 of Bill C-13 repeal certain provisions of the *Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act* that were designed to create a new class of licences for special crops dealers. The elimination of those provisions reflects the fact that special crops programs were abandoned, and, consequently, those sections were never in force. They are therefore superfluous in the context of the modernization of the CGC that Bill C-13 aims to achieve.

2. Connection Between the *Canada Grain Act* and the *Agriculture and Agri-Food Administrative Monetary Penalties Act* (subclause 64(2) and clauses 65 and 70)

These amendments will make the *Canada Grain Act* subject to the *Agriculture and Agri-Food Administrative Monetary Penalties Act*. This connection between the two acts is necessary in order for the new provisions on harsh penalties for false statements, on which the new grain quality assurance system will rely, to apply under the *Agriculture and Agri-Food Administrative Monetary Penalties Act*.

C. Provisions Respecting the *Federal Law – Civil Law Harmonization Act, No. 2* (clause 72)

Subsection 207(5) of the *Harmonization Act* concerns offences committed by elevator operators or their employees, and employees of dealers. That subsection is no longer necessary because the bill (clauses 52 and 54 and subclause 64(1)) adds these offences to the *Agriculture and Agri-Food Administrative Monetary Penalties Act*. It is therefore repealed.

D. Transitional Provisions (clauses 73 to 79)

The following proposed changes are subject to transitional measures that are designed to permit a smooth transition to a more modern CGC:

- the combining of various classes of elevators into a single class of terminal elevators;

(8) Daniel Shaw, *Bill C-26: An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administration Monetary Penalties Act and to repeal the Grain Futures Act*, LS-312E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, revised 1 May 1998, http://lpintrabp.parl.gc.ca/lopimages2/PRBpubsArchive/ls1000/361c26-e.asp.

- the right of appeal with respect to official grain classification;
- the CGC security;
- the period of detention of documents for prosecution purposes, which is increased from 30 to 180 days;
- the extension of the period for instituting proceedings from two to three years.

Transfer elevator operators will be considered as terminal elevator operators from the moment those two classes have been combined, whereas the CGC may retain its security for the purposes already provided, even after the new Act terminating that program has come into force.

E. Coordinating Amendments (clause 80) – Coordination of Proposed Amendments to the Two Acts Mentioned in Bill C-13

Clause 80 coordinates the changes proposed to the CGA, when they come into force, with the other Act also amended by Bill C-13, the *Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act*. The coming into force of section 18 of the other Act and clause 46 of Bill C-13 will give inspectors the power to seize records and documents, in the case of an offence, and to report under what will constitute the new subsection 90(1) of the CGA.

Likewise, the coming into force of section 21 of the other Act and clause 48 of Bill C-13 will enable the CGC to revoke operating licences on grounds set out in the CGA. Lastly, when section 23 of the other Act and clause 51 of the bill are both in force, the CGC will be able to impose the proposed new fines of $50,000 and $200,000 in the case of an individual, and $250,000 and $500,000 in the case of a corporation (new section 107 of the CGA).

F. Coming Into Force (clause 81)

This clause provides that the Act (Bill C-13) will come into force on a day or days to be fixed by order of the Governor in Council, except for sections 52 and 64 to 80, which make the CGA subject to the *Agriculture and Agri-Food Administrative Monetary Penalties Act*.

COMMENTARY

Few previous bills have been the subject of such extensive and diversified consultations as Bill C-13. Legislators themselves, through the report of the Standing Committee on Agriculture and Agri-Food on Bill C-40, An Act to amend the Canada Grain Act and the Canada Transportation Act, started the consultation process by tabling that report in the House of Commons on 12 May 2005. An independent study followed in August 2006, and its findings were then examined by the Standing Committee, which in turn conducted a study on the matter and tabled its report in December 2006.

More than 500 individuals were asked to comment on the two studies, and more than 100 provided written comments. It can thus be stated that the issue of CGC reform underwent exhaustive review. There was therefore every reason to anticipate a mainly positive reception for the ensuing legislation.

However, despite this transparent and comprehensive preparatory approach to the legislative process, certain stakeholders in the grain industry expressed concerns very soon after Bill C-13 was introduced. Attention focused on three main points:

1. The termination of the CGC's payment security program appeared to cause some uncertainty, particularly because no specific replacement program was mentioned.

2. The CGC's twofold mandate to protect the interests of grain producers and those of the industry raised fears among certain groups of producers, who viewed this as a reduction in the protection offered them in the past.

3. Lastly, the absence of any mention in the bill of an "Office of Grain Farmer Advocacy," which had been recommended in the COMPAS report and by the Standing Committee on Agriculture and Agri-Food, and the absence of an independent arbitrator, also recommended by the Standing Committee, combined to undermine the image of Bill C-13.

However, it should be emphasized that these points of dissent were more about governance issues, an aspect that Parliament did not intend to amend in depth in the first stage of the CGC's modernization. The proposed amendments, particularly the elimination of the mandatory obligation to weigh grain at primary and process elevators, would make the CGC more independent by no longer requiring it to judge itself in appeal cases, and would make it an entirely neutral arbitrator.

Modernization of the CGC is central to Bill C-13 and is based on the following major objectives:

- preserving the benefits of grain quality assurance
- eliminating mandatory regulations and unnecessary costs
- ensuring efficient grain handling
- enhancing the competitiveness of the Canadian grain industry
- increasing flexibility to meet market needs
- protecting farmers' interests.

In this context, the bill clearly complies with the spirit of the report of the Standing Committee on Agriculture and Agri-Food and that of COMPAS, though not necessarily with the letter, at least not to the extent that certain grain industry stakeholders would like. One amendment to the bill, proposing an evaluation of the proposed changes in five years, would perhaps enable opponents to accept what they consider to be the missing elements of Bill C-13.