



# Canadian Transportation Agency

## Performance Report

For the period ending  
March 31, 1999

Canada

## **Improved Reporting to Parliament Pilot Document**

The Estimates of the Government of Canada are structured in several parts. Beginning with an overview of total government spending in Part I, the documents become increasingly more specific. Part II outlines spending according to departments, agencies and programs and contains the proposed wording of the conditions governing spending which Parliament will be asked to approve.

The *Report on Plans and Priorities* provides additional detail on each department and its programs primarily in terms of more strategically oriented planning and results information with a focus on outcomes.

The *Departmental Performance Report* provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the spring *Report on Plans and Priorities*.

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## Foreword

On April 24, 1997, the House of Commons passed a motion dividing on a pilot basis what was known as the annual *Part III of the Estimates* document for each department or agency into two documents, a *Report on Plans and Priorities* and a *Departmental Performance Report*.

This initiative is intended to fulfil the government's commitments to improve the expenditure management information provided to Parliament. This involves sharpening the focus on results, increasing the transparency of information and modernizing its preparation.

This year, the Fall Performance Package is comprised of 82 Departmental Performance Reports and the government's report *Managing for Results - Volumes 1 and 2*.

This *Departmental Performance Report*, covering the period ending March 31, 1999, provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the department's pilot *Report on Plans and Priorities* for 1998-99. The key result commitments for all departments and agencies are also included in Volume 2 of *Managing for Results*.

Results-based management emphasizes specifying expected program results, developing meaningful indicators to demonstrate performance, perfecting the capacity to generate information and reporting on achievements in a balanced manner. Accounting and managing for results involve sustained work across government.

The government continues to refine and develop both managing for and reporting of results. The refinement comes from acquired experience as users make their information needs more precisely known. The performance reports and their use will continue to be monitored to make sure that they respond to Parliament's ongoing and evolving needs.

This report is accessible electronically from the Treasury Board Secretariat Internet site:  
<http://www.tbs-sct.gc.ca/tb/key.html>

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# CANADIAN TRANSPORTATION AGENCY



## Performance Report

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March 31, 1999

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Hon. David M. Collenette, P.C., M.P.  
Minister of Transport

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## Section I: The Chairman's Message

Fiscal year 1998-99 continued to provide challenges for the Canadian Transportation Agency. The Agency held a number of *public* hearings, one of which lasted nine weeks in Saskatoon. As well, over 3,000 decisions and orders were issued, codes of practice were launched and carriers, shippers and travellers were consulted to hear their views and understand their needs.

The Agency values its role as an expedient, fair and transparent regulator and quasi-judicial tribunal. The Agency's focus on consultation and facilitation has been effective in assisting transportation users and providers to resolve matters efficiently, without having to, in some cases, file a formal complaint or resorting to the courts. By following the government's transportation policy, which calls for an accessible, competitive sector that is regulated only when necessary, the Agency recognizes that market forces should prevail and steps in only when fair and reasonable service does not result.

I am also pleased to report that the Agency was able to provide its expertise in response to requests for assistance. For example, the Minister of Transport requested the Agency to undertake on his behalf the review of pilotage matters, as required by the *Canada Marine Act*. More recent, was the request by Mr. Arthur Kroeger, the government appointed facilitator for the reform of the grain handling and transportation system, that the Agency conduct an analysis to determine current costs of grain transportation by rail.

During the year, as required by subsection 42(2) of the *Canadian Transportation Act* (the Act), the Agency assessed the operation of the Act. This assessment is tabled in the House of Commons as part of the Agency's Annual Report. After reviewing a number of rail transportation issues raised in its 1997 Report, the Agency commissioned a survey of the rail transportation community to provide objective and qualitative data to add to its analysis. This information, combined with the Agency's experience, has better enabled it to evaluate the Act's effectiveness. The analysis, which is provided in Chapter 3 of the 1998 Annual Report tabled in the House on July 21, 1999, should prove useful when the Minister of Transport calls for the statutory review of the Act as required by Section 53. This survey also provided useful information on the Agency's current performance as well as where it can improve its services to Canadians.

I believe that, as a regulatory body, the Agency has made real progress in implementing the government's transportation policies. It has fulfilled an important function as a forum for the fair hearing of transportation-related disputes. Finally, I also believe this performance report illustrates that Canadian travellers, shippers and carriers benefit significantly from the Agency's contributions in supporting an efficient, accessible transportation system.

Marian L. Robson



## Section II: Overview

### Mandate, Vision and Mission

The Agency is an independent, quasi-judicial, administrative tribunal responsible for making decisions on a wide range of matters affecting Canadian transportation. The Agency's mandate to make decisions extends to issuing licences to rail and air carriers, and includes a dispute resolution authority over some transportation rate and service complaints. The Agency has the legislative authority to remove undue obstacles to the mobility of persons with disabilities who use the federally-regulated transportation network. The Agency is also responsible for implementing transportation policy as established by Parliament in the Act and is the Aeronautical Authority for Canada on matters related to the economic regulation of air carriers.

Section 5 of the Act states, in part, that transportation is A... essential to serve the transportation needs of shippers and travellers, including persons with disabilities, and to maintain the economic growth and well-being of Canada and its regions ....@ It further states that this is best achieved under conditions that ensure that Acompetition and market forces are, whenever possible, the prime agents in providing viable and effective transportation services ....@

The Agency is an economic regulator and uses its regulatory authority in conjunction with its dispute resolution powers. When appropriate, the Agency encourages parties to resolve disputes informally, and its employees are constantly looking for ways to do so. The Agency maintains its quasi-judicial independence, while still acting as an educator and facilitator in the Canadian transportation industry.

Because the Agency's investigative powers are complaint driven and reactive, it has taken steps to reach more and more shippers, carriers and travellers to help them fully understand its roles and responsibilities. Therefore, its communications and consultation activities are very important. The Agency has made concrete efforts to explain the workings of Canada's transportation legislation and to describe the Agency's processes to Canadians. The Agency also asks for and listens to opinions on regulatory changes that will affect the transportation industry.

### Mission Statement

Our mission is to administer transportation legislation and government policies to help achieve an efficient and accessible transportation system by education, consultation and essential regulation.



## Operating Environment

The Agency's current structure and processes reflect Canadian and international approaches to transportation policy, the federal government's ongoing efforts to revise its role and the way it delivers services; and the global environment in which the Agency and its clients operate.

