



Canadian
Transportation
Agency

Office
des transports
du Canada

CANADIAN TRANSPORTATION AGENCY

Performance Report

For the
period ending
March 31, 2005

Hon. Jean-C. Lapierre, P.C., M.P.
Minister of Transport

Canada

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SECTION I – OVERVIEW

1.1 Chairman's Message

This 2004-2005 Performance Report for the Canadian Transportation Agency provides parliamentarians and citizens with a tool to determine whether the Agency is performing as anticipated in the 2004-2005 Agency Report on Plans and Priorities.

This report will assess our performance against the Agency's priorities of resolving transportation disputes through formal and informal processes, protecting the interests of parties within the federal transportation network and improving the accessibility of persons with disabilities to that network.

Building on the solid foundation established under the Management Excellence initiative in 2003-2004, the Agency continued to improve organizational efficiency and management practices by focusing on case management, corporate human resources planning and resource management. Audits conducted reflect the success of our efforts to date.

To set the context for this report, some of the environmental factors in which the Agency operates are noted. These include reorganizations, mergers, acquisitions, growth in some markets and cutbacks in others, global competition, fluctuating economic realities and evolving user demands. All have had a profound impact on Canada's transportation industry and on the Agency as an economic regulator.

In such a charged environment, the Agency's caseload is increasing. Work of our 270 or so employees resulted in 3,381 rulings (up from 2,850 in 2003-2004). Demand for our alternative dispute resolution services is increasing, with 20 cases going to mediation (up from 10 in 2003-2004). Complexity and sensitivity are also increasing with numerous high-profile decisions, such as the decision about the Canadian ownership and control of the restructured Air Canada. And rail trackage under federal (and Agency) jurisdiction increased by 8 per cent last year with the acquisition of BC Rail by CN.

Our rigorous and effective regional enforcement operation remains important, with 277 on-site and facilities inspections conducted last year, some involving suspected illegal air operators. Meanwhile, the Agency is preparing to respond to new legislative initiatives that may add to its responsibilities, at a time when its resources are being reduced as a result of the proposed elimination of the Air Travel Complaints Commissioner position.

And, of course, there was Jetsgo, a significant event during the period of this report. When the Canadian air carrier Jetsgo ceased operations on Friday, March 11, 2005, the Agency, like just about everyone else, was caught by surprise. By 10 a.m., the three operators on duty at the Agency's call centre logged in more than 3,000 phone calls about Jetsgo. By day's end, they would log in 134,000.

Our employees put forward enormous effort to provide citizens with timely advice about options, rights and recourse, and we referred callers to the appropriate organizations for immediate help. We also made sure that charter permits – required by carriers wanting to provide alternate transportation to Jetsgo’s stranded charter passengers – were issued on a priority basis throughout that weekend. I am confident that the Agency’s performance with Jetsgo reflected well on the Government of Canada and that it is but one of the examples to be found in this report that demonstrate the level of the Agency’s performance in 2004-2005.

Marian L. Robson
Chairman and Chief Executive Officer

1.2 Management Representation Statement

I submit, for tabling in Parliament, the 2004-2005 Performance Report for the Canadian Transportation Agency.

This report has been prepared based on the reporting principles contained in the Treasury Board of Canada Secretariat's *Guide for the preparation of 2004-2005 Departmental Performance Reports*:

- It adheres to the specific reporting requirements;
- It uses an approved Business Lines structure;
- It presents consistent, comprehensive, balanced and accurate information;
- It provides a basis of accountability for the results pursued or achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved numbers from the Estimates and the Public Accounts of Canada.

Marian L. Robson
Chairman and Chief Executive Officer
August 26, 2005

1.3 Summary Information

1.3.1 Raison d'être

The Canadian Transportation Agency is responsible for the economic regulation of air, rail and marine transportation in Canada. It is an independent, quasi-judicial, administrative tribunal that makes decisions about these modes of transport. In its administration of the Government of Canada's transportation legislation and policies, the Agency helps ensure that the federal transportation system is efficient and accessible for the benefit of all Canadians.

1.3.2 Mandate and Mission

The Agency performs the functions vested in it by the *Canada Transportation Act* and related legislation (see section 4.3 for a list of legislation and regulations that the Agency administers in whole or in part). The Agency licenses air and rail carriers, has the authority to resolve transportation rate and service disputes, handles complaints, issues codes of practice and makes regulations when necessary. It also has the authority to order the removal of undue obstacles to the mobility of persons with disabilities who use the federally regulated transportation network. As Canada's designated aeronautical authority, the Agency is also directly responsible for the economic regulation of international air transport to and from Canada. The Agency has all the powers, rights and privileges of a Superior Court to exercise its jurisdiction and to issue decisions and orders.

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.

Education and consultation are integral to the Agency's effectiveness in carrying out its mandate. The Agency works closely with those who use and provide transportation services in Canada and others directly affected by them. It helps travellers, shippers, carriers, municipalities and others to fully understand not only their rights and obligations under the *Canada Transportation Act*, but also the Agency's roles and responsibilities. When appropriate, the Agency encourages parties to resolve disputes informally before issues escalate and affect the efficient functioning of the transportation system. The Agency consults as widely as possible on issues that are important to the transportation industry. By remaining open and by listening to all affected parties, the Agency strives to ensure that its decisions are both responsive and responsible.

Through its activities, the Agency contributes to the achievement of a "fair and secure marketplace", which is one of the key Government of Canada outcomes related to a sustainable economy. It also helps improve the quality of life of all Canadians because an efficient and accessible transportation system benefits everyone.

More information about the Agency can be found on its Web site at www.cta.gc.ca. More specifically, information about the Agency's structure, its mission, its values and how it operates can be found at www.cta.gc.ca/about-nous/index_e.html.

1.3.3 Strategic Outcome and Agency Spending

The Agency's performance and financial tables presented in this report were prepared on the basis of a single business line, the Canadian Transportation Agency program, focused on realizing one strategic outcome:

Strategic Outcome

A fair and transparent economic regulatory regime that helps achieve a viable and accessible national transportation system

The resources used in working towards achieving this outcome for fiscal year 2004-2005 are summarized in the following tables:

Total Financial Resources (in thousands of dollars)

Planned	Authorities	Actual
24,711	28,215	27,176

Total Human Resources

Planned	Actual	Difference
257	270	13

Summary of Performance in Relationship to Strategic Outcome and Priorities

2004-2005 Priorities	Type	Expected Results and Current Status
Making sound quasi-judicial decisions within statutory time frames and assisting in resolving disputes through mediation and other informal processes	Ongoing	Fair, effective and efficient resolution of federal transportation issues Partially achieved and ongoing (See section 2.2.1)
Protecting the economic and other interests of Canadian transportation users and carriers and other affected parties	Ongoing	Protection of economic and other interests of transportation users, carriers and other affected parties Achieved and ongoing (See section 2.2.2)
Improving the accessibility of the federal transportation system for persons with disabilities	Ongoing	Removal of undue obstacles from federally regulated transportation for persons with disabilities Achieved and ongoing (See section 2.2.3)
Continuing to implement management excellence	New	Improved management tools and practices Partially achieved and ongoing (See section 2.2.4)

