



Canadian National Millers Association

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**Canadian Cereal Grain Milling Industry Perspectives on  
Rail Transportation Service to Grain Milling Establishments in  
Canada and the U.S.**

**Submission to the Canada Transportation Act Review:  
Canadian National Millers Association  
Ottawa, Ontario**

**January 30, 2015**

## **Introduction**

The Canadian National Millers Association (CNMA) represents the public policy and regulatory affairs interests of companies operating cereal grain milling facilities in Canada. Some CNMA member companies are multinational corporations, also operating grain mills in the United States of America (US) and countries outside of North America. Additional information about the CNMA can be accessed at [www.canadianmillers.ca](http://www.canadianmillers.ca).

In its Message from the Chair, The Canada Transportation Act Review Discussion Paper states:

*“The objective of the Review is to provide an independent assessment of how federal policies and programs can ensure that the transportation system strengthens integration among regions (of Canada) while providing international linkages.”*

The Canada Transportation Act Review Panel and Secretariat have been directed to give priority consideration to grain transportation.

The review discussion paper also acknowledges the following (Section 4.1):

*“They (Canadian Railways) are also an essential backbone for supply chains across the economy and their performance can substantially affect the performance of the economy as a whole.”*

It is in this latter context that the CNMA has prepared this submission to the Review Panel, reflecting the vital link that the milling industry provides, as primary processors, between grain producers and consumers. This vital link is in a complex supply chain that widens considerably to include many food further processing industry subsectors, foodservice and food retailers, including thousands of small businesses, among which are several CNMA member companies, thousands of their customers and many grain producers who are direct suppliers to wheat and oat mills.

The vast majority of the attention garnered by grain rail transportation shortfalls during the 2013-2014 crop year and into the early months of the current crop year has been about moving cereal grains and other crop-derived agricultural commodities of western Canadian origin to export markets via Vancouver and Thunder Bay. This is understandable, given the enormous importance of these export shipments to western Canadian grain producers and the western Canadian economy.

The federal government interventions of April, August and November of 2014 to impose weekly minimum grain volume movements have also served to intensify grain industry and policy-makers' focus on export shipments through Vancouver and Thunder Bay. Unfortunately, these interventions also diverted attention and rail service away from grain millers and other grain processors in Canada and the US. This is because the minimum volume requirements have served as a deterrent to railways and grain marketing shippers to meeting the needs of domestic (Canadian and US) processors.

This submission has been drafted to highlight and explain the essential nature of grain and grain product rail transportation service to the grain milling industry and in turn the essential nature of the service to the security and predictability of Canada's food supply. For the period of January through September of 2014, Canada's grain-based food supply chain was very nearly severed and interrupted by inadequate rail transportation to grain milling establishments. Mills that supply wheat flour to bakeries and other grain-based food processors in Canadian cities such as Vancouver, Toronto, Ottawa, Montreal, Quebec City and Halifax experienced depleted unprocessed wheat inventories, in some cases resulting in suspension of milling operations entirely as a consequence of the arrival of wheat shipments by rail being delayed by from a few days to as much as six weeks. We must emphasize that milling grain shortages experienced by CNMA member mills extended from the late weeks of 2013 through September of 2014, period of approximately 10 months.

In order to prevent the shutdown of the large scale industrial bakery plants that supply foodservice and retail grocery supermarkets in the aforementioned cities and throughout the continent, CNMA member companies incurred substantial costs in extraordinary transfers of unprocessed wheat and wheat flour among milling locations intra and interprovincially. Even with these unplanned and extraordinary movements of flour, major bakeries were within 72 hours of running out of wheat flour. In turn, major retail grocery supermarkets were within 72 hours of running out of bread. Independent mills that could not source from affiliated locations suffered loss of customers.

The impact of inadequate rail transportation of inbound movement of unprocessed Canadian grain was not limited to wheat millers. CNMA member companies operating oat mills in the US are also dependent on the timely movement of raw materials from the Prairie Provinces to their facilities. On more than one occasion, these oat mills were forced to shut down while waiting for the arrival of unprocessed oats to process for oatmeal, oat flour and oat bran, placing the grocery retailers' supplies of hot oatmeal cereals and many ready-to-eat cereals in serious jeopardy. Semolina millers dependent upon durum wheat from the Prairie Provinces were caught in a similar situation.

