



**Chartered Institute of Logistics and Transport
Pacific Chapter**

Proceedings of Breakfast Meeting

Guest Speaker:

Dr. Scott Streiner

Chair and CEO, Canada Transportation Agency

held on Tuesday, August 29th, 2017

at the British Columbia Institute of Technology Downtown Campus
Vancouver, BC

www.ciltnapacific.com
ciltnapacificchapter@gmail.com

Contents

Thank you to the Event Sponsor	3
Editor's Note	3
Biography of Dr. Scott Streiner	4
Remarks of Dr. Streiner	5
Legislative Changes	5
Protections for Air Passengers	6
Freight Rail Provisions	6
Fundamental Rights of Persons With Disabilities	7
Regulatory Modernization	7
Accessibility Regulations	8
Licensing of Air Carriers	8
Air Passenger Consultations	8
Single Streamlined Rail Regulation	8
Oral Hearings	9
Stakeholder and Public Awareness	10
Conclusion	10
Discussion, Questions and Answers	12
Resources for CTA	12
Interswitching Limits	12
Railway Noise	12
Airline Passenger Complaints	12
Pilotage Act Review	12
Foreign Ownership of Airlines	13
The Participants	14
The Organizers	17
CILTNA Pacific Chapter Executive	17
CILTNA Headquarters (Ottawa)	17
Introducer of the Speaker	17
Thanker of the Speaker	17

Thank you to the Event Sponsor



Editor's Note

This report relies on the written text for Dr. Streiner's remarks supplied by his staff, supplemented by an audio recording taken during remarks by Jackie Li, MCILT. The editor has added some topic headings. Errors and omissions remain the responsibility of editor.

Editor of Proceedings:
Martin Crilly R-FCILT

Biography of Dr. Scott Streiner



Dr. Scott Streiner became Chair and CEO of the Canadian Transportation Agency on July 20, 2015.

Prior to joining the Agency, Dr. Streiner had a 25-year career in the federal public service. As Assistant Secretary to the Cabinet, Economic and Regional Development Policy, he served as Secretary to the Cabinet Committee on Economic Prosperity and played a key role in preparing advice to the Prime Minister on economic, environmental and trade matters, including in the areas of transportation and infrastructure.

As Assistant Deputy Minister, Policy with Transport Canada, he led the development of policy options and advice on issues touching all modes of the national transportation system, and ran the Department's international, inter-governmental and data analysis functions.

Earlier positions included Executive Director of the Aerospace Review; Assistant Deputy Minister with the Labour Program; Vice President, Program Delivery with the Canadian Environmental Assessment Agency; Director General, Human Resources with the Department of Fisheries and Oceans; Director of Operations for the Reference Group of Ministers on Aboriginal Policy; Machinery of Government Officer at the Privy Council Office; and Director of Pay Equity with the Canadian Human Rights Commission.

Dr. Streiner has led Canadian delegations abroad, including to India, China, and the International Labour Organization, and has served as the Government Member with NAV Canada, Chair of the Council of Governors of the Canadian Centre for Occupational Health and Safety, and a Director on the Board of the Soloway Jewish Community Centre.

Dr. Streiner received a bachelor's degree in East Asian Studies from the Hebrew University, a master's degree in International Relations from the Norman Paterson School of International Affairs, and a PhD in Political Science from Carleton University. He spent a year at Carleton University as a Public Servant in Residence and has taught courses, published articles, and made conference presentations on human rights, Middle Eastern history and politics, and public policy.

Remarks of Dr. Streiner

It's a pleasure to be back in the Canadian city that, perhaps more than any other, is a nexus between Canada's national transportation system and the global trade that has become so critical to this country's long-term prosperity. The economic well-being of Canadians is buttressed each time grains are hauled by train from the Prairies for shipment to Asia's burgeoning markets through the Port of Vancouver; each time consumer goods are brought through the port for carriage to central Canada or the US Midwest; each time travellers transit through YVR on their way from Santiago to Shanghai.

In this place of mountains and sea, tracks and bridges and docks, you know how important a well-functioning national transportation system is to our collective future.