Spending and contribution to results by program area

Program areas	Spending (\$000's) 2004-2005	Fair, effective and efficient resolution of federal transportation issues	Protection of economic and other interests of transportation users, carriers and other affected parties	Removal of undue obstacles from federally regulated transportation for persons with disabilities	Improved management tools and practices
Air Transportation	6,644 (78 FTEs)	√	√		√
Rail Transportation	4,522 (49 FTEs)	√	√		√
Accessible Transportation	2,198 (21 FTEs)			√	√
Marine Transportation	858 (10 FTEs)	√	√		√
Members, Legal and Regulatory Support	5,590 (45 FTEs)	√	√	√	√
Corporate and Information Technology Services	7,364 (67 FTEs)	√	√	√	√
Total	27,176 (270 FTEs)				

1.4 Overall Agency Performance

1.4.1 Operating environment and context

The Agency's program is funded by Parliament through an operating expenditures vote. It operates within the context of the very large and complex Canadian transportation system (for details, see Transport Canada's Web site at www.tc.gc.ca).

As an independent, quasi-judicial tribunal, the Agency makes decisions on a wide range of matters involving federally regulated modes of transportation (air, rail and marine). Most of the Agency's activities and workload are generated by demand from users and operators of the federal transportation system. The tribunal's decisions are rendered by Agency Members who are appointed by the Governor in Council. This includes the Chairman, who also acts as the Chief Executive Officer, and the Vice-Chairman, who are both Members of the Executive Committee. The Agency's tribunal decision-making process is governed by its General Rules, entrenching the rules of

fairness, which ensure that all parties to a complaint or an application are dealt with fairly and equitably. More information about this process can be found at www.cta.gc.ca/about-nous/decision_process_e.html.

During 2004-2005, a number of factors have influenced the delivery of the Agency's activities and services, notably:

The Court-ordered Stay on matters affecting Air Canada

Air Canada operated under court protection from its creditors from April 1, 2003, until September 30, 2004. A stay order imposed by the Ontario Superior Court of Justice meant that the Agency could not process consumer complaints against Air Canada during fiscal year 2003-2004 and the first half of 2004-2005. Late in 2004, Air Canada filed a submission with the Agency stating its position that all complaints that pertain to incidents that occurred on or before April 1, 2003, were extinguished when the stay order was lifted by the Court and should no longer be addressed by the Agency. The Agency is of the view that Air Canada's interpretation is incorrect and filed a motion with the Court seeking an interpretation of the matter. At year-end, 98 cases were on hold pending the resolution of this matter. After year-end, the Court ordered the Agency and Air Canada to resolve the matter between them. Since then, the Agency has taken the initiative to reopen discussions with Air Canada in a further attempt to resolve the issues outside of the court process. Depending on the outcome of these discussions, numerous outstanding cases may need to be processed during 2005-2006, in addition to the Agency's regular workload.

BC Rail

The Canadian National Railway Company's (CN) acquisition of BC Rail, Canada's third largest railway with 2,300 kilometres of track, greatly increased the size and shape of the country's federally regulated railway system in 2004. The role of the Agency, as economic regulator of those railways under federal jurisdiction, expanded accordingly.

The Commissioner of Competition, in response to concerns from shippers and connecting carriers in Vancouver, made it a requirement of the BC Rail transaction that the Agency carry out a monitoring role of the BC Rail transit times from points in northern B.C. to Vancouver. The Agency will, on a regular basis, report the transit times to the connecting carriers, BC Rail, CN and the Competition Bureau.

Government expenditure review and proposed legislative mandates

The term of the most recent Air Travel Complaints Commissioner expired on September 30, 2004. As part of the Expenditure Review Exercise, the Government has confirmed through the 2005 Federal Budget its intention to eliminate the position of the Commissioner. This was further confirmed through amendments under Bill C-44, which were tabled in Parliament on March 24, 2005. These proposed legislative amendments

provide for the elimination of the Commissioner's position, but maintain the Agency's mandate to address air travel complaints that fall under its jurisdiction. Bill C-44 also proposes additional responsibilities for the Agency related to rail matters, as well as reducing the number of Members who hear cases.

Funding for the Air Travel Complaints program, as well as for additional Agency mandates implemented under amendments to the *Canada Transportation Act* in 2000, was never included in the Agency's base reference levels. Since 2000, the required funding has been provided through temporary transfers from Transport Canada.

As a result of Expenditure Review reductions, Transport Canada's base reference levels will be reduced and funding previously available to the Agency from Transport Canada will be reduced by \$2.6 million over three years. Considering the small size of the Agency, these reductions are very significant. At the end of the fiscal year, the Agency was assessing the impact of these reductions and developing a plan of action to deliver its broadened legislative mandate using fewer resources.

Other factors

Although there has been steady progress in making the Canadian transportation system more accessible for persons with disabilities, this will continue to be an area of importance for consumers, the industry and the Agency. Canada's population of senior citizens is among the fastest growing in the world, and as the population ages, there will be a greater number of people with mobility, vision or hearing impairments wanting to travel.

Reorganizations, mergers, acquisitions, service growth in some areas and cutbacks in others, global competition, fluctuating economic realities and evolving user demands have all had a profound impact on the transportation industry in recent years. In such a changing environment, market forces can and do break down. This can have a negative impact on the efficient functioning of the transportation system and ultimately on the quality of life of Canadians. Travellers should be able to expect fair treatment, carriers and shippers evenhanded regulation, and Canadians an efficient transportation network. Transportation legislation enables the Agency to intervene and take action, but discharging this responsibility is a challenge in a dynamic and evolving environment. The Agency continually consults with stakeholders to ensure that it is well positioned to take appropriate action. Changes in the nature and quantity of disputes can create workload problems. How the Agency is handling this challenge is discussed later in this report.

1.4.2 Narrative summary of performance

During 2004-2005, the Agency pursued four priorities. Below is a brief summary outlining the Agency's achievements in meeting these priorities.

Making sound quasi-judicial decisions within statutory time frames and assisting in resolving disputes through mediation and other informal processes (refer to section 2.2.1 for detailed discussion)

The Agency continued to achieve its objective of issuing sound decisions and resolving disputes through mediation and other informal processes. The Agency was also able to issue its decisions within the statutory time frames in most cases, but exceeded it in some.

- more than 3,000 Agency rulings were issued;
- the average processing times of charter permits and coasting trade applications were 13 and 11 days respectively;
- the average processing time of other applications increased (going from 100 days to 127 days) – this increase reflects the issuance of several decisions that had been on hold due, in part, to the Air Canada situation;
- there are several other accessible files for which the 120-day deadline will be exceeded as they are on hold pending the outcome of matters beyond the Agency’s control (e.g. court decisions); and
- in addition to formal decisions, many transportation complaints affecting air, rail and marine transportation were resolved through mediation and informal facilitation by Agency staff. Very positive feedback was received from the results of an evaluation of the mediation activities.