While Transport Canada provides policy support to the Minister and regulates transportation safety, the Agency is responsible for the economic regulation of publicly-available transportation under federal jurisdiction. Working with the Department of Foreign Affairs and International Trade and Transport Canada, the Agency also acts as the aeronautical authority for bilateral air agreements. The Agency also has relationships with Revenue Canada with regard to the coasting trade exemptions; with the Canadian Human Rights Commission, Transport Canada, and Human Resources Development Canada regarding accessible transportation of persons with disabilities and other accessibility issues, as well as, with the Province of Ontario for the regulation of rail transportation within the province.

Since Agency decisions can affect the international competitiveness of Canadian producers and carriers, the Agency must be sensitive to the environment in which its clients operate. Most Canadians agree that our shippers need economical transportation services to help them compete internationally. It is important that Canadian carriers have an environment in which they can compete and thrive both domestically and internationally.

The rail industry is part of a highly-competitive North American and global marketplace, and is under significant pressure to find creative solutions to transportation problems in order to compete efficiently. The Agency therefore must be prepared to adapt to an industry whose structure is changing significantly. Major rail mergers, rationalization, buyouts of rival companies, the creation of inter-modal companies, the proliferation of provincial and federal short line railways, the emergence of regional railways and the commercialization of transport services all affect the Agency's activities.

Similarly the marine industry is changing. The new *Canada Marine Act* established port authorities, divested certain ports and authorities, commercialized the St. Lawrence Seaway and amended the *Pilotage Act*. Under the new Act, the Agency has new responsibilities regarding charges that port authorities may levy. The Minister of Transport has also asked the Agency to conduct a review of specific pilotage issues in Canada and to make recommendations to him. This review could affect the way pilotage services are delivered to carriers and the future policy direction of the government.

The air transportation sector is evolving rapidly. The recent events concerning Canada's two major airlines are just one example. International airline alliances, liberalization of market access, multilateralism, code-sharing services and other developments are all increasing the need to interpret legislation and bilateral agreements. The Agency acts as the Aeronautical authority<sup>6</sup> for Canada and administers some 70

bilateral air agreements now in place. It is anticipated that the Minister's ongoing review of international passenger charter policy may result in changes to the current regulatory framework.

In the past few years, there has been steady progress in making the Canadian transportation system more accessible to persons with disabilities. In keeping with the government's policy to find alternatives to regulations, the Agency will continue to develop voluntary codes of practice and guidelines in consultation with industry and consumers. In fact, the leisure and tourism industries all have recognized that Canada's aging population will result in more people with impaired mobility, vision or hearing wanting to travel. As it focuses on elderly people as an untapped market, the industry is paying more attention to customers with disabilities.

The United Nations General Assembly declared 1999 as the International Year of Older Persons. The purpose of the year is to foster international awareness of the importance of seniors' role in society as well as the need for inter-generational respect and support. Canada's seniors population is among the fastest growing in the world. It will account for close to 23 percent of all Canadians by the year 2041 as compared to 12 percent today. This demographic shift will alter the economic, social and cultural fabric of our country.

## **Objective**

The Agency contributes to the attainment of an efficient and accessible Canadian transportation system that serves the needs of shippers, carriers, travellers and other users.

## **Strategic Priorities**

As the transportation industry evolved into today's deregulated environment, the government's policy direction could be best described as *not necessarily regulation, but regulation when necessary.*<sup>@</sup> Whenever possible, the marketplace should prevail without interference. The Agency recognizes this principle as it carries out its mandate.

During the past fiscal year and in the years ahead, the Agency has and will continue to carry out its responsibilities as an administrative tribunal and a regulator. At the same time, it will enhance its role as a quasi-judicial body by seeking new ways to resolve disputes. Openly and informally, it will communicate with parties involved in disputes and, when possible, help them resolve issues through facilitation and mediation instead of adjudication or regulation.

The choice to focus on facilitation and broad communications is consistent with other government priorities such as citizen engagement, cost effectiveness, and open, accessible government. As the Agency consults with various parties, it learns how to improve its approaches to meet their needs. As it increases its awareness of the way it is perceived, the Agency is better able to explain its role and processes.

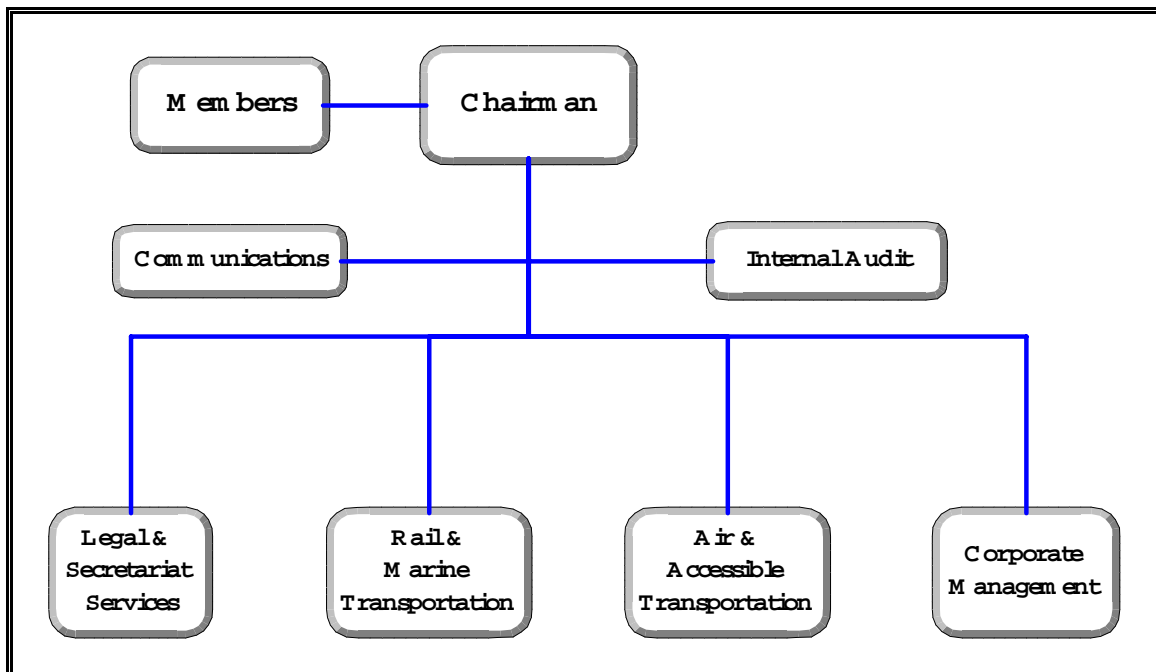
## Business Line, Organization and Program Composition

The Agency is a single business line—the Canadian Transportation Agency Program. It is divided into four sub-business lines: Members and Regulatory Support, Rail and Marine Transportation, Air and Accessible Transportation and Corporate Management.