How we use public policy and public administration to foster that well-functioning transportation system evolves as the system itself, the economy, and society evolve. The powers and practices of the Canadian Transportation Agency have been adjusted many times since it was established in 1904 as Canada's first independent, expert tribunal and regulator. Today, I'd like to speak about some of the changes that are currently in play – changes intended to ensure that the legal framework and its application are in sync with the on-the-ground realities faced by transportation service providers and users.

I will cover four broad topics: proposed legislative amendments, the CTA's Regulatory Modernization Initiative, oral hearings, and efforts to raise public and stakeholder awareness of their transportation-related rights and responsibilities. But before I do so, I'd like to recognize

CILTNA's Pacific chapter Director, and one of my predecessors, Marian Robson.

Marian enjoys the respect and affection of many CTA staff, who fondly remember her tenure as Chair and CEO, and of colleagues across the transportation community. One of Marian's initiatives while at the CTA's helm was the production of a marvellous document summarizing the organization's history on the occasion of its centennial. This year, to mark Canada's 150th anniversary, we updated and re-issued that document. I'd like to take a moment to present a copy to Marian, and invite you to join me in thanking her for her many contributions.

Now, let's begin with an overview of possible legislative changes.

Legislative Changes

On May 16, the Minister of Transport introduced the *Transportation Modernization Act*, Bill C-49, in the House of Commons. The proposed amendments in Bill C-49 draw upon many sources, including the recommendations of the *Canada Transportation Act Review* led by Vancouver's own David Emerson.

Before providing an overview of Bill C-49's main provisions, two caveats. First, unless and until the Bill is passed, these provisions are proposals, not *faits accomplis*. Parliament will decide whether all, some, or none of the provisions enter into law, and whether any should be amended before that happens. Second, while the CTA is the primary administrator of the law, Transport Canada is

the Minister of Transport's principal source of public service policy advice. So I will not engage in editorial comment on the Bill, but rather, will give an overview of its main elements and how, if they become law, the CTA will implement them.

The Bill has two broad components: strengthened protection for air passengers and updated remedies for shippers using freight rail services.

Protections for Air Passengers

The Bill mandates the CTA to develop regulations establishing passengers' rights if their flights are delayed or cancelled, if their bags are lost or damaged, if they are travelling with children or musical instruments, and if they experience tarmac delays of more than three hours. Air travel has become integral to modern life. We all know that usually, it goes smoothly, but when it doesn't, the experience can be disruptive and frustrating – in no small part because as individual passengers, we have little control over events. It's important that if something goes wrong with our flights, information on our rights is easy to find, those rights are explained in plain language, and the measures and compensation provided to us are fair and consistent. The Air Passenger Protection Regulations that will be made pursuant to Bill C-49 will help achieve these goals.

Freight Rail Provisions

The freight rail provisions of Bill C-49 are more complex, and involve a range of changes. If passed, the Bill will:

- require railway companies to submit more data and the CTA to publish performance information

- online, much as the Surface Transportation Board does south of the border;
- empower the CTA to provide information and guidance on railway companies' responsibilities and shipper remedies, and to try to facilitate informal resolution of issues between shippers and railway companies;
- allow for freight rail rates established through final offer arbitration to apply for two years, rather than just one, at a shipper's request;
- raise the threshold for expedited, summary rail rate arbitrations from the current \$750,000 in total freight charges to \$2 million, pegged to inflation;
- confirm the CTA's previously temporary authority to make regulations on the operational terms that will be considered during freight rail service level arbitrations;
- allow for reciprocal penalties to be included in arbitrated freight rail Service Level Agreements;
- reduce the timeframe for a service level adjudication from 120 to 90 days;
- create a list of factors the CTA should consider when determining if service provided by a railway company meets the long-standing "adequate and suitable" standard; and
- provide for the CTA to issue annual decisions setting interswitching rates.

Speaking of interswitching, one of Bill C-49's most significant components is replacement of both the CTA's authority to set general interswitching distances beyond 30 km and the competitive line rate provisions with a new option, called long-haul interswitching. Under this option, a shipper served by only one Class 1 railway company

will be able to request interswitching to the nearest interchange, which can be up to 1200 km away, or as far away as 50 per cent of the total haul distance in Canada, whichever is greater. The CTA's role will be to order that the requested service be provided, if certain conditions are met, and to establish the rate for that service, based on analysis of the rates for comparable traffic. We'll have 30 business days to make these determinations – a tight timeline that will require a well-managed process with firm deadlines for all parties.