Protecting the economic and other interests of Canadian transportation users and carriers and other affected parties (refer to section 2.2.2 for detailed discussion)

Evidence that the Agency achieved this result can be summarized as follows:

- the review of compliance with the air licensing requirements (liability insurance, adequate Canadian aviation document issued by Transport Canada and, in the case of Canadian carriers, the Canadian ownership and control requirements, as well as for certain licences, financial requirements) resulted in more than 1,200 air licensing applications being processed, including applications for new licences as well as suspensions, cancellations and reinstatements;
- upon review of the new corporate structure of Air Canada and of Air Transat, the Agency concluded that both carriers continued to meet the Canadian ownership and control requirements;
- following Jetsgo’s decision to cease operations in March 2005, timely advice was provided to ticket holders and priority was given to quickly issue charter permits to other air carriers seeking to provide alternate transportation to Jetsgo’s charter passengers;
- negotiations for new or amended bilateral air agreements were held with 11 countries;

- the Agency's regional enforcement staff conducted 248 on-site inspections throughout Canada and 29 facilities inspections. Investigations into suspected illegal air operations identified 18 contraventions;
- upon assessment that adequate liability insurance was in place, two new railway companies received certificates of fitness while three other rail certificates were amended. Two certificates were suspended when the Agency determined that railway operations were not being performed and liability insurance was inadequate;
- after having assessed their environmental impact, two railway construction projects were allowed to proceed and numerous other projects continued to be monitored for their potential effect on the environment;
- the Agency determined that the Canadian Pacific Railway Company (CPR) exceeded its revenue entitlements under the revenue cap regime for Western grain and ordered the carrier to pay a penalty of \$338,008 to the Western Grain Research Foundation;
- the Agency's expertise in rail transportation matters was provided to other federal government departments to deal with complex transportation issues;
- extensive meetings and consultations were held with shippers and carriers regarding the shortfall in Western rail and port capacity;
- the interests of the Canadian marine industry were protected in the consideration of 121 coasting trade applications.

Improving the accessibility of the federal transportation system for persons with disabilities (refer to section 2.2.3 for detailed discussion)

Evidence that the Agency contributed to the removal of undue obstacles to the mobility of persons with disabilities includes:

- the Agency required transportation service providers to take corrective measures on 31 undue obstacles to the mobility of persons with disabilities;
- guidelines were released to improve the accessibility of services provided by small aircraft;
- a new code of practice on *Removing Communication Barriers for Travellers With Disabilities*, which applies to air, rail and marine carriers and terminals, was launched along with an implementation guide;
- a questionnaire to monitor compliance with the new Communication Code was developed and distributed to carriers and terminal operators;
- the *Reservation Checklist*, a guide to help travel agents assess and document the needs of travellers with disabilities, was updated to apply to all modes of transportation;
- compliance by air, rail, and marine carriers and terminal operators with the *Personnel Training for the Assistance of Persons with Disabilities Regulations* was monitored and follow-up action was taken as needed;
- discussions were organized with several carriers and terminals to enhance services to persons with disabilities;

- forty-seven accessibility complaints were resolved through mediation and formal rulings;
- accessible transportation and uniform service standards for Canadians with disabilities travelling within Canada and abroad were promoted at conferences and trade shows.

Continuing to implement management excellence (refer to section 2.2.4 for detailed discussion)

Although work will continue over the next few years, the Agency made substantial progress in implementing more modern management tools and practices within the Agency:

- an integrated risk management framework was implemented;
- a Performance Measurement Plan was developed and implementation will begin in fiscal year 2005-2006;
- the Agency's case management system was improved to respond to key information needs under the Performance Measurement Plan;
- key performance information and workload indicators were incorporated into the annual operational planning and resource allocation processes;
- a priority-setting framework was developed as a management tool;
- the processes for Agency cases were reviewed and opportunities for streamlining were identified and are being considered by Agency Members and management;
- the Public Service Commission commended the Agency for its sound management of the staffing framework.

1.4.3 Key Partners

The Agency is one of many players involved in transportation and maintains close ties with its various co-delivery partners, primarily Transport Canada, International Trade Canada, the Canada Border Services Agency and the Canadian Human Rights Commission. Refer to the Agency's Web site for details on these relationships at: www.cta.gc.ca/about-nous/partners_e.html.

**SECTION II – ANALYSIS OF PERFORMANCE
BY STRATEGIC OUTCOME**

2.1 Strategic Outcome

This Performance Report provides information on the activities of the Canadian Transportation Agency to Parliament and to Canadian citizens. It profiles the Agency's initiatives and the possible impact of those initiatives on Canadians. It also reports on commitments made in the *Report on Plans and Priorities of 2004-2005*. This document may be consulted on Treasury Board's Web site at www.tbs-sct.gc.ca/est-pre/20042005/CTA-OTC/CTA-OTCr45_e.asp.

Logic model

Strategic outcome		
<p>Our strategic outcome: A fair and transparent economic regulatory regime that helps achieve a viable and accessible national transportation system.</p> <p>Description: Through its activities, the Agency helps to ensure a viable and accessible rail, air and marine transportation system, which is a critical element of Canada's economic well-being and helps to improve the quality of life of all Canadians.</p> <p>We have one key program: The Canadian Transportation Agency's program.</p>		
2004-2005	Planned spending: Total Authorities received: Actual spending: Actual Full-Time Equivalents:	\$24,711 million \$28,215 million \$27,176 million 270
Expected results		
<p>Intermediate outcomes</p> <p>Federal transportation issues are resolved fairly, effectively and efficiently.</p> <p>Economic and other interests of transportation users, carriers and other affected parties are protected.</p> <p>Undue obstacles to persons with disabilities are removed from federally regulated transportation.</p>		

Plans and priorities

Our key plans and priorities in 2004-2005:

- making sound quasi-judicial decisions within statutory time frames and assisting in the resolution of disputes through mediation and other informal processes;
- protecting the interests of Canadian transportation users, carriers and other affected parties;
- improving the accessibility of the federal transportation system for persons with disabilities; and,
- implementing management excellence initiatives.

2.2 Performance by Priorities and Linkages to Key Services

2.2.1 Make Sound Decisions Within Statutory Time Frames and Assist in Resolving Disputes Through Mediation and Other Informal Processes

The Agency's primary activity in 2004-2005 continued to be rendering decisions on matters under its jurisdiction. These decisions cover a wide range of matters which contribute to three intermediate outcomes:

- the fair, effective and efficient resolution of federal transportation issues;
- the protection of the economic and other interests of transportation users, carriers and other affected parties; and
- the removal of undue obstacles for persons with disabilities from federally regulated transportation.

This section provides an overall report on decisions rendered during 2004-2005. It also provides details on the resolution of some federal transportation issues.

Overall report on number and timeliness of Agency decisions issued

The Agency's decision-making process is governed by rules of fairness, which ensure that all parties to a complaint or an application are dealt with fairly and equitably. In making their decisions, Members consider matters from – but not limited to – legal, economic, operational, social and environmental perspectives, and then issue a decision. More information on the process can be obtained from the Agency's Web site at www.cta.gc.ca/about-nous/decision_process_e.html.