The unprecedented nature and severity of these grain supply and resultant flour production shortfalls have all but gone un-noticed by federal departments and agencies that should have been and still be, extremely concerned. Historically, shortages of food in general and bread in particular have not been well received by the citizens and voters in the affected countries. In 2014, empty bread shelves in eastern Canadian supermarkets would have been unimaginable in the wake of a bumper crop harvest, but this very nearly happened as a consequence of recurrent interruptions in grain rail transportation to eastern Canadian mills. **To place further emphasis on the point, this nearly happened despite the grain requirements of these mills being stable and predictable for a year in advance of required delivery date.**

As the Review Panel considers all of the matters dictated by its mandate, the CNMA respectfully asks that the Panel consider the essential nature of grain rail transportation to Canada's, and indeed, all of North America's internal food supply chain as North American consumers have come to expect it to perform. In order to ensure a continuous supply of grain-based foods in places like Tim Horton's, Starbuck's McDonald's, Burger King, Subway, Quizno's, Sobey's,

Metro, Loblaw's and Safeway, Canada's grain rail transportation service to grain mills must be assured and in operation 24 hours per day, 7 days per week, 365 days per year. **To achieve this level of certainty, CNMA submits that allocation of cars to meet domestic processor needs must in some fashion, again become a priority as was the case in industry-led rail car allocation practices of years past.**

### **North America's a's Grain Milling Industry – Canadian Grain Producers' Most Reliable Market**

This section provides information to serve as context for CNMA's recommendations to the Review Panel and comments on the submissions of other interested parties that have been shared with the CNMA to date.

Review Panel members will note that the title of this section is about "North America's Grain Milling Industry". That is because Canada's grain milling industry has operated in a North American free trade environment for approximately 25 years. Canadian mills compete with US mills within this market. The US is Canada's largest export market for milled grain products and further processed grain based foods. The US is Canada's largest supplier of grain based foods. Growth in bilateral trade in grain based foods has been market-driven and closely tied to population growth and grain-based foods innovation and diversification in both countries.

In this context, CNMA's member company combined demand for unprocessed cereal grains is arguably the most predictable, reliable and remunerative market for food quality cereal grains produced in both western and eastern Canada. North American milling industry demand and related rail transportation requirements for inbound unprocessed grains and outbound milled grain products is stable, fluctuating plus or minus less than 3 per cent annually, forecastable for at least a year in advance and growing at a long term rate of between 1 and 2 per cent annually, closely tied to population growth. **In the view of the CNMA, the rail transportation demand of the Canadian milling industry is predictable and remunerative business that Canada's major rail carriers and grain companies should be happy to have and eager to meet, unhindered by regulated tariffs or maximum revenue entitlements. The same can be said for US mills that rely in whole or in part on grain of western Canadian origin.**

That said, in the context of total Canadian production of wheat, oats, rye and other cereal grains across Canada, total demand for these grains is relatively small. Canada's wheat mills process approximately 2.5 million tonnes of wheat of western Canadian origin, of which approximately two thirds is needed at mills in Ontario, Quebec and Atlantic provinces. Rail movement is required for every tonne of western Canadian wheat milled in eastern Canada. **Shipment of unprocessed wheat and other cereal grains of western Canadian origin by truck to eastern Canadian mills is impractical and cost-prohibitive.**

CNMA member-operated wheat mills in the US process an additional estimated 1.0 million tonnes of western Canadian wheat, including 250,000 tonnes of durum wheat annually, almost all shipped from western Canada by rail.

Canadian mills also process in excess of 600,000 tonnes of oats of western Canadian origin, mainly in milling establishments situated in Manitoba, Saskatchewan and Alberta. CNMA member-operated oat mills and their competitors in the northern half of the US process in excess of an additional 500,000 tonnes of oats of western Canadian origin annually. Total US oat imports from Canada have exceeded 1.0 million tonnes annually in recent years. The majority of these US oat requirements move from western Canada to mills by rail.

CNMA member companies operate 29 industrial scale mills in seven provinces stretching from the lower mainland of BC to Halifax. These mills account for over 95 per cent of Canadian shipments of milled grain products to further processors, retailers and consumers.