This cluster of freight rail-related amendments are the latest effort to ensure that the legislation achieves one of the goals that has underpinned it from the beginning: the provision of predictable, fairly-priced service to shippers who may be dependent on just one or two railway companies to move their goods.

Bill C-49 will be considered by a House of Commons committee during the week of September 11, and depending on the Parliamentary process, could come into force as soon as late fall.

Fundamental Rights of Persons With Disabilities

Before I move from legislation to regulations, there are a number of other notable activities on the horizon. The Government, for example, has signalled its intention to bring forward national accessibility legislation in 2018. It's possible this legislation will have implications for the CTA, whose core mandates include protecting the fundamental right of persons with disabilities to accessible transportation services.

In addition, the Minister of Transport has initiated a number of policy reviews over the last year, the results of which may have downstream implications for the work conducted by the CTA. These include the November, 2016 commitment, as part of the Oceans Protection Plan, to review the Pilotage Act and the April 2017 announcement of a statutory review of Canada's Railway Safety Act. Both of these reviews will release their findings and recommendations in 2018.

Regulatory Modernization

Let me turn now from legislation to regulations.

The CTA launched the Regulatory Modernization Initiative, or RMI, in May 2016. Its goals are sweeping, yet straightforward: to review all regulations the CTA administers and bring them in line with contemporary business models, user expectations, and best practices in the regulatory field. We want to ensure that industry's obligations are clear, only as heavy as necessary to achieve the regulation's purposes, and written in a way that facilitates the identification and correction of non-compliance.

These goals are in the interests of shippers and travelers, whose protection is often a key objective of the regulations; of transportation companies, who will benefit from the predictability, transparency, and level playing field that modern regulations will help create; and the national economy as a whole.

Accessibility Regulations

The first of four tranches of RMI consultations dealt with Accessible Transportation Regulations, and are essentially done. Based on what we've heard, we expect the results to include:

- a comprehensive set of accessibility regulations which replace the current patchwork of regulations and voluntary codes of practice;
- provisions which require service providers to plan for accessibility and train their personnel accordingly; and
- clear and enforceable standards that still leave scope for innovation.

Licensing of Air Carriers

The second tranche of RMI consultations began last December, and is now in its final weeks. It focuses on the licensing of air carriers; approvals for air charters, code shares, and wet leases; and the process for making determinations on whether airlines will remain Canadian, as the law requires, in the context of foreign investments. While analysis of the input received still has to be completed, possible outcomes in this area include:

- increasing the passenger and public liability insurance requirements for air transportation, which have not been updated in over 30 years;
- simplifying the regulatory requirements for international charters, code shares and wet leases, and streamlining approval processes; and

- ensuring greater clarity and predictability regarding the CTA's approach to determining whether control in fact of airlines rests with Canadians.

The RMI's third and fourth tranches will deal with consumer protection for air passengers and rail-related regulations. Because of the links between these regulations and the provisions of Bill C-49, consultations in these areas will only be started after the Bill passes.

Air Passenger Consultations

We know, of course, that the air passenger consultations are likely to attract a significant level of public attention and so, we are putting the pieces in place for a multi-faceted consultation process that will include both online postings of submissions and suggestions, and in-person consultation sessions in cities across the country. We expect to launch these consultations very quickly after Royal Assent, and to complete them in two to three months.

Single Streamlined Rail Regulation

On the rail front, interest can be expected to be limited more to stakeholders – railway companies and shippers – but among them, is likely to be high. While options are still being developed, one likely outcome of regulatory reform in this area is integration of the existing six rail-related regulations into a single, streamlined Rail Transportation Regulation.

The RMI is the most comprehensive regulatory review in the CTA's history. And it is long overdue. Many existing

regulatory provisions came into force decades ago, and do not reflect the realities of a transportation system that is faster, more automated, more complex, and more cost-sensitive than ever. Our goal is to complete all consultations, get the regulations drafted, and secure the required dual approvals of the Agency and Cabinet within about a year.