Agency decisions cover a wide range of issues affecting all modes of transportation in the federal transportation network: air, rail and marine. During 2004-2005, the Agency issued a total of 3,381 rulings (2,850 in 2003-2004), made up of 1,982 decisions granting charter permits, 730 formal decisions, 607 orders, and 62 final letter decisions. The Agency also issued 435 interim decisions. All formal decisions and orders are posted on

the Agency's Web site at www.cta.gc.ca/rulings-decisions/index_e.html. In addition, the Agency's Annual Report describes key decisions that were issued in 2004. It can be found on the Web site at www.cta.gc.ca/publications/ann-rpt/index_e.html.

The number and outcome of Agency decisions and orders that are appealed to the Federal Court or the Governor in Council and are upheld is one of the measures that demonstrate that Agency decisions are sound. In 2004-2005, the Federal Court of Appeal rendered four judgments on appeals filed in the previous year of which two were dismissed and one was discontinued. One appeal allowed by the Court during that period, regarding the accessibility of VIA Rail's Renaissance cars, has been referred to the Supreme Court of Canada by the Council of Canadians with Disabilities (CCD). At the end of the fiscal year, three appeals of Agency decisions remain active and are pending decisions by the Federal Court of Appeal.

The *Canada Transportation Act* specifies that the Agency must issue a decision within 120 days of receipt of an application or complaint. However, the legislation anticipates more complex cases by providing for an extension if the parties agree. The Agency monitors performance through a comprehensive case management system that provides information on all applications received and handled, including the number, type and processing times (i.e. the time between receiving an application and rendering an Agency decision). The processing time of cases dealt with by the Agency varies, depending on the nature and complexity of the matters raised, the number and interests of parties involved, and the amount of evidence to be analysed.

To meet the needs of the transportation industry, the Agency renders most of its decisions within very short time frames. For example, the Agency deals expeditiously with many applications for air charter permits – often within a few hours of receipt of the application – and offers a 24-hour telephone service to deal with emergencies outside normal business hours. Similarly, many urgent coasting trade applications are handled within a few days of receipt. During 2004-2005, the Agency processed air charter permit applications on average within 13 days of receipt and coasting trade applications within 11 days.

For matters other than air charter permits, during 2004-2005 the Agency rendered its decisions on average within 127 days of receipt of the application or complaint (compared to 100 days in 2003-2004).

This increase largely reflects lengthy timelines for several decisions about accessibility issues. For example, several decisions involved complaints filed against Air Canada, which had been on hold while it was under court protection for all of 2003-2004 and the first half of 2004-2005. The Agency also ruled on complaints related to the availability of telephone-teletype devices for persons who are deaf or hard of hearing (TTY). These applications, received several years ago, were reactivated in the latter half of 2004-2005 after the Agency issued its code of practice on communication. This code reflects, among other things, what the Agency considers to be an appropriate level of

service with respect to communications for persons with hearing impairments and, specifically, provisions regarding TTY services.

At year-end, there were 127 accessibility cases before the Agency (118 at the end of 2003-2004), 98 of which involved Air Canada (88 at the end of 2003-2004). The proceedings for 78 cases have been stayed for various reasons. This includes the cases that are pending the resolution of the Air Canada situation as well as 19 allergy and obesity cases that are pending the outcome of an appeal of a previous Agency decision, and five cases that are pending the motion for leave to appeal by CCD with the Supreme Court of Canada. Further information on the cases where proceedings have been stayed can be found in the 2004 Annual Report of the Agency, which is available on its Web site at www.cta.gc.ca/publications/ann-rpt/index_e.html.

As cases on hold are re-activated, the Agency will proceed as expeditiously as possible and reallocate resources from other areas as necessary.

The resolution of transportation issues

Part of the Agency's mandate is to resolve transportation issues affecting all modes in the federal transportation network: air, rail and marine. It does so either by investigating and making formal tribunal decisions on complaints and ordering corrective measures as required, or by assisting parties in resolving their issues through mediation or other informal processes.

Issues addressed by the Agency include:

Air transportation

- complaints related to carriers' application of their tariff provisions and on prices applied by air carriers on non-competitive routes within Canada (to ensure that air carriers licensed to operate in Canada meet the legislative requirements in place to protect Canadians); and
- appeals of increases in air navigational charges imposed by Nav Canada (to ensure that principles used to establish the charges are in compliance with the legislation).

Rail transportation

- disputes between shippers and rail carriers regarding issues such as: interswitching, competitive or single line rates; joint rates; running rights; joint track usage; and level of service (to ensure that Canadian shippers have all competitive rail options available to them to move goods to market); and
- disputes between railway companies and municipalities, road authorities, landowners and others regarding issues such as crossing entitlement, railway work cost apportionment, construction and operational concerns, transfer and

discontinuance of railway lines (to ensure the rights of all parties interacting with railways and to fairly apportion costs).

Marine transportation

- complaints about user fees charged by Canadian port authorities and the St. Lawrence Seaway Management Corporation (to determine if they are unjustly discriminatory);
- opposition to proposed pilotage charges (to determine whether the pilotage authority has based its fees to continue operations on a self-sustaining financial basis, and if the proposed user charges are fair, reasonable and in the public interest); and
- complaints under the *Shipping Conferences Exemption Act* regarding conference agreements or actions by member lines to reduce competition (to determine if the agreement or actions result in an unreasonable increase in price or a reduction in service).

AIR TRANSPORTATION

In July 2000, amendments to the *Canada Transportation Act* created the Office of the Air Travel Complaints Commissioner, which provides that when no other remedy exists, the Commissioner is to review and attempt to resolve written air travel complaints about an air carrier that have not been resolved by the carrier to the satisfaction of the air travel consumer. The legislation provides that the Commissioner is to report semi-annually to Parliament on the number and type of complaints received, how they were handled, which carriers were involved, and to outline any systemic problems. The last report issued, covering the six-month period ending June 30, 2004, is available on the Agency's Web site at www.cta.gc.ca/cta-otc2000/report-rapport/index_e.html.

During fiscal year 2004-2005, 740 cases were closed (563 in 2003-2004) with the direct assistance of the Commissioner and her staff who investigated complaints, determined their validity and, where appropriate, negotiated settlements between carriers and complainants. Forty-nine per cent of those complainants stated they were totally or partially satisfied with the resolution (65 per cent in 2003-2004). The decline in the satisfaction rate is attributable for the most part to a large number of complaints that could not be addressed, such as those related to Air Canada's creditor protection and the failure of Jetsgo.

During 2004-2005, the Agency's activities relating to the investigation of prices applied by air carriers were significantly influenced by two factors: first, the stay order continued to prohibit the Agency from processing cases regarding Air Canada; second, the Agency's statutory authority to act on domestic pricing matters on its own motion expired on July 4, 2004. As a result, the Agency could only continue with four pricing complaints and was unable to proceed with the 13 cases initiated through its own motion.

The Agency also reviews appeals of new or revised charges for air navigation services implemented by Nav Canada. Appeals can only be filed if it is established that Nav Canada does not observe the statutory notice, announcement requirements, and/or the charging principles set out in the *Civil Air Navigation Services Commercialization Act*. During 2004-2005, the Agency received one submission, but it was determined that it did not fall within the Agency's jurisdiction.