We would like the Review Panel to note several important facts. These are:

1. Of these 29 mills operated in Canada by CNMA member companies, 28 are reliant in whole or in part on a continuous supply of unprocessed cereal grains originating in western Canada
2. Of the 28 mills relying upon western Canadian grains, none are situated in either of Vancouver or Thunder Bay.
3. Wheat movement by rail to Thunder Bay is, however, an important first leg in the onward journey by water via Great Lakes to eastern Canadian mills served by grain elevators at freshwater ports on Lake Huron, Lake Ontario and upper St. Lawrence River.
4. All of the US oat mills operated by CNMA members are reliant on the continuous supply of oats originating in Western Canada.

Implied in the above is the essential nature of rail service to mill locations in North America, other than export ports.

### **Bulk Rail Transportation Total Demand – Unprocessed Grains**

In its 2014 submissions to the Canadian Transportation Agency, CNMA estimated total annual rail shipping demand for inbound unprocessed grain at 24,000 cars in the 2014/15 crop year, split roughly evenly between wheat and oats. This demand includes shipment of unprocessed oats to Canadian mills and those operated in US states. CNMA's June, 2014 and October, 2014 submissions to CTA are appended.

### **Regional Demand**

In the context of reliance upon surface transportation, rail and truck, it is possible for discussion purposes to segment the Canadian milling industry in several ways. We'll limit this to two segmentations that actually overlap to a considerable degree but are key determinants of rail freight demand.

- The first to consider is the concept of those mills that are "source" mills, situated in or very near to areas of grain production, as opposed to "destination" mills that are situated in or near to large urban cities/regions and areas characterized by higher population

density. Total demand for milled cereal products is closely tied to population with per capita consumption varying somewhat among regions of the country.

- The second is to segregate mills between millers of cereal grains (wheat, oats and rye) produced in western Canada (BC, AB, SK, MB) and millers of grains produced in eastern Canada (ON, QC, NB, NS and PEI).

### **Source Mills – Processing of Wheat and Oats of Western Canada Origin**

Generally speaking, most mills situated in MB, SK and AB fall into the category of source mills, regardless of being located in/near smaller cities or in centres such as Calgary. These mills have historically been able to rely upon a mix of truck and rail delivery of unprocessed wheat and oats. Truck delivery is a mix of direct-from-farm and from country and inland grain elevators.

In addition, the combined capacity of both wheat and oat mills in the Prairie provinces has historically exceeded the total demand for milled grain products within these three provinces, as remains the case in 2015. Accordingly, most of these mills have marketed and moved milled grain products into other provinces or US states, relying upon rail, intermodal and truck transport.

### **Destination Mills – Processing of Wheat and Oats of Western Canada Origin**

All mills operated by CNMA member companies in eastern Canada fall into the category of destination mills, situated in or near urban centres in ON, QC and NS and/or the further processors (bakery, biscuit, breakfast cereal) and foodservice establishments who serve these urban markets. As noted above, all but one of these mills is reliant in whole or in part on a continuous supply of western Canadian grains. All of the US based oat mills would fall within this category of destination mills, totally dependent on a reliable, continuous supply of Western Canadian oat shipments by rail.

Most outbound shipments of milled grain products are by truck within a radius of 200 kilometres. However, some forward movement of milled wheat and oat products is via rail and intermodal.

### **Processing of Wheat and Oats of Eastern Canada Origin**

Milling quality wheat produced in Ontario accounts for about 18 per cent of all wheat milled in Canada and most of this is processed in Ontario mills. Milling quality wheat produced in other eastern provinces accounts for less than 5 per cent of all wheat milled in Canada.

Movement of unprocessed eastern Canadian wheat and oats to mills and export positions is entirely by truck.

## **Regional Distribution of US Mills**

The segmentation in source and destination mills is also evident in the US where much of the US population is concentrated in the eastern third of the continental US while the majority of grain production is in US Mid-west and North-west states. 100% of the US based oat milling capacity is also located in these same regions. The combined wheat flour production of states in the eastern half and Pacific coast states account for slightly more than half of total US flour production.

## **Export Shipments**

Canada's exports of milled wheat products are a relatively minor share of total shipments, representing approximately 200,000 tonnes in total, of which, 70 to 90 per cent is to US destinations, supported by intermodal and bulk rail car transportation. Containers have entirely replaced break bulk cargoes that were more common prior to 2000.