At the same time, we are developing a state-of-the-art, data-driven Compliance Assurance Program that will allow us to target our compliance monitoring and enforcement resources towards those areas where the risk and/or the impact of non-compliance is higher.

I hope you'll share any input you have on regulatory reform with us during our RMI consultations – and, given the ambitious timelines we've set for ourselves, wish us luck!

Oral Hearings

Let's shift now from the CTA's role as the body that makes rules and ensures they're respected, to our role as a dispute-resolution body.

When a disagreement arises between a transportation service provider and user, we use tools ranging from informal facilitation and mediation to formal arbitration and adjudication to help resolve it. I want to focus today on adjudication, the process where our status as a quasi-judicial tribunal with all the powers of a superior court is most obvious.

Some of the disputes we adjudicate are highly complex and have major financial and reputational implications for

the parties. For certain of these cases, we've returned to holding oral hearings. When Marian was Chair, oral hearings were not unusual, but the CTA shifted to exclusive reliance on written submissions for almost a decade. In some respects, that change was understandable, since oral hearings aren't cheap, the CTA's budget is stretched, and written pleadings often provide enough information to permit a well-informed and balanced ruling. But the reality is that when we need to consider, compare, contrast, and weigh large quantities of competing evidence and legal arguments, oral hearings are the most time-efficient way of doing so. Oral hearings also have advantages in terms of access to justice, particularly where a case generates broad public interest.

Perhaps reflecting its role as a transportation hub, Vancouver has produced many of the candidates for oral hearings since we made the decision to resume holding them. Our first oral hearing was held here last October, and dealt with a dispute between Univar and CP about the cessation of direct rail service over a bridge that had been damaged by fire and a barge strike. Earlier, we'd scheduled oral hearings for two other local disputes: one between the Pacific Pilotage Authority and Shipping Federation of Canada concerning the PPA's charges, and the other between the City of Vancouver and CP over the Arbutus corridor. Both those disputes settled after the oral hearing was called and before it was held. Another oral hearing is currently planned for the area: this one will deal with the dispute between West Vancouver and CN over the Centennial Seawalk, and will take place on October 25-26.

More immediately, the CTA will be holding oral hearings tomorrow and Thursday on the tarmac delays of two Air Transat flights in Ottawa on July 31. According to media

reports at the time, passengers on the flights were not able to disembark, air conditioning on the aircraft was unavailable, external temperatures went as high as 28°, and drinking water and food supplies were depleted. Based on these reports and complaints filed by passengers, it seemed possible that Air Transat had not properly applied its own tariff – the terms and conditions of carriage – and the CTA decided on August 2 to initiate an inquiry, using its "own motion" authority for international flights.

After receiving a submission from Air Transat on August 4 that stated "a confluence of factors beyond its control" had caused the events in question, the CTA decided that an oral hearing would be the best way of getting to the facts. Given the high level of public interest in this case, the hearing will be webcast – if any of you are interested in tuning in.

Stakeholder and Public Awareness

Events like this week's oral hearing help raise public and stakeholder awareness of transportation-related rights and responsibilities, as well as the recourse available through the CTA. But we don't think it should take a high-profile dispute for this information to get out there. We think that for the processes and remedies created by Parliament to be effective, their intended beneficiaries need to know they exist.

That's why we've made stakeholder and public awareness one of our four strategic priorities for the 2017-2020 period. It's also part of the reason I'm here today. And it's why we ramped up our public information efforts in fall 2016, with a particular focus on the rights of air passengers.

The results have been dramatic. Between 2013 and 2015, the CTA typically received 70 or 80 air travel complaints per month. By late 2016, that number had risen to 400 to 600 per month, and that's where it's stayed. I want to be clear: we weren't looking for business and we didn't stimulate demand. We simply made sure travellers knew we're here to help if they have a flight-related issue that they aren't able to resolve directly with the airline, and their response strongly suggests that there were needs that had not been previously met, simply because Canadians didn't know recourse was available.