RAIL TRANSPORTATION

With respect to rail transportation, some of the provisions of the *Canada Transportation Act* administered by the Agency protect shippers and ensure that they have access to alternative railways, an adequate level of service and reasonable rates. For example, Wabush Mines Inc. filed a level of service complaint against Quebec North Shore and Labrador Railway Company, seeking an order directing the carrier to issue a rate and maintain an adequate level of service. Several other level of service complaints dealing with producer cars were also brought before the Agency.

In the fall of 2004, amendments to the *Railway Interswitching Regulations* came into force. The Interswitching Regulations prepared by the Agency prescribe terms and conditions governing the interswitching of rail traffic to allow shippers competitive routings involving more than one rail carrier. The amendments to the Regulations were prepared following a series of consultations with interested parties in the rail industry. The most significant change was a reduction in interswitching rates.

Shippers are also protected through access to a final offer arbitration process administered by the Agency. Final offer arbitration is a confidential method of settling a matter through an independent arbitrator. During the fiscal period, the Agency administered three final offer arbitrations.

The Agency also has a mandate to resolve disputes between railways and other parties with whom they interact. During fiscal year 2004-2005, the Agency resolved 16 formal and numerous informal disputes between railways and municipalities, road authorities, utility companies, landowners and private citizens. Issues under dispute included the apportionment of costs for railway/highway and railway/utility crossings as well as crossing protective devices, private crossing rights and, compensation for railway actions. This function ensures a balance between parties of varying economic stature, allows for judicial remedies where parties of different jurisdictions may be in conflict and provides a lower-cost, more efficient process to resolve disputes than potentially lengthy and costly court proceedings.

The Agency further assisted parties by maintaining the *Guide to Railway Charges for Crossing Maintenance and Construction*, which sets a country-wide rate structure for work performed by railway companies for crossings and similar projects. This guide reduces or eliminates disputes in invoicing matters between Canadian municipalities and railways while reducing administrative burdens on these parties.

MARINE TRANSPORTATION

Pursuant to the *Canada Marine Act*, the Agency may investigate complaints about fees set by the port authorities, which manage operations at major ports across the country. As well, under this Act, the Agency may investigate complaints regarding tolls set by the St. Lawrence Seaway Management Corporation and the Federal Bridge Corporation.

Under the *Pilotage Act*, most ships entering or leaving major Canadian ports or traversing Canadian waterways must have a qualified Canadian marine pilot on board to navigate. Four pilotage authorities (Atlantic, Laurentian, Great Lakes and Pacific) are responsible for pilotage services in their respective regions and set the tariffs for these services. The Agency has the mandate to investigate objections to proposed tariff increases.

For example, in July 2004, the Laurentian Pilotage Authority published a proposed tariff increase. Three objections to the tariff proposal were filed as well as an intervention in support of the tariff. The Agency conducted an investigation of the tariff proposal and determined that while the tariff increase was not prejudicial to the public interest, a new docking fee to be charged by the Laurentian Pilotage Authority at the St. Lambert Lock was prejudicial and could not be implemented. The Laurentian Pilotage Authority published a second tariff increase in March 2005, of which the Agency is conducting an investigation to be completed later in 2005.

Under the *Shipping Conferences Exemption Act*, a complaint may be filed with the Agency if a person believes that a conference agreement or an action by a member line reduces competition and results in an unreasonable increase in price or a reduction in service. On October 25, 2004, the first complaint ever lodged under this provision was filed by Pangea Logistics Inc. of Vancouver, on behalf of its client, NorskeCanada, against the Canadian Pacific/Latin America Freight Association. The complaint alleged unreasonable increases in the cost of shipping paper products and unreasonable reductions in service to Latin America. The Agency began an investigation but adjourned the proceeding following receipt of a letter from Pangea indicating that it had reached a satisfactory resolution of its complaint after informal negotiations with the carriers.

ALTERNATE DISPUTE RESOLUTION

Since 2000, the Agency has offered mediation as an alternative to its formal complaint resolution process. In 2004-2005 use of the mediation option continued to grow, reaffirming the Agency's belief in voluntary dispute resolution as one of its core processes. Awareness and understanding of this option within the federal transportation network is developing, and was evident in 2004-2005 with a significantly increased use and acceptance of the process by major carriers in both rail and air modes. As a result, a more diverse range of accessible transportation issues, commercial disputes and infrastructure matters were referred to mediation. The number of new requests in

2004-2005 was 44, more than seven times higher than in the program's inaugural year, 2000-2001, when six requests were received.

Besides the 44 new requests (compared to 29 in 2003-2004), there were five mediation cases carried over from the previous year:

- Three cases were settled in pre-mediation
- Twenty cases went to mediation (10 in 2003-2004)
- Ninety per cent (18 out of 20) resulted in a full settlement
- Seven cases did not proceed
- Nineteen cases were pending at year-end

Also during 2004-2005, the use of telephone mediation increased, aided by a low-cost innovative online mediation technique that serves as an electronic flip chart to capture participants' comments in real time. This approach has been cited as "cutting edge" by dispute resolution professionals.

As stated in last year's Departmental Performance Report, the Agency conducted an evaluation of its mediation activities. It was based on a previously established framework and focused on the formative aspects of the mediation program, including issues of development, delivery and system design. A total of 103 individuals participated in the evaluation study, which was completed in 2004-2005. They represented the Agency's client population (e.g. rail and air carriers, accessibility clients, shippers/producers, citizen groups, marine pilotage authorities) as well as Agency employees. Both clients and staff believed that the mediation process achieved the informal goals of efficiency, flexibility, and improved communications.

In a letter to the Agency following the satisfactory completion of several mediation sessions, a major Canadian carrier wrote: "... we will continue to utilize the Agency's mediation program as an effective means of reaching resolutions."

The carrier also stated that participating in these sessions provided them with valuable information and insights, and that they appreciated the flexibility and cost effectiveness achieved through the use of telephone mediation.

2.2.2 Protect the Interests of Canadian Transportation Users, Carriers and Other Affected Parties

Although the Government's transportation policy favours competition and market forces, it also recognizes that certain measures are required to protect consumers, shippers (including farmers), Canadian carriers in all modes and the Canadian public. As such, the Agency's activities under each of the federally regulated transportation modes include:

Air Transportation

- administer the air carrier licensing system, which includes ensuring that carriers hold liability insurance and a valid Canadian aviation document and protecting international passenger charter flight advance payments;
- administer and participate in negotiating international air agreements; and
- administer the regulatory compliance program.

Rail Transportation

- administer the rail certificates of fitness program by ensuring that federal railways hold adequate liability insurance;
- determine the operational, economic, social and environmental impact of rail construction projects; and
- perform its administrative role regarding the revenue cap regulation of Western grain movements by rail.

Marine Transportation

- determine if suitable Canadian vessels are available to operate commercial services proposed to be provided by foreign vessels in Canadian waters.