Exports to US destinations in northern and northeast states move predominantly by truck in bulk and bagged lots. Exports to offshore markets are generally in containers, supported by intermodal movement to port facilities.

A significant percentage of Canadian oat products milled in western Canada are shipped to US States and other provinces.

## **Importance of Milled Grain Products in Canada's Food Supply Chain**

This section is intended to briefly highlight how important milled cereal grain products are to Canada's food supply chain.

Food products (and pet foods) found in every aisle of a typical retail grocery supermarket offering upwards of 30,000 packaged food choices, contain milled cereal grain products. Milled grain products used as ingredients must, under Canada's Food and Drug Regulations, be declared as part of the ingredient panel in which ingredients are declared by weight in descending order of importance. Milled grain products are the number one (by weight) ingredient in:

- All packaged baked goods including breads, buns, rolls
- All unpackaged in-store bakery products
- Dry ingredient bakery mixes
- All pasta products, dried, fresh and frozen
- All crackers
- All breakfast cereals
- Virtually all cookies
- Most frozen pizzas and similar products

Milled grain products are also important ingredients in:

- Confectionery products

- Nutritious portable snacks
- Savoury snacks
- Soups, sauces and condiments
- Many frozen foods and entrees prepared with breadings and batters

Accordingly, most at-home meals in Canada include milled grain products in the form of further-processed foods.

Turning to the major menu items of foodservice chains, the importance of milled grain products is even more evident, as noted in the introduction to this submission. It would be difficult to find a foodservice outlet, whether take-out, dine-in, fast food or fine dining that does not incorporate cereal grain-based foods in most meals served.

Most fast food foodservice locations depend upon just-in-time delivery of fresh-baked or par-baked foods. The industrial bakeries that supply these establishments, air and rail passenger food service suppliers, other restaurants and institutions such as retirement residences and hospitals rely upon just-in-time delivery of freshly produced, milled grain products. Most of these establishments have ingredient storage capacity representing less than 72 hours' operating requirements. A suspension of delivery of their core grain-based ingredients of three days or less would result in a complete shut-down of operations.

Almost all food manufacturers, foodservice and food retail establishments operate in excess of 350 days a year. As a consequence, most grain mills operate in excess of 310 days per year, requiring a continuous supply of unprocessed grains, 52 weeks per year, experiencing peak demand in autumn and winter months.

### **CNMA Recommendations to the CTA Review Panel**

The first observation we have for the Review Panel is the following, highlighted in bold type for emphasis, is:

**Government and grain supply chain experience in 2014 has illustrated that ad hoc regulatory interventions can have severe unintended consequences. The minimum volume requirements imposed on CN and CP rail did not result in improved rail service to all grain industry participants in an equitable fashion. In fact, these interventions served as a deterrent to timely and adequate service to grain processors in Canada and the US.**

In an appearance with Minister Raitt before the House of Commons Standing Committee on Agriculture and Agri-Food on March 31, 2014, the Hon. Gerry Ritz correctly stated in reference to the first of three minimum volume interventions: "The order in council is a blunt instrument,..". This term was appropriately used by staff of the Canadian Transportation Agency and Transport Canada in consultations and public forums in subsequent months. Minimum volume requirements are indeed a "blunt instrument" and bring unintended consequences. With the benefit of hindsight, it is now evident that the unforeseen consequences are to parties that have little or no economic interest in export shipments of unprocessed cereal grains and other crop-derived agricultural commodities.



CNMA submits that the CTA Review findings and recommendations will need to go beyond “blunt instruments” to include well considered, more thoughtful measures that will together represent increased regulatory oversight of rail transportation of grains and products of grain processing, including those of oilseeds, pulse and special field crops of Canadian agriculture. Put in other terms, CNMA is advocating more prescriptive regulation of grain rail transportation that in an “outcome-based” federal regulatory system will have the outcomes of increasing Canada’s rail transportation capacity and providing reliable and timely service to all shippers, including processors of all sizes, in all regions of Canada.