The CTA will continue to undertake modest but meaningful activities to ensure that transportation service providers, air passengers, travellers with disabilities, shippers, municipalities, and other stakeholders understand the law, have a chance to provide input on changes to rules and processes, and know how to turn to us if they require assistance.

We believe that an effective regulator and tribunal engages with the people whose businesses and lives it affects, and strives to understand their realities. And we believe that as long as we maintain a neutral, factual tone, we can have that dialogue while protecting our impartiality, which is at the heart of our *raison d'être*.

Conclusion

These are exciting times for the transportation sector and for the CTA, as an institution that helps foster a competitive, efficient, and accessible national transportation system. Sometimes, the pace of change can feel a little intense. But in a world where information and assertions

spread around the globe in a fraction of a second, where the rate of technological and business innovation accelerates every year, and where old structures are being replaced by new networks, we cannot sit still. Our actions must be prudent, thoughtful, and evidence-based, and at the same time, agile and responsive.

The CTA is working to meet these challenges head-on. I would welcome your feedback on how we can do so most effectively, and your questions on our activities and plans.

Thank you for your attention today.

Discussion, Questions and Answers

Resources for CTA

Question 1: *Given the large additional workload these legislative changes will bring, are you confident that you will have the resources necessary to meet these demands?*

Answer: The CTA's budget is currently stretched and additional resources will be needed. I have discussed our resource needs with the Minister and he understands the situation.

Interswitching Limits

Question 2: *Bill C49 contains a provision which will increase the rail inter-switching limits from 30 miles to 120 miles. How was this increase determined?*

Answer: The government consulted interested parties when drafting Bill C49, and decided to increase the limits. If a complaint is received regarding inter-switching, the CTA has only 30 days within which to issue a decision.

Railway Noise

Question 3: *How does the CTA deal with railway noise complaints from residents and municipalities?*

Answer: The Railway Association of Canada and the Canadian Federation of Municipalities have jointly issued Rail Proximity Guidelines. The Guidelines are to

be applied by municipalities when approving residential development. The Agency has considered the Guidelines when adjudicating rail proximity complaints.

Airline Passenger Complaints

Question 4: *Section 17 of Bill C49 states that only affected passengers may file a complaint against an airline, What is the rationale for limiting complaints to affected passengers only?*

Answer: Bill C49 was drafted by Transport Canada and the Minister is responsible for the legislation. The Agency does not set policy, it simply implements the policies of the government.

Pilotage Act Review

Question 5: *You mentioned a review of the Pilotage Act. Could you please give more details about this review?*

Answer: The Emerson Report recommended a review of the Canadian pilotage system. The Minister of Transport has decided to have a review conducted in 2017 and has recently named the Chair of the Review Panel.

Foreign Ownership of Airlines

Question 6: *Will the changes to the foreign ownership provisions in Bill C49 bring pressure on the Canadian airlines?*

Answer: The Bill modifies the current restriction on foreign ownership of 25% to a total foreign voting interest of 49%. The Agency is responsible to ensure that Canadians maintain ownership and control in fact of our domestic air carriers.

The Participants

1. **Mike Advincula**
DP World
2. **Amir Bajekian**
Helinalysis Ltd.
3. **Jim Belsheim**
Neptune Terminals
4. **Sébastien Bergeron**
Canadian Transportation Agency
5. **Peter Bernard**
Pacific Pilotage Authority
6. **Brad Bodner**
CN
7. **John Bourbonniere**
Harbour Link Container Services
8. **Kathy Bright**
Pacific Pilotage Authority
9. **Michael Broad**
Shipping Federation of Canada
10. **Bruce Chadwick**
Pacific Pilotage Authority
11. **Amy Chen**
The International Business Association of Capilano University
12. **David Colledge**
Colledge Transportation Consulting
13. **Caitlin Courteau**
Ashcroft Terminal
14. **Shaun Cox**
Industry Training Authority
15. **Jeff Crawford**
Neptune Terminals
16. **Lorraine Cunningham**
Pacific Pilotage Authority
17. **Phil Davies**
Site Economics Ltd.
18. **Marko Dekovic**
Global Container Terminals
19. **Kevin Desmond**
TransLink
20. **Bob Dhaliwal**
ILWU Canada
21. **Tom Doran**
ILWU – Local 502
22. **David Egan**
Partner, PwC
23. **Ryan Gallagher**
McMillan LLP