AIR TRANSPORTATION

As the Canadian licensing authority for publicly available air services, the Agency licenses Canadian air carriers to transport passengers and cargo within Canada. It also licenses Canadian and foreign applicants to operate scheduled and non-scheduled (charter) international air services to and from Canada. A licence applicant must have adequate liability insurance and must hold a Canadian aviation document issued by Transport Canada. If an applicant proposes to operate commercial air services as a Canadian air carrier, it must prove that it is Canadian-owned and controlled. Also, if a Canadian applicant proposes to use medium-sized or large passenger aircraft, it must meet certain financial requirements. To maintain their licences, Canadian and foreign licence holders must file declarations attesting that they continue to have the qualifications necessary for the issuance of their licences.

During fiscal year 2004-2005, the Agency processed 1,257 air-licensing applications, which included applications for new licences, suspensions, cancellations and reinstatements. Furthermore, the Agency issued a decision in September 2004 following a comprehensive review of the new corporate structure of Air Canada, in which it concluded that the new entity, ACE Aviation Holdings and its subsidiary air carriers, would meet the Canadian ownership and control requirements. Late in 2004, the Agency also issued a decision that the Canadian ownership and control requirements would continue to be met under the proposed restructuring of Transat A.T. Inc. (owner of Air Transat).

Charter permits are granted to Canadian carriers to transport Canadian-originating passengers and cargo to foreign countries, and to foreign carriers to transport passengers

and cargo from Canada to their home country. In the case of international passenger charter flights originating in Canada, the Agency also ensures that advance payments are protected by way of a letter of credit or agreement of guarantee that requires the prompt refund of all advance payments received from tour operators and charterers should the air carrier fail to perform the flights. The Agency also receives applications from foreign carriers to transport passengers and cargo between Canada and countries other than their home country. In its review of these applications, the Agency balances the interests of Canadian travellers and shippers with the interests of affected Canadian carriers.

The Agency, like everyone else, was caught by surprise by Jetsgo's decision to cease its operations on March 11, 2005. Although there was little the Agency could do to help stranded travellers on that date, it put forward considerable effort to provide timely advice to Jetsgo ticket holders about their options, rights and recourse, as well as to refer them to the appropriate organizations for immediate help. The Agency took steps to make sure that charter permits required by air carriers seeking to provide alternate transportation to Jetsgo's charter passengers were issued on a priority basis throughout the weekend.

Air carriers operating a publicly available air service in Canada are required to publish a tariff, setting out their terms and conditions of carriage, fares, rates and charges. With certain exceptions, tariffs for international services to and from Canada must be filed with the Agency. The Agency reviews them to ensure that they are consistent with Canadian law and the applicable bilateral agreements.

The *Canada Transportation Act* requires air carriers to give notice of intention to discontinue or reduce domestic air services in certain circumstances. The Act also requires them to provide an opportunity for elected officials of the municipality or local government of the affected communities to meet and discuss with the air carrier the possible impact this may have. During fiscal year 2004-2005, the Agency handled eight applications for reductions or exemptions to the notice requirements. The Agency also dealt with 467 complaints regarding discontinuance of services. Eleven of them were dismissed on the basis that the legislative provision did not apply. All the others, related to Jetsgo, could not be pursued and the complainants received a reply to that effect.

Detailed statistics and further information on licensing, charter and tariff activities can be found in the Agency's Annual Report for 2004 (see the Air Transportation chapter), which is available on its Web site at www.cta.gc.ca/publications/ann-rpt/2004/4_e.html.

As the Canadian aeronautical authority, the Agency participates in bilateral air negotiations, in cooperation with International Trade Canada and Transport Canada. The Agency is also responsible for the timely implementation and administration of bilateral air agreements and arrangements to which Canada is a party. This can involve issuing scheduled international licences and helping air carriers maximize the benefits of negotiated air traffic rights, for example, by authorizing code share services. Successful negotiation and timely implementation of air agreements and arrangements contribute to the development of efficient, competitive and economic air services for shippers and

travellers and enable Canadian air carriers to compete internationally under fair and reasonable terms.

During fiscal year 2004-2005, Canada had 76 bilateral air agreements and arrangements, which provide the legal basis for regulating international air services with other governments and establish traffic rights for each country. During the year, Agency staff participated in 13 negotiations with 11 countries and territories as well as informal consultation meetings with eight countries. Increasing competition among Canadian air carriers, high fuel and other costs, and a revitalized Air Canada emerging from court protection were all factors that encouraged air carriers to seek new international markets during the past year.

To ensure regulatory compliance with Canadian law, Agency enforcement staff located in field offices in six cities across Canada conduct periodic inspections of Canadian-based licensees and of passenger terminals that fall under the Agency's purview. Staff members also investigate allegations that companies and individuals are operating in contravention of the *Canada Transportation Act* and related regulations. Sanctions for non-compliance range from the assessment of an administrative monetary penalty, to cease and desist orders and formal reprimands. During fiscal year 2004-2005, the Agency completed 277 on-site inspections of Canadian-based air carriers and passenger terminal operators. The Agency also concluded 30 investigations of carriers or individuals suspected of operating illegal air services in Canada, and identified 18 contraventions.

RAIL TRANSPORTATION

The Agency issues certificates of fitness when it is satisfied that a company proposing to construct or operate a railway under federal jurisdiction has adequate liability insurance. Certified companies are then monitored for continued compliance. During 2004-2005, two certificates were issued to new companies starting business in Canada and three certificates for existing companies were amended. Two others were suspended when the Agency determined that railway operations were not being performed and that adequate liability insurance was no longer in place.

The Agency is also responsible for assessing the economic, operational, social and other impacts of railway line construction in Canada. In 2004-2005, the Agency had notification of two rail line construction projects in Western Canada that would require the Agency to take into account the requirements for railway operations and services, the interests of the localities that would be affected by the proposed lines, as well as the requirements of the *Canadian Environmental Assessment Act* (CEAA). In addition, two railway crossing projects were allowed to proceed under the CEAA once the Agency was assured there would be no significant adverse environmental effects. Numerous other projects continued to be monitored for their potential effect on the environment. The Agency's innovative online consultation tool, encompassing numerous departments, continues to be useful in co-ordinating, harmonizing and improving the environmental

assessment processes, especially where federal and provincial processes overlap.

The Agency also administers the revenue cap regime for the movement of Western grain by rail. Each year, the Agency must determine the maximum revenue entitlement (revenue cap) and actual revenue of CN and CPR for the movement of Western grain for the crop year, which ends on July 31. The revenue cap program provides a flexible pricing regime for Western grain rail transportation while safeguarding grain shippers and farmers from excessive rail rate increases.

In 2004-2005, the Agency found that CPR's revenue exceeded its revenue cap for crop year 2003-2004 and CPR was required to repay the excess plus a 5-per-cent penalty for a total amount of \$338,008 to the Western Grain Research Foundation. This was the Agency's fourth year for revenue cap determinations, and it marked the first time a railway had exceeded the maximum revenue entitlement. A copy of this decision is available on the Agency's Web site at www.cta.gc.ca/rulings-decisions/decisions/2004/R/710-R-2004_e.html.