The second observation we wish to make is the following:

**Unlike Ministerial authority to enforce statutes and regulations pursuant to those statutes that apply to the Canadian milling industry and other food processing industries in Canada, the Ministerial authority and tools to enforce the provisions of the Canada Transportation Act as they apply to rail transportation are severely lacking. The Minister of Transport does not actively enforce the Act. Neither does the Canadian Transportation Agency actively enforce the Act to ensure timely provision of rail service.**

**Rather, the enforcement of the Act is largely left to the willingness of customers of rail carriers to file, actively support and fund level of service complaints to the Agency, a process that is costly, time-consuming, unpredictable in terms of duration and due process and unlikely to remedy lost production time, productivity and foregone revenues arising from insufficient rail service. Put in other terms, the formal complaint process available today brings no certainty of improved service and does little or nothing to compensate parties who have not received the service that is required to be provided under the provisions of the Act.**

**CNMA submits that the CTA Review Panel should identify incremental and actionable powers of enforcement to be incorporated into the Act and existing and/or new regulations pursuant to the Act.**

As CTA Review Panel members and other readers of this submission will appreciate, some grain milling locations are directly customers of Canada’s major rail carriers for provision of transportation for outbound milled grain products and by-products by rail and intermodal service. These services requirements are highly important to the efficiency and reliability of service to the customers of milling companies in Canada and the US.

However, it must be recognized that the majority of reliance of milling companies on rail service from Canada’s major rail carriers pertains to the inbound movement to mills of unprocessed grain, the purchase of which has been made from grain companies who act as the commercial supplier of such grain to mills. Direct-from-producer purchases involving rail movement of western Canadian grains to mills account for a very small fraction of total grain supply to mills.

Accordingly, the timely and successful delivery of unprocessed grains to mills is reliant upon the successful negotiation of service agreements and contracts between grain companies and rail carriers, principally CN and CP. Even though the receivers of goods such as mills receiving

cereal grains by rail shipment are included in the definition of “shipper” in the Canada Transportation Act (the Act), mills are not parties to the commercial agreements between rail carriers and grain companies.

However, because of the inclusion of receivers in the definition of shipper, CNMA submits that the obligations of rail carriers to provide service under the provisions of the Act should apply equally to all “shippers” as defined under the Act. **Railways should not be permitted to deny, ration or delay service to grain milling establishments as took place throughout much of 2014.**

### **CNMA Support of Recommendations of the Western Grain Elevator Association**

As noted above, CNMA member companies are very reliant upon the services of grain companies for a reliable, timely and uninterrupted supply of unprocessed grains. This “pipeline” of grain supply must be kept running and full 52 weeks per year. This in turn requires a reliable, timely and uninterrupted supply of grain rail transportation service to grain companies, 52 weeks per year, regardless of extremes and anomalies of winter weather.

**In this context, CNMA has carefully considered the recommendations contained in the submission of the Western Grain Elevator Association (WGEA) to the CTA Review Panel. We find the WGEA submission to be well researched, well considered and the recommendations contained therein to be sound, even if not made in specific reference to service requirements of Canadian and US domestic processors (operating within Canada and continental US). CNMA supports all of the WGEA recommendations, as they appear in the WGEA submission, specifically:**

- 1) **WGEA is recommending enhancements to the Level of Service provisions to maximize capacity for all industries, enabled by clarifying the definition of “adequate and suitable accommodation” to ensure the needs of shippers are met. CNMA agrees, noting that whether receiving grain or shipping milled grain products, milling establishments fall within the definition of “shipper” within the Act.**
- 2) **WGEA is recommending alteration of the Service Level Agreement Provisions to enable arbitrators to impose financial penalties on either party to an agreement for non-performance. CNMA agrees, noting that such balance or mutual accountability is currently lacking.**
- 3) **WGEA is recommending effective and timely dispute resolution when a matter arises where the parties cannot agree on a solution, suggesting that such dispute resolution can be achieved through the arbitration process leading to a Service Level Agreement. CNMA agrees, noting that milling establishments would directly benefit from this approach as shippers themselves.**

- 4) **WGEA is recommending protocols or procedures of communication of an event that might have an impact on rail service, as well as enhanced transparency through better information and enhanced monitoring processes.**

**CNMA agrees, noting that mill locations affected by poor rail service in 2014 did not have access to information to allow them to predict timing of grain delivery and in turn, scheduling of unloads so as to avoid demurrage charges on cars that were days or weeks late in arriving. Even though there is a great deal of statistical information on rail service and movement in the public domain, greater transparency ought not to be a challenge in meeting the highly predictable demand of grain milling establishments.**

- 5) **WGEA is recommending designation of grain transportation by rail and related services provided by rail carriers as “essential service” with respect to potential labour disruptions.” CNMA agrees as such designation would reflect the essential nature of grain rail transportation in Canada’s internal food supply chains.**

CNMA is of the view that the increased oversight, market-responsiveness and mutual accountability among contracting parties that would be accomplished through adoption and implementation of the WGEA recommendations, will be of substantial benefit to the grain milling and other processing industries.