The Agency exercises its powers through a Chairman, a Vice-Chairman and up to five full-time and three part-time Members, all appointed by the Governor in Council. Currently, there are seven members including the Chairman, Vice-Chairman and five full-time Members. The Agency has two program branches: Rail and Marine; and Air and Accessible Transportation. In addition, a Legal and Secretariat services branch and a Corporate Management branch support the overall program. See the chart below for a more detailed overview.

The Headquarters of the Agency are in the National Capital Region. However, to support enforcement activities with respect to air and accessible transportation, the Agency also has field offices in Moncton, Montreal, Mississauga, Winnipeg, Edmonton and Vancouver.

### Structure



## Section III: Agency Performance

### Performance Expectations

The Agency is just one of many players that contribute to an efficient and economically-sound transportation system. It is a specialized transportation tribunal that conducts most of its business with members of the transportation industry and those it serves.

The Agency relies on evidence gathered from consultations and exchanges with carriers, shippers, travellers and others in the Canadian transportation industry to assess its role and its impact on the Canadian economy. From this it is clear that the Agency contributes to the competitiveness of the transportation industry, and the accessibility of the transportation system, thus having a positive impact on the overall Canadian economy.

Under the *Canada Transportation Act*, the Agency is required to assess the operation of the Act, as well as difficulties encountered in its administration. To that end, the Agency submits an Annual Report which is tabled in the House of Commons. Section 53 of the Act also calls for the Minister of Transport to appoint on or before July 1, 2000, a person or persons to carry out a comprehensive review of the operation of the Act. The Agency's annual reports should provide useful information to those appointed to conduct the review. The Agency is committed to providing improved reporting of information to Parliament and Canadians.

The Agency's Performance Expectations are contained in its Chart of Key Results Commitments on the following page. This chart is a revised version of the one published in Volume 2 of the Treasury Board President's 1998 Report and the Agency's 1998-99 Estimates, Part III - Report on Plans and Priorities.

## Chart of Key Results Commitments

Canadian Transportation Agency		
To provide Canadians:	to be demonstrated by:	achievement reported in:
An administrative tribunal that helps achieve an efficient and accessible Canadian transportation system for all modes under federal jurisdiction	\$ sound quasi-judicial decisions made within the statutory time frames	Section III - Decisions - page 9 Also see Annual Report* - pages 51 to 54
	\$ effective and essential regulation developed through consultation	Section III - Regulation - pages 9 to 11 Annual Report - pages 10, 12, 13, 26, 32 and 33
	\$ the protection of consumers and carriers through the administration of an air carrier licensing system, rail certificates of fitness, international air agreements, international air tariffs and a regulatory compliance program	Section III - Licence Administration - pages 11 and 12 Consumer complaints - pages 12 and 13 Annual Report - pages 23, 25, 27, 31 and 32
	\$ a fair and impartial regime for settling disputes	Section III - Impartial dispute resolution - pages 13 and 14 Annual Report - page 44
	\$ use of alternative dispute resolution mechanisms	Section III - Alternative dispute resolution mechanisms - pages 14 to 16 Annual Report - pages 40, 41, 46, 47 and 49
	\$ improved access to the Canadian transportation system for persons with disabilities	Section III - Accessible transportation - pages 16 to 18 Annual Report - pages 9, 14 to 17
	\$ the issuance of the maximum rate scale for western grain movements before April 30 every year	Section III - Western Grain - pages 18 and 19 Annual Report - pages 41 and 42
	\$ advice to Government on the assessment of the operation and any difficulties observed in the administration of the <i>Canada Transportation Act</i> and other relevant legislation	Section III - Advice to Government - pages 19 and 20 Annual Report - Chapter 3 - pages 51 to 65

\* The Agency's annual report was tabled in the House of Commons on July 21, 1999

## Performance Accomplishments

### Decisions

The Act specifies that the Agency must issue decisions within a statutory deadline of 120 days unless the parties involved agree to an extension. As a result, disputes are

Formal decisions and orders, like most Agency publications, are posted on the Agency's Web site at:  
[www.cta-otc.gc.ca](http://www.cta-otc.gc.ca)

resolved quickly, usually without resorting to the courts. During fiscal year 1998-99, the Agency issued 649 formal decisions and 833 orders. After agreement from the parties, only 4% of these were issued outside the 120-day statutory deadline. In most cases, this 120-day time period has been sufficient.

However, in some complex and time-consuming cases, such as the Canadian Wheat Board (CWB) case, where the Agency held a nine week hearing in Saskatoon, 120 days was insufficient time for the Agency to properly deal with all the preliminary issues and to render a decision on all the facts without prejudicing the interests of one or more parties. In such cases, it was fortunate that all parties agreed to an extension, since the Agency has no discretion under the Act to unilaterally extend a time frame, even when it determines that, without such an extension, the interests of one or more parties may be prejudiced. The Agency feels it may be appropriate to consider alternatives that would allow the Agency, on its own motion, to extend the 120-day limit in certain circumstances, such as cases where not doing so could cause serious prejudice to one or more parties. This issue has also been raised in the Agency's 1998 Annual Report to Parliament.

One measure, among others, giving an indication of the quality of decisions is the number of Agency decisions overturned by the Federal Court of Canada. In the 10 cases decided by the Federal Court during the period covered by this report, no Agency decisions were overturned.

### Regulation

The Government of Canada encourages federal departments and agencies to explore voluntary approaches thoroughly before proposing regulations. In keeping with that policy, the Agency has developed voluntary codes of practice. In other cases where regulations are deemed necessary, the Agency has taken steps to streamline the regulatory environment.

In 1997, the Agency proposed amendments to streamline and modernize Part III (International Charters) of the *Air Transportation Regulations (ATR)* and to make relatively minor changes to other parts of those Regulations. In February and March 1998, the Agency met with interested parties (including charter carriers, scheduled carriers, consumer associations and tour operators) to allow them to elaborate on their submissions. The Agency invited officials from Transport Canada, Foreign Affairs and International Trade Canada, Industry Canada and other government departments to

observe these meetings. On April 1, 1998, the Minister of Transport announced a review of the International Charter Passenger Air Services Policy and asked that no changes be made to the ATR until a new policy is announced. To assist with the policy review, the Agency shared with the Minister the results of its extensive consultations, and at the Minister's request, provided comments on the current regulatory framework.

On May 29, 1998, the Minister of Transport announced a new International All-Cargo Charter Air Services Policy. This policy gave shippers a greater range of service options by allowing multiple charterers, and by permitting freight forwarders charter aircrafts from licensed carriers to resell the space to shippers. The Agency used the flexibility in its exemption powers to implement the new policy quickly.