The Agency's administrative responsibilities regarding the revenue cap program include determining an annual inflation index (volume-related composite price index), which is factored into each railway's revenue cap. To determine the inflation index, the Agency consults with parties in the grain-handling and transportation industry, including producer representatives, shipper organizations, railway companies, grain companies, and federal, provincial and municipal governments as well as verifying and auditing detailed information contained in railway submissions.

The Agency evaluates its performance in delivering the revenue cap program by surveying organizations that participate in the consultation process. As reported in 2002-2003, the Agency surveyed shippers, producers and carriers for their assessment of and overall satisfaction with the efficacy of these processes. All respondents indicated that they were satisfied with the Agency's processes and with the way in which the consultation session was held. In fact, nearly two-thirds of the respondents expressed "strong" satisfaction in this regard. The results of the latest survey, which was conducted in March 2005, will be included in the 2005-2006 report.

The Agency's expertise is often sought by other organizations to address significant issues that affect rail transportation and that may impact upon a significant portion of the Canadian public and economy. During 2004-2005, in order to help maintain Canada's ability to competitively trade in grain markets, the Agency assisted the Government of Canada's legal defence team in a World Trade Organization investigation into a U.S. complaint concerning Canadian Government policies and practices involving the domestic consumption of western Canadian wheat.

The Agency also assisted Transport Canada in its due diligence consideration of disposal options for the Government of Canada's grain hopper car fleet that will take into account the optimal benefit to western Canadian grain farmers.

During 2004, CN acquired BC Rail Ltd. and entered into the BC Rail Partnership. In its approval of the transaction, the Competition Bureau set a number of conditions. Under a consent agreement, CN undertook to measure and report on its transit time performance compared to both the transit times previously achieved by BC Rail (using the year 2003 as the base year) and the transit time of traffic from northern B.C. destined to connecting carriers in Vancouver. To monitor the transit times, CN entered into an agreement with the Agency, called the Transit Time Oversight Agreement, where the Agency will monitor and report, for an initial five-year period, about post-merger transit time performance on the BC Rail network.

Details of the Agency's rail transportation activities can be found in the Agency's Annual Report for 2004 (see the Rail Transportation chapter), which is available on the Agency's Web site at www.cta.gc.ca/publications/ann-rpt/2004/2_e.html as well as in the Web site's rail section.

In its continued commitment to inform and consult the railway industry and its users, the Agency carried out a wide variety of communication activities in 2004-2005. Its primary focus was a communication plan to inform interested parties of the Agency's mandate and the potential impacts of CN's acquisition of BC Rail in British Columbia. As noted earlier, this acquisition has greatly increased the size and shape of the country's federally regulated railway system. The Agency met with shippers, shipping lines, ports, railways and provincial and municipal officials to explain the *Canada Transportation Act* and the implications of the provincial railway coming under federal jurisdiction.

MARINE TRANSPORTATION

Under the *Coasting Trade Act*, the transport of goods, passengers and any other commercial activity in Canadian waters, including the continental shelf area, is reserved for Canadian-registered vessels, except where no suitable Canadian vessels are available to carry out an activity. Before an applicant can get a **coasting trade licence** to bring a foreign vessel into Canadian waters for a commercial activity, the Agency must determine that no suitable vessel in the Canadian marine industry is available. In 2004-2005, the Agency completed 121 coasting trade applications (122 in 2003-2004).

In most cases, upon consideration of the pleadings, the Agency determined that the proposed foreign vessel could carry out the activity. Most of these applications were for the oil and gas exploration industry on the East Coast and all the decisions were issued within an average time of 11 days.

Details of the Agency's marine transportation activities can be found in the Annual Report for 2004 (see the Marine Transportation chapter), which is available on the Agency's Web site at www.cta.gc.ca/publications/ann-rpt/2004/3_e.html and in the marine section of the Web site.

2.2.3 Improve Access to the Federal Transportation System for Persons with Disabilities

The Agency contributes to the improvement of access to the federal transportation system for persons with disabilities through the resolution of complaints, the development and implementation of codes of practice, guidelines and essential regulations, and through education. These measures benefit all Canadian travellers and, since the incidence of disability increases with age, the demand for accessible transportation will be even greater as Canada's population ages.

The *Canada Transportation Act* gives the Agency the power to eliminate undue obstacles to the mobility of persons with disabilities. The Agency does this in two ways: through a systemic approach by developing regulations, codes of practice and guidelines; and through a case-by-case approach by resolving complaints.

The systemic approach

In 2004-2005, the Agency released the *Accessibility Guidelines for Small Aircraft*, which are available on the Agency's Web site at www.cta.gc.ca/access/guidelines/guide-small-aircraft_e.html. These guidelines, which were developed in cooperation with representatives of the industry, consumers and other government departments, are meant to assist carriers to better serve the needs of persons with disabilities travelling on aircraft with 29 or fewer passenger seats (small aircraft).

The guidelines let the industry and the public know what the Agency expects of operators of small aircraft when they are serving persons with disabilities. They include information on what to discuss with persons with disabilities at reservation time, the carriage of various aids and service animals, what to do if a person's mobility aid is damaged or lost, and tips to improve communication with persons with disabilities.

In keeping with the Government of Canada's policy of pursuing voluntary approaches as a viable alternative to regulation, the Agency has developed codes of practice to make public transportation via air, rail and ferry more accessible for persons with disabilities. These codes were developed in consultation with associations of and for persons with disabilities, seniors, manufacturers, carriers and service providers. They are available on the Agency's Web site at www.cta.gc.ca/access/codes/index_e.html.

In June 2004, during National Transportation Week, the Agency launched its fourth code of practice on *Removing Communication Barriers for Travellers with Disabilities* (the Communication Code), and released a guide to help transportation service providers to implement this new code. The code includes a set of standards for improving access to information for travellers with disabilities and applies to air, rail and ferry terminals and carriers. Although this code focuses on the information needs of travellers with disabilities, it is expected to benefit all travellers.

To assess the level of industry compliance with its codes of practice, the Agency conducts regular surveys. In 2004-2005, the Agency developed a questionnaire for the Communication Code to collect benchmark data on compliance with the code at the time of its release. Questionnaires were distributed to approximately 114 carriers and terminal operators subject to the code. Agency staff also visited several terminals and held conference calls with other terminal operators and carriers to assist them in understanding the code's provisions and to help them complete the questionnaire.

In 2004-2005, the Agency began a project to study the accessibility of terminals. Preliminary research included a study of codes of practice and standards in Canada and foreign jurisdictions. The Agency visited six transportation terminals (one rail terminal, one ferry terminal and four airports) to identify best practices in barrier-free design to assist in developing a terminal accessibility standard. The Agency also consulted members of its Accessibility Advisory Committee on the issue. Work on this project will continue in 2005-2006, including further consultations with the Accessibility Advisory Committee.

The Agency also began work on a multi-modal Travel Accessibility Survey to learn more about services, equipment and facilities in the federal transportation network that make travel easier for persons with disabilities and to learn what obstacles to travel remain. The information collected will be used to help establish the Agency's priorities to improve access to the federal transportation network and to identify best practices that the Agency can encourage other transportation service providers to adopt. The survey will be administered online in 2005-2006 with a view to reporting on the results in 2006-2007.