- 24. **Bonnie Gee**
Chamber of Shipping of BC
- 25. **Trevor Heryet**
Transport Canada
- 26. **David Hill**
Chamber of Shipping of BC
- 27. **Lanna Hodgson**
Int'l Shipowners Alliance Canada
- 28. **Chris Hoff**
Transport Canada
- 29. **Aaron Hoolsema**
ILWU – Local 502
- 30. **Karen Horcher**
Pacific Pilotage Authority
- 31. **Brendon Hull**
DP World
- 32. **Cara Kerins**
ILWU – Local 502
- 33. **EGGE Kloosterboer**
Vancouver Fraser Port Authority
- 34. **Greg Kolesniak**
TransLink
- 35. **Jody Kositsky**
InterVISTAS Consulting
- 36. **Kleo Landucci**
Ashcroft Terminal
- 37. **Douglas Larsson**
Chamber of Shipping of BC
- 38. **Michael Le**
The International Business Association of Capilano University
- 39. **Jackie Li**
BCIT
- 40. **Mike LoVecchio**
Canadian Pacific
- 41. **Doris Mak**
InterVISTAS Consulting
- 42. **Sean McGill**
Corporation of Delta
- 43. **Stuart MacKay**
MMK
- 44. **Candace McKibbin**
BC Aviation Council
- 45. **Bill McKinstry**
Shipping Federation of Canada
- 46. **Doug Mills**
Vancouver Fraser Port Authority
- 47. **David Montpetit**
Western Canadian Shippers' Coalition
- 48. **Tony Nardi**
A M Nardi
- 49. **Capt. Phillip Nelson**
Council of Marine Carriers

50. **Kevin Obermeyer**
Pacific Pilotage Authority
51. **Michael O'Shaughnessy**
Teck Resources Limited
52. **David Payne**
Harbour Link Container Services
53. **Gordon Payne**
Harbour Link Container Services
54. **Chuck Poelman**
Ritchie Smith Feeds, Inc.
55. **Marian Robson**
Global Public Affairs
56. **Greg Rogge**
Vancouver Fraser Port Authority
57. **Jamie Saad**
The International Business Association of Capilano University
58. **Kiran Sandhu**
Ritchie Smith Feeds, Inc.
59. **Jeff Scott**
Fraser Surrey Docks
60. **Azita Shafai**
Capilano University
61. **Chris Shubert**
Ashcroft Terminal
62. **Don Smith**
Teck Resources Limited
63. **Howard So**
The International Business Association of Capilano University
64. **Capt. Leo Stradiotti**
Council of Marine Carriers
65. **Scott Streiner**
Canadian Transportation Agency
66. **Joyce Tang**
Harbour Link Container Services
67. **Francois Tougas**
McMillan LLP
68. **Sandy Tuyen**
DP World
69. **Dr. Halia Valladares**
Capilano University
70. **Andrew Wells**
Mott MacDonald
71. **Chris Wellstood**
Vancouver Fraser Port Authority
72. **Richard Wozny**
Site Economics Ltd.
73. **Brian Yamaguchi**
Harbour Link Container Services
74. **Greg Yeomans**
Vancouver Fraser Port Authority

The Organizers

CILTNA Pacific Chapter Executive

Marian Robson (chair)	Colin Laughlan
George Adams	Jackie Li
Darryl Anderson	Tony Nardi
Martin Crilly	Gordon Payne
John Dymond	Chris Wellstood
Bonnie Gee	Xu Wu
Dick Hampton	Kelly Couper (admin. asst.)
Paul Levelton	

CILTNA Headquarters (Ottawa)

Bob **Armstrong**, CILTNA President
Barbara **Best**, Office Administrator

Introducer of the Speaker

Chris **Wellstood**, Harbour Master and Director of
Marine Operations and Safety, Port of Vancouver
(representing the Event Sponsor)

Thanker of the Speaker

Jim **Belsheim**, President, Neptune Terminals