At the present time, when faced with non-compliance with the Act and/or regulations, the Agency may suspend or cancel a carrier's licence, prosecute a carrier or passenger terminal operator or order the carrier or passenger terminal operator to comply with the law. To provide an option more appropriate to some violations, the Agency is introducing Administrative Monetary Penalties (AMPs). This will permit the Agency to assess a fine, depending on the infraction. Designated Provisions Regulations were drafted, approved and published in Part II of the Canada Gazette on June 23, 1999. National implementation is scheduled for September 1999. The Agency has also drafted an enforcement manual which outlines the Agency's new enforcement practices and has consulted extensively with interested parties on the manual. The manual outlines the Agency's proposed AMP process, which will allow the Agency to apply the regulations fairly and consistently. This process includes a graduated penalty scale that establishes a series of escalating fines for first, second, third and subsequent violations. In all but the most serious cases, the first violation is subject to a warning. Subsequent violations are subject to a monetary penalty.

Codes of practice are advantageous because the Agency can implement them more quickly than regulations. Industry has also indicated a preference for this voluntary approach. Moreover, industry has also publicly committed to implementing the Agency's codes. They are developed in consultation with associations of and for persons with disabilities, seniors, manufacturers, carriers and service providers. This inclusive approach helps all parties cope with new technologies and new ways of delivering service. These codes are voluntary, performance-based standards that set out the minimum measures that carriers and terminal operators should take to make accessible services and equipment available to persons with disabilities.

In 1998-99, the Agency finalized its third code, a code of practice for marine equipment for extra-provincial ferry services. In July 1998, the Agency distributed the draft Ferry Code of Practice to more than 3,000 individuals for comment. The community of persons with disabilities, industry and other interested parties submitted responses, and the Agency revised the draft document accordingly. The Agency's Ferry Code was launched in June 1999.

Also, in July 1998, the Minister of Transport launched the Bus Code of Practice for

intercity buses in Canada. The Code establishes the means by which scheduled intercity bus services will be provided in a safe and dignified manner to travellers with disabilities, and outlines a complaint resolution process. The working group of industry and consumers headed by Transport Canada and charged to develop the Code, called on the Agency to use its expertise to assist in its drafting. The Agency welcomed the opportunity to support this project to foster enhanced access to motorcoach service for everyone in Canada. When Transport Canada's Bus Code of Practice is taken into account, there are now four codes of practice covering the air, rail, marine and road modes of public transportation in Canada.

The Accessible Transportation Directorate monitors the industry's compliance with Agency regulations and codes of practice related to persons with disabilities. It does this by conducting surveys, inspecting sites and investigating complaints. Published in January 1997, the Code of Practice: Aircraft Accessibility for Persons with Disabilities was the Agency's first code. It established on-board accessibility criteria for persons with disabilities on aircraft with at least 30-passenger seats. Carriers were expected to meet most of the criteria by January 1, 1999, and to meet the rest by January 1, 2002. In 1997, the Agency began establishing a benchmark against which it could evaluate improvements in aircraft accessibility. Analysis of the benchmark data shows that air carriers are well on their way to meeting the code's provisions. The Agency will use the results of follow-up surveys in January 1999 and January 2002 to assess industry compliance with the Air Code.

### **Protection of consumers**

In May 1998, the Agency in collaboration with Transport Canada issued a *Practical Guide for New Canadian Entrants*. This guide was developed to help prospective air carriers understand the overall requirements and process involved in becoming a licensed air carrier. New entrants are assuming a safety and social responsibility. The guide brings together key information as a handy reference. It is available on the Internet at [www.cta-otc.gc.ca](http://www.cta-otc.gc.ca) or [www.tc.gc.ca/aviation/index.htm](http://www.tc.gc.ca/aviation/index.htm)

As the Canadian licensing authority for publicly available air services, the Agency, among other activities, issues licences for domestic and international air services; verifies that Canadian air carriers meet financial requirements as applicable, ensures that only Canadians operate domestic services or exercise traffic rights granted to Canada in bilateral air agreements; checks that carriers protect advance payments from

charterers so that they can provide refunds to consumers in cases of non-performance; and verifies that carriers have abided by the terms and conditions of carriage as set out in their tariffs.

Agency staff provides advice and assistance to applicants in person and in written guides that explain the Agency's regulatory requirements. To obtain a licence from the Agency, applicants must have a Canadian aviation document that indicates their ability to maintain a safe operation, along with the prescribed liability insurance coverage for consumer protection.



Where appropriate and upon application, the Agency may exempt an applicant from specific requirements. The following example illustrates the Agency's ability to use the flexibility inherent in its licensing processes. In April 1998, Canadian Airlines announced a strategic alliance that would transfer Canadian Airlines' Canadian North operations to Air NorTerra Inc. Under the arrangement, Canadian Airlines and its feeder airline, Canadian Regional Airlines, would provide aircraft and flight crews to Air NorTerra. All services would be operated under Canadian Airlines code. This was an unusual arrangement, since air carriers normally provide their own aircraft and crew for their core services. Nevertheless, based on the material submitted, the Agency was of the view that Air NorTerra was in control of the air service and thus should be the entity holding the licence. In August 1998, Air NorTerra received an Agency licence to operate a domestic air service using medium and large aircraft. The new company, carrying on business as Canadian North, began operations on September 1, 1998.

As the Canadian aeronautical authority, the Agency participates in bilateral air negotiations to procure additional rights for Canadian air carriers and administers resulting bilateral agreements. These rights include such matters as the number of airlines and frequency of service, access to points in the other country, the ability to pick up and discharge traffic at points in third countries, and code-sharing. As the aeronautical authority, the Agency also ensures that Canadian airlines are treated fairly by the other country in the application of its laws and regulations, especially as they pertain to the airline's ability to conduct its business affairs. In 1998-99, the Agency participated in negotiations with Chile, Hong Kong, Hungary, Israel (two rounds), Lebanon, Mexico, New Zealand, the Russian Federation, Taiwan, Thailand and the United States. In addition, it initiated written consultations with Germany and the Netherlands.

The Agency regulates the air charter industry through a permit authorization process. A charter air service is a non-scheduled service operated under a contractual arrangement between an air carrier and a charterer. Carriers holding a licence for a non-scheduled international service must obtain an Agency program permit or an authorization to operate Canadian-originating charter flights to any foreign country.