#### **CNMA Recommendation for Priority Car Allocation to Domestic Processors**

At the time of the CNMA’s initial meeting with Review Panel members in December 2014, CNMA had already identified to need to give priority to domestic processors in the context of direction to CN and CP on minimum car numbers to be moved. This was included in our letter to the Agency of October 22, 2014, appended to this submission. As the Review Panel is aware, this need was not addressed in the extension of minimum car movement at end of November. We further note that historically, the car allocation process that existed years ago under the industry-led CAPG, the allocation model at least held some incentive to meet the requirements of domestic processors. The grain marketing policy environment has changed very substantially. Considering milling industry experience of 2014, there is clearly no incentive whatsoever to meet the rail service demand of the Canadian milling industry, one which we have fairly depicted above as one that is a vital underpinning of a secure and continuous food supply to Canada.

**CNMA submits to the Review Panel that in light of the importance of grain milling enterprises to Canada’s food supply, allocation of rail cars for service to domestic mills should be given priority over allocation of rail cars for export movement, under whatever**

**industry-led car allocation processes are implemented pursuant to amendments to the Act and regulations pursuant to the Act. To be clear, CNMA is not recommending regulation of car allocation per se. Rather, we are asking that allocation of cars to meet inbound grain delivery and outbound rail shipment of milled grain products be assured, and if necessary to provide this assurance, take precedence over movement to port for export markets. We think this to be entirely feasible given the ability of the milling industry to forecast car demand by individual shipping week for 52 weeks in advance of required delivery date. We further note that milling industry demand is significantly less than 30,000 cars per annum, a small fraction of annual demand for grain rail movement to ports for export shipments.**

### **Obligation to Provide Service to Small Mills and Mills With Car Unload Constraints**

Also in the context of car allocation, CNMA wishes to bring to the attention of the Review Panel that individual milling locations do not have siding and car-unload infrastructure to handle large numbers of cars such as those preferred by rail carriers in unit trains of 100 cars, or even 50-car or 25-car lots. **There is no mill in Canada that has capacity to accommodate unloads of 25-car placements. Most mills served by rail commitments have capacity place and unload less than 10 cars at a time.**

This limited unload capacity constraint at mills is an unplanned reality, one that has not changed in the past 20 years. Most wheat mills in Canada, eastern Canada in particular, are situated in cities on sites chosen many decades ago, in some cases over a century ago. These mills, even those served by rail, are now surrounded by residential, commercial and industrial development, with no opportunity to expand either rail sidings or grain storage capacity as has been suggested by some parties over the past year. Mills in these locations, all “destination mills” are modern efficient and well situated to service customers in the surrounding industrial and urban areas. Replacement of these mills with new milling and rail siding capacity in rural areas is cost-prohibitive, in terms of otherwise unnecessary new capital investment and added costs for transportation of milled grain products to market.

A medium to large size wheat mill in eastern Canada processes between 350 and 1000 tonnes of wheat in a 24 hour period. This equates to between four and twelve rail cars in a 24 hour periods or as few as 20 to 25 cars per week. Smaller mills that are successful and efficient suppliers of milled grain products, would have demand for as few as 3 to 10 cars per week, dependent upon the mix of western and eastern grain classes used. **Small receivers should not be penalized by arbitrarily imposed minimum car unload capacity requirements by rail carriers.**

We ask the CTA Review Panel to be mindful in its analysis and recommendations of the need for the foreseeable future to provide rail service to processors of all sizes that are the receivers of

small numbers of cars per week. **CNMA submits that service to such mill locations must be obligatory and that the negotiation of enabling level of service agreements and contracts must be facilitated by any amendments to the Act and regulations pursuant to the Act proposed by the Review Panel in its report.**

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