The permit and authorization processes provide that air carriers operating international charter flights comply with the *Air Transportation Regulations*. This includes a requirement for charter carriers to protect advance payments from charterers. Hence, it protects consumers from the failure of a charter carrier to operate all or part of the proposed flight through a refund or providing alternate transportation. The Agency operates a telephone service for emergency charter situations occurring outside normal business hours. In 1998-99, the Agency dealt with 77 such situations.

The Agency is also active in assisting air travellers through a complaints service. These complaints deal with delayed flight departures; misplaced, lost or damaged baggage; restrictions on airline tickets; quality of service provided by airline employees; fares; denied boarding; and, recently, mandatory airport departure taxes. Consumers initially submit their concerns directly to the carrier. If they are unhappy with the response or with the level of restitution offered, they may file complaints with the

Agency. The Agency verifies that carriers have abided by the terms and conditions in their tariffs, and consumers generally appreciate this watchdog role.

Occasionally, consumers are surprised to learn that a tariff limits an air carrier's liability for situations such as lost luggage and denied boarding. In most cases, the Agency finds that carriers have complied with their tariff provisions. In several cases, carriers have reconsidered a passenger's difficulties and offered a goodwill gesture to recognize the passenger's loyalty to the carrier. In some other cases, the Agency has had to take corrective measures. For example, following a consumer complaint against a carrier, the Agency found that the airline did not have a tariff setting out its terms and conditions of carriage. Agency staff helped the carrier develop an appropriate tariff to comply with the ATR. This kind of assistance was provided to over 50 Canadian and foreign air carriers last year.

In 1998, to help and inform the travelling public, the Agency distributed more than 9,000 copies of its *Fly Smart* pamphlet, which gives consumers helpful travel hints. This pamphlet, and the highly publicized 1-800 line, make many Canadians aware of the Agency and its role for the first time. Providing them with the information they need makes travelling by air easier and travellers more confident.

**JUST A CALL AWAY** - A mother who needed to use a special restraint system for her child with a disability was having problems having it accepted by an air carrier. The Agency helped her to find out that her restraint system was permitted and put her in touch with the appropriate person at the airline to handle her needs. She called the Agency back to report that the company was going to issue a bulletin to its reservation agents and to travel agents clarifying the issue of accepting child restraint devices.

### **Impartial dispute resolution**

The Agency's decision to be proactive in fulfilling its duties is not always an easy course to follow. In trying to achieve the goals of an administrative tribunal in less formal ways, the Agency faces a number of challenges. There are limits to how far Members and staff can go in engaging the Canadian public. The nature of justice is to be fair to all parties. When the Agency communicates with parties, informing them of their rights and obligations under the Act, it is diligent in ensuring that all parties receive the same information and have the same opportunities to be heard. All the Agency's activities are conducted impartially and broadly across the entire transportation community. The principles of natural justice and impartiality must govern all of the Agency's activities.

## REACHING OUT TO SMALL TOWN CANADA

Beechy, Saskatchewan (population 281), Vauxhall, Alberta (population 1,011), Swan River, Manitoba (population 2,907); these are just three of the many towns the Agency has visited to meet the local townspeople and explain the *Canada Transportation Act* and how it affects them. Whether the subject is the discontinuance of a railway line, the private crossing of a railway, services available to travellers with disabilities or any other, the Agency has been on the road to try and help Canadians solve their transportation-related problems. From Saint-Étienne-de-Lauzon, Quebec, to Hay River, Northwest Territories, the Agency and its staff have demonstrated their desire to meet and help the Canadians they serve.

For example, in 1998, the Agency held a public hearing on the proposed construction of the first new federal railway line to be built in Canada in over six years. Canadian Pacific proposed to build a 12.6-kilometre line through a rural area to move polyethylene from a Union Carbide facility near Prentiss, Alberta. The Agency held a public hearing and heard arguments about economic growth, job opportunities, competition and market forces. It also heard arguments about the loss of agricultural land, safety concerns, decreased quality of life and environmental questions in opposition to the proposal. The Agency's decision balanced competing interests and found that the line could be constructed within

sound environmental guidelines on a route that would minimize the loss of agricultural land. The Agency's decision was appealed to the Federal Court of Canada. The Court dismissed the appeal on June 11, 1999.

### Alternative dispute resolution mechanisms

An important theme of the Agency's strategic plan is to establish itself as a facilitator in the Canadian transportation system. The Agency encourages parties to resolve disputes informally, and its staff are constantly looking for ways to do so. Sometimes the Agency is able to assist before problems arise. These efforts help to prevent formal adjudication on a complaint, help address concerns or facilitate dispute resolution.

A traveller could not confirm with her travel agent that she was assigned a bulkhead seat which would provide the extra space needed to accommodate her disability. After calling the Agency, one of our staff was able to contact the airline's internal offices and confirm her seating arrangements. Such an effort avoids not only hassles while travelling but the need to follow up with a formal complaint.

The Agency receives and investigates many complaints about noise, vibration, pollution, improper drainage and other matters resulting from railway operations or construction. If negotiation or mediation among the parties fails, the Agency may determine, upon request, whether the railway has met its obligations under the Act to do as little damage as possible when constructing or operating its railway. Over the past year, Agency staff have held a number of on-site meetings across the country with complainants and railway representatives to help resolve concerns.

#### A GOOD NIGHT-S SLEEP

The distant, mournful call of a locomotive across the prairie turns into a blaring, sleep-shattering uproar as the train rolls through Wilcox, Saskatchewan. Residents, local officials and the RCMP were upset and looking for answers. The Agency organized a meeting with concerned townsfolk, Transport Canada, the RCMP and railway representatives, including union officials, to come to some sort of understanding. The result is a better knowledge of railway safety requirements and an agreement that will change the railway's operation without jeopardizing safety. The railway whistle is once again a welcome sign of safety and Wilcox gets a good night's sleep.

Another example of the Agency's efforts to facilitate potential disputes occurs when the Agency receives a request for the determination of the net salvage value of a railway line. In general terms, this value constitutes the salvage value of the property less the cost of removing it and recovering the salvage. The process

begins with a site visit of the railway line by Agency staff along with all the participants involved. This ensures that everyone is able to see the rail assets and land involved, and has a chance to discuss the process and procedures, and to agree on the project milestones. By taking these steps at the beginning, the Agency facilitates the whole process.

The Agency has made a conscious effort to communicate openly with the Canadian transportation community and to become more approachable to the people and organizations it serves.

In 1998-99, the Agency used facilitation tools which included the production and distribution of guidelines on various matters under its jurisdiction that have an impact on the transportation industry and its users. For example:

- The Agency has taken action to address concerns that the Final Offer Arbitration (FOA) process is too legalistic and costly. In consultation with the industry, the Agency has expanded and refined its list of arbitrators and produced a pamphlet to explain the FOA process; and is issuing guidelines for selecting an arbitrator. The Agency is also developing a set of procedural guidelines for conducting FOA to help arbitrators and to streamline the arbitration proceedings. Together, these initiatives will assist shippers and carriers with the FOA process, particularly in cases where the cost of the process is a significant factor in the decision to use FOA.
- The Agency has also issued guidelines to explain the 'substantial commercial harm' test of subsection 27(2). Provisions dealing with competitive line rates and level of service obligations, among others, require that, after considering the circumstances of the case, the Agency be satisfied that the shipper would suffer substantial commercial harm if the relief were not granted. Since this provision has not yet been tested, the Agency has published guidelines to clarify the factors it may consider in determining 'substantial commercial harm'.
- As part of a full review of its *Guide for Railway Charges for Construction and*

*Maintenance of Railway Crossings*, formerly known as the *Schedule AA Directives*, the Agency held consultations with railway representatives, Transport Canada and the Federation of Canadian Municipalities in 1998. This guide is a set of instructions designed to assist railways and other parties by providing a third-party assessment of rail costs. It sets a consistent, nationwide billing structure for work done on railway crossings and warning systems, and for other railway construction or maintenance work. It should also provide assistance to parties in resolving disputes.

In the latter part of 1998-99, the Department of Justice (DOJ) established a special fund to provide financing to departments and agencies wishing to undertake alternative dispute resolution initiatives. The Agency's proposal to develop an alternative dispute resolution mechanism through the use of mediation or facilitation tools and training for members and staff was accepted. Most of these activities are planned for 1999-2000. The Agency will report more fully on this initiative in next year's Performance Report.

### **Accessible transportation**

One of the Agency's most dynamic areas of activity is ensuring that people with disabilities have accessible transportation without undue obstacles. Although the *Canada Transportation Act* gives the Agency the power to remove undue obstacles, it does not define these. It is left to the Agency to define them on a case-by-case basis to resolve individual issues and, through regulations and codes of practice, to resolve systemic barriers. The Agency has established a series of benchmarks for accessibility standards and the carriers are rising to the challenge in their efforts to improve their services for travellers with disabilities.

From discussions with Canadians with disabilities the Agency realized that there was a need for a how-to travel manual for persons with disabilities. Many of them had said they had not travelled long distances because of the obstacles they face and because they were unsure of the services available to them. Following the *Communication Barriers* report, which flagged the need for a how-to travel manual for persons with disabilities, the Agency joined with its consumer and industry partners to provide practical information to travellers. Through this collaboration, the Agency was able to produce *Taking Charge of the Air Travel Experience: A Guide for Persons with Disabilities*. The guide helps smooth the way when booking a flight, getting to the airport, moving from check-in to boarding, or when arriving at the airport of destination. This knowledge can lend confidence to travellers with disabilities and help make their trip a positive experience. Response to the Guide has been extremely positive; more than 20,000 Canadians have already requested copies since November 1998. The Agency plans to conduct a survey in 1999 to determine how well the Guide responds to the needs of travellers with disabilities and seniors.

In 1998-99, in addition to the important steps the Agency took to implement codes of practice, it also continued consulting with interested parties, holding working committee meetings, and building consensus to develop new standards.

The Agency is participating in an initiative to help the Canadian Standards Association (CSA) modernize its standards for barrier-free access, standards that have helped the Agency work with industry over the years to enhance access to transportation terminals. The Agency works on the CSA committee that is revising the CSA's Barrier Free Design standard (B651). This document, which sets a national standard for accessible buildings, is implemented through voluntary adoption in building codes.

The Agency also participated in a CSA subcommittee that is developing a standard to make automated banking machines accessible. The Canadian Bankers Association is sponsoring the development of this standard, which was completed in April 1999. This involvement will help the Agency prepare for new accessibility challenges that will arise as more transportation service providers begin using Aticketless® travel and other electronic systems, such as information kiosks.

In addition, the CSA has asked the Agency to participate in the Strategic Advisory Group on Aging, along with academics and representatives from consumer organizations and service providers. The first CSA group of this type, the Advisory Group, was convened to counsel the organization's board of directors on strategic and policy issues related to standards in an aging society.

Internationally, the Agency continued to represent Canada's position on accessibility-related transportation issues. This year, work continued in developing comprehensive guidance material for implementing International Civil Aviation Organization (ICAO) standards and recommended practices for air transportation for passengers with disabilities.

The Agency was a major contributor to the success of the 8th International Conference on Transport and Mobility for Elderly and Disabled People (Transed 98 held in Perth, Australia). The Agency's active participation in this event showcased Canada's work as a world leader in fostering access to transportation systems for persons with disabilities.

At a European Civil Aviation Conference meeting held in Hamburg, Germany, the Agency provided Canada's perspective on security screening procedures at airports for persons with disabilities, as well as guidance material for airport operators, travel agents and passengers with disabilities. The Agency also assisted the European Conference of Ministers of Transport to identify best practices in the transportation industry.

When travellers with disabilities believe they have encountered an undue obstacle, they may contact the Agency for help. The Agency will investigate the complaint to determine whether an obstacle exists, then decide whether the obstacle is undue.

The following case illustrates the important repercussions Agency decisions can have. In 1998, the Agency rendered a decision on its first oral hearing into an accessibility complaint. In 1996, Ms. Lucie Lemieux-Brassard encountered obstacles on 14 of 17

flights she took over an 18-day period. The Agency rendered a decision, but decided to hold an oral hearing to explore further corrective measures to be taken.

Agency decisions regarding accessibility complaints are available on the Agency's Web site at [www.cta-otc.gc.ca](http://www.cta-otc.gc.ca). The Agency has received favourable comments on this service and has improved the site to make access easier.

During the oral hearing, Canadian Airlines, Air Nova and Air Canada identified corrective measures that they could introduce, along with enhancements that they could make to the services they provide to travellers with disabilities. The decision required

Air Canada, Air Nova and Canadian Airlines to take additional corrective measures, which included expanding the definition of the type of seat designated as accessible seating, improving wheelchair handling procedures, and improving communication about the ways a carrier repairs or replaces damaged or lost mobility aids.

### Western grain

Each year, the Agency sets the maximum rate scale for the railway movement of western grain for the next crop year, in accordance with the Act. The rates contained in the maximum rate scale for the 1998B99 crop year, were 1.2 percent lower than the previous crop year's rates. For an average movement of 1,642 to 1,680 kilometres, the maximum rate for a tonne of grain was set at \$34.38, down \$0.40 from the previous rate. The 1998B99 rates decreased because of a one-time adjustment to ensure that the railways would not be overcompensated for prior years' labour buy-out costs. To determine the maximum rate scale, the Agency:

- takes into account submissions from parties describing historical and forecast price changes for labour, fuel, materials and investments;
- analyzes and audits data contained in those submissions;
- incorporates forecasts of inflationary price changes for labour, fuel, materials and investments;
- prepares a consultation report;
- consults with interested parties; and
- sets the maximum rate scale by April 30 each year.

The Agency has taken steps to improve its electronic communication with the public by redesigning sections of its Web site. One interesting feature is the rail rate scale. Visitors to the Web site are able to select a town and have its grain rate displayed, along with the rates of all elevators within a 20-mile radius. The site gives users the most up-to-date information at their fingertips.

Transport Canada formed a consultation group with Agriculture and Agri-Food Canada and the Canadian Transportation Agency in late 1996 to define the guidelines and data requirements for the 1999 statutory review of the grain transportation and handling system, as prescribed in the *Canada Transportation Act*. In 1997, the group met with industry officials to determine the data needed for the proposed regulations, and a discussion draft of the

Grain Data Regulations was completed and published in the *Canada Gazette*. In 1998 and 1999, industry submitted comments on the proposed regulations to the Minister of Transport. The regulations were approved in July 1999 and published in the *Canada Gazette Part II* on August 18, 1999.

The Minister of Transport had also appointed the Honourable Mr. Justice Willard Z. Estey to undertake a comprehensive review of Canada's grain transportation and handling system, which he completed in December 1998. In late Spring 1999, the Minister of Transport appointed Mr. Arthur Kroeger to consult with all grain industry stakeholders to plan the implementation of Justice Estey's recommendations in time for the 2000-2001 crop year. Recognizing the Agency's expertise in this field, Mr. Kroeger asked that the Agency develop its best estimate of the changes in railway costs and productivity in the transportation of grain since 1992 and how these productivity gains were passed on to farmers.

In mid-July, the Agency delivered this analysis. On July 20, 1999, Mr. Kroeger publicly released the Agency's report. One of the Agency's key findings was the railways percent of sharing of productivity with shippers in 1998 which ranged from 49% to 55%. The Agency identified seven factors which related to the sharing of productivity gains. Four factors involved regulatory activities, while three factors reflected voluntary activities on the part of the railways. The Agency's approach for measuring the sharing of productivity took all seven factors into account and determined that, in 1998, \$4.61 per tonne was shared with grain shippers. Of this amount, \$2.05 per tonne was voluntary and \$2.56 was attributable to regulation. (the full report is available on the Agency's Web site at [www.cta-otc.gc.ca](http://www.cta-otc.gc.ca)).

### **Advice to government**

As mentioned on page 6, each year, the Agency assesses the operation of the Act and the difficulties it encountered in its administration. This is done through the Agency's Annual Report, which is tabled in the House of Commons. In its 1997 Annual Report, which was tabled on June 17, 1998, the Agency suggested that it should consult more fully with the community to add greater depth to its assessment of the operation of the Act, particularly with respect to the railway transportation provisions. To help it fulfill this objective, the Agency hired Ekos Research Associates Inc. (Ekos) to survey members of the railway transportation community.

This survey attempted to identify and quantify the experience various parties had encountered with the operation of the Act or its provisions. The Agency has combined this information with its own experience and other feedback from the industry. The 1998 Annual Report was tabled on July 21, 1999. The assessment of the operation of the Act is contained in Chapter 3 of the Annual Report. The chapter pays special attention to areas where the current Act differs from previous legislation and reports on:

- the Agency's experience with the Act,
- the industry's comments to Agency staff, and



- the Ekos survey of shippers, carriers and municipal and provincial governments involved in the rail transportation system. (The executive summary of the survey is available on the Agency's Web site at [www.cta-otc.gc.ca](http://www.cta-otc.gc.ca)).

Under Part VII of the *Canada Marine Act*, which became effective on October 1, 1998, the Minister of Transport is required to review certain aspects of the pilotage system and report on the findings, within a year of that section coming into force. The items to be reviewed include the pilot certification process for masters and officers; training and licensing requirements for pilots; compulsory pilotage area designations; dispute resolution mechanisms; and measures related to financial self-sufficiency and cost reduction.

The Minister asked the Agency to conduct the review. The Minister's terms of reference prescribed two national meetings. The Agency also decided to hold numerous regional meetings with interested parties in an effort to reach consensus on some controversial issues.

A number of written submissions were received and are also available on the Agency's Web site. The first national meeting was held in January 1999, in Ottawa and the second in June 1999. The Agency submitted its final report to the Minister on September 1, 1999.

### **Key Reviews, Audits, and Evaluations**

The above-mentioned Ekos survey also had a component whereby interview respondents were asked to comment on their satisfaction with the Agency. Key respondents, which included carrier representatives, government (provincial and municipal) and shipper representatives, were highly satisfied with Agency staff, whom they found to be competent, helpful and responsive. In addition, more than half of the survey respondents agreed that the Agency helps achieve an effective and accessible transportation system.

However, weaknesses were identified with regard to other aspects of the Agency's performance. In particular, some respondents, particularly small shippers, perceived that the Agency does not communicate or consult with clients sufficiently well, that it has not made its role and mandate clear, and that the Agency process for resolving disputes/complaints can be time-consuming, bureaucratic and costly (although it was acknowledged that the Agency is constrained in what it can do by the Act).

Communications were regarded as a problem by shippers more than by governments or carriers. Only a minority of survey respondents, who identified communications as a problem, had used the Agency's publications or Web site, which might partially account for the perceived lack of adequate communications. This suggests that improved promotion and distribution of these communications tools is needed. Overall, a high level of satisfaction was expressed with the Agency's Web site and publications.

The major suggestions for improving the Agency's performance were enhanced communications/consultation with clients and simplified procedures and processes.

As mentioned earlier in this document, one of the Agency's strategic priorities is to focus on facilitation and broad communications (see page 5). Therefore, the Agency will continue to devote efforts to consulting with various parties and to learning how to improve its approaches to meet their needs. It will expand its efforts to reach beyond the larger organizations and will focus on reaching a wider range of interested parties, in particular small shippers. It will also continue to solicit feedback on its performance and the quality of its services. Tools such as conducting further surveys, analysing on-line comments received on its Web site and at consultation meetings, and integrating feedback sections in the guides it publishes, are examples of how the Agency will measure the results of its efforts. These results will be reported on in future Agency's Performance and Annual Reports.



## Section IV: Consolidated Reporting

### Year 2000 readiness

<b>Year 2000 (Y2K) Initiatives</b>	<b>Results</b>
The Agency has given the Y2K Readiness project the highest priority	! The Agency uses microcomputer-based technology. Desktop productivity tools, as opposed to business systems, are all relatively recent microcomputer technologies, and generally provide reasonable compliance with Y2K requirements.
Operational work plans have been developed	! None of the Agency's systems was identified as a government mission-critical system.
Internal resources have been reallocated for the necessary adaptations	! The Agency completed both Y2K regulatory impact and risk assessments and developed risk action plans to mitigate these risks. It made the results available as required in the course of Treasury Board's monitoring of Y2K activities. Based on this monitoring, the Agency was 88% compliant at April 30, 1999. It expects to be 100% by the end of the summer 1999.
The Agency is actively participating in the Y2K Interdepartmental Working Group (IWG) headed by Treasury Board	! Contingency plans have been developed and testing will be completed by the end of the summer of 1999. An independent technical verification of the Y2K project was also underway.

### Regulatory initiatives

During 1998-1999, the Agency worked on one major regulatory project developing new regulations concerning designated provisions for Administrative Monetary Penalties. Please see page 10 for details.



## Section V: Financial Performance

### Financial Performance Overview

As with most administrative tribunals, about 80% of the Agency's expenditures are related to personnel costs. The Agency does not have any major capital projects due to its mandate as well as its size. Transportation subsidy programs administered by the Agency were eliminated as a result of the 1995 Budget and the implementation of the Act in July 1996. Therefore, the Agency does not have any transfer payments. Other operating expenditures relate to the delivery of Agency's activities and range from the costs associated with holding public hearings to ensuring that Agency employees have the proper electronic tools to do their job.

### Financial Summary Tables

The Agency is a single business line (the Canadian Transportation Agency Program).

**Table 1 - Summary of Voted Appropriations**

<b>Authorities for 1998-99</b>				
<b>Financial Requirements by Authority (thousands of dollars)</b>				
<b>Vote</b>		<b>Planned Spending</b>	<b>1998-99</b>	
			<b>Total Authorities<sup>1</sup></b>	<b>Actual</b>
<b>Canadian Transportation Agency</b>				
30	Operating expenditures	17,564	19,052	18,427
(S)	Spending of proceeds of the disposal of surplus Crown assets		10	0
(S)	Statutory Grants and Contributions <sup>2</sup>	4	4	4
(S)	Contributions to employee benefit plans	2,792	2,934	2,934
<b>Total Agency</b>		20,360	22,000	21,365

1. Includes Supplementary Estimates of \$1,487,471 mainly relating to collective agreement compensation.

2. This amount was included in the operating expenditures in the Agency's 1998-99 Report on Plans and Priorities but should have been shown separately.

**Table 2 - Comparison of Total Planned Spending to Actual Spending**

	1998-99 (thousands of dollars)		
	Planned	Authorized	Actual
<b>Canadian Transportation Agency</b>			
<b>FTE-s</b>	249	-	<b>249</b>
<b>Operating *</b>	19,756	21,386	<b>20,730</b>
<b>Capital</b>	600	600	<b>631</b>
<b>Subtotal: Gross Voted Expenditures</b>	20,356	21,986	<b>21,361</b>
<b>Statutory Grants and Contributions</b>	4	4	<b>4</b>
<b>Total Net Expenditures</b>	20,360	22,000	<b>21,365</b>
<b>Cost of services provided by other departments</b>	3,327	3,327	<b>2,498</b>
<b>Net Cost of the Program</b>	23,687	25,327	<b>23,863</b>

\* includes Contributions to employee benefit plans

**Table 3 - Historical comparison of Planned spending to Actual Spending**

thousands of dollars	Actual 1996-97	Actual 1997-98 <sup>1</sup>	Planned Spending 1998-99	Total Authorities 1998-99	Actual 1998-99
Canadian Transportation Agency	27,800	56,709	20,360	22,000	21,365

1 Includes Supplementary Estimates of \$35 million relating to final adjustments to subsidy payments that used to be made under the *National Transportation Act, 1987* and the *Railway Act*. Both of these subsidy programs were eliminated with the coming into force of the *Canada Transportation Act* on July 1, 1996. These statutory payments constitute the final adjustments to the liability that had been incurred prior to that date under both programs and were included in the Agency's 1997-98 Supplementary Estimates.

## Section VI: Other Information

### A. Agency Annual Reports

*Annual Report 1997* (covering the period January 1 - December 31, 1997)

*Annual Report 1998* (covering the period January 1 - December 31, 1998)

Available on Internet: [www.cta-otc.gc.ca](http://www.cta-otc.gc.ca)

### B. Contacts for Further Information

Postal Address: Canadian Transportation Agency      Web site: [www.cta-otc.gc.ca](http://www.cta-otc.gc.ca)  
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Communications	Kim Rochon	Acting Director	(819) 953-7666 <a href="mailto:kim.rochon@CTA-OTC.X400.gc.ca">kim.rochon@CTA-OTC.X400.gc.ca</a>

### C. Legislation Administered

#### The Agency has sole responsibility for:

*Canada Transportation Act*

*S.C. 1996, c. 10*

*Shipping Conferences Exemption Act,*  
1987

*R.S.C. 1985, c. 17 (3rd Supp.)*



**The Agency shares responsibility to Parliament for the following Acts:**

<i>Access to Information Act</i>	<i>R.S.C. 1985, c. A-1</i>
<i>Budget Implementation Act, 1995</i>	<i>S.C. 1995, c. 17</i>
<i>Budget Implementation Act, 1996</i>	
<i>S.C. 1996, c. 18Canada Marine Act</i>	<i>S.C. 1998, c. 10</i>
<i>Canadian Environmental Assessment Act</i>	<i>S.C. 1992, c. 37</i>
<i>Civil Air Navigation Services Commercialization Act</i>	<i>S.C. 1996, c. 20</i>
<i>Coasting Trade Act</i>	<i>S.C. 1992, c. 31</i>
<i>Energy Supplies Emergency Act</i>	<i>R.S.C. 1985, c. E-9</i>
<i>Financial Administration Act</i>	<i>R.S.C. 1985, c. F-11</i>
<i>Pilotage Act</i>	<i>R.S.C. 1985, c. P-14</i>
<i>Railway Relocation and Crossing Act</i>	<i>R.S.C. 1985, c. R-4</i>
<i>Railway Safety Act</i>	<i>R.S.C. 1985, c. 32 (4th Supp.)</i>

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