The case-by-case approach

When travellers with disabilities believe they have encountered an undue obstacle, they may contact the Agency for help. In cases where the parties do not agree to resolve the complaint through mediation or facilitation services, the Agency will investigate the complaint to determine if an obstacle exists and whether it is undue.

Last year, the Agency received 50 new complaints involving travellers with disabilities (45 in 2003-2004) as well as two requests for a review of the Agency's previous decisions. Of the 72 complaints closed during the year, which included some cases outstanding from the previous year, 37 were closed through the issuance of an Agency ruling, ten were settled through mediation, and seven complaints were withdrawn as a result of facilitation by Agency staff. The other complaints were closed either because the applicant failed to provide information necessary to complete the application, the matter was outside the Agency's jurisdiction or the complaint was withdrawn. In addition, the Agency acted as facilitator in five cases to resolve matters prior to travel, thus avoiding potential complaints.

Approximately 50 per cent of the issues that were found to constitute undue obstacles involved services (e.g. assistance in boarding/disembarking and related to mobility aids)

and 20 per cent involved the communication of information (e.g. TTY and signage). The remainder of the issues included seating, personnel training and condition of acceptance of travel. In order to address these undue obstacles, the Agency ordered 40 corrective measures including: changing/developing policies and procedures; following up with personnel; amending a training program and tariff provisions; and modifying equipment.

More information can be found in the Annual Report for 2004, available on the Agency's Web site at www.cta.gc.ca/publications/ann-rpt/2004/5_e.html.

Reaching out and recognition

In 2004-2005, the Agency continued to work with the Canadian Air Transport Security Authority (CATSA) to promote accessibility in new security screening programs. The Agency and CATSA signed a memorandum of understanding to facilitate the monitoring of security screeners' training in conformity with the *Personnel Training for the Assistance of Persons with Disabilities Regulations*. A preliminary report was provided by Agency staff to CATSA on the training activities for screening passengers with disabilities. Agency staff will continue to work with CATSA personnel to clarify certain aspects of their training, which is the first step in the monitoring process.

The Agency also continued to promote accessible transportation and the uniform service standards for Canadians with disabilities travelling domestically and abroad at conferences and trade shows. The Agency's work in fostering access to transportation systems for persons with disabilities has showcased Canada's leadership internationally. In 2004-2005, the Agency participated in the 10th International Conference on Mobility and Transport for Elderly and Disabled People (TRANSED) in Hamamatsu, Japan. The Agency presented three papers. One, *The Tapestry of Inclusion*, was selected as the best paper of the conference.

2.2.4 Continue to Implement Management Excellence

The Agency continued the implementation of its Management Excellence action plan which, as noted in the 2004-2005 Report on Plans and Priorities, included:

- implementing risk management and performance measurement frameworks;
- improving information management systems and gathering better performance information;
- integrating the improved performance measures into the Agency's existing operational planning process; and
- pursuing initiatives to further improve organizational effectiveness.

As part of implementing our integrated risk management framework, the organizational strategic risks were identified and assessed and mitigation strategies were developed and implemented. The Agency also applied risk management principles in its day-to-day operations, including its management priority settings, resource allocation

process, case management and internal process reviews.

The Agency's results chain, which can be found under section 4.4, succinctly describes the results the Agency intends to achieve and the outputs the Agency produces as a result of its activities. During 2004-2005, the Agency developed a Performance Measurement Plan that identifies key performance indicators for each of the Agency's intermediate outcomes as well as time lines and responsibilities for management reporting, which will begin in fiscal year 2005-2006.

Further improvements were made and will continue to be made to the Agency's case management system in order to capture better performance information on Agency cases and allow for quick and focused management reporting on some of the key performance measures under the Agency's Performance Measurement Plan.

Although we are still in the early stage of implementation, this process should enable the Agency to systematically collect, analyse and report on the performance of its programs and activities, providing better information to manage results.

Improvements were also made to the Agency's annual operational planning and resource allocation processes, which now integrate key performance information as well as workload indicators. Over time, further improvements will be made to these processes as the Performance Measurement Plan is implemented and new improved performance information is produced and used for management decisions.

During 2004-2005, the Agency pursued initiatives undertaken in the fall of 2003 to further improve its organizational effectiveness. A management committee reviewed in detail the processes used to deal with Agency cases to identify opportunities for streamlining. This process required significant involvement of management teams from across the organization as well as exchanges with other government agencies to identify best practices and opportunities for improvement. At the end of the fiscal year, Agency Members and senior management were considering recommendations for improvement as well as approaches for implementation.

Furthermore, the Agency was commended by the Public Service Commission for its sound management of staffing in the current system. This recognition took note of the infrastructure at the Agency that is conducive to informed decision-making and the respect of staffing values; the implementation of a Staffing Accountability and Management Framework, which defines the performance expectations and the measures to be used to evaluate managers; and finally that the organization has also aligned its human resources priorities with its business priorities.

SECTION III – SUPPLEMENTARY INFORMATION

3.1 Organizational Information

The Agency exercises its powers through its seven Members, appointed by the Governor in Council: a Chairman, a Vice-Chairman and five full-time Members. The Minister can also appoint up to three temporary Members.

The Chairman and Chief Executive Officer, Marian L. Robson, is accountable for the Agency's single program. All appointed Agency Members are accountable for making quasi-judicial decisions on individual matters before the Agency.

The Agency's organizational structure comprises four branches: the Rail and Marine Transportation Branch, the Air and Accessible Transportation Branch, the Legal Services and Secretariat Branch, and the Corporate Management Branch. The head of each branch as well as Communications and Internal Audit report to the Chairman.

The two program branches, the Rail and Marine Transportation Branch and the Air and Accessible Transportation Branch, relate to the Agency's regulatory functions. The Legal Services and Secretariat Branch performs regulatory activities and the Corporate Management Branch provides administrative support.

The Agency's headquarters are located in the National Capital Region. Agency personnel working in field offices in six cities across Canada carry out air and accessibility enforcement activities. More information about the role and the structure of the Agency can be found at its Web site at www.cta.gc.ca/about-nous/role_and_structure_e.html.

3.2 Financial Performance Overview

As with most administrative tribunals, approximately 80 per cent of the Agency's expenditures are related to personnel costs. The Agency does not have any major capital projects. Other operating expenditures relate to the delivery of Agency activities and range from the costs associated with holding public hearings to the cost of ensuring that Agency employees have the proper electronic tools to do their jobs.

Financial Summary Tables

The Agency is a single business line – the Canadian Transportation Agency program.

Table 1 Comparison of Planned to Actual Spending (incl. FTE)

(in thousands of dollars)	2002-03	2003-04	2004-2005			
	Actual	Actual	Main Estimates	Planned Spending	Total Authorities	Actual
Program expenditures *	27,978	27,367	24,711	24,711	28,215	27,176
Less: Non-Respendable revenue	(116)	(87)	0	0	(80)	(80)
Plus: Cost of services received without charge	3,619	3,656	3,532	3,532	3,715	3,715
Net cost of the program	31,481	30,936	28,243	28,243	31,850	30,811
Full-time Equivalents	278	282	257	257	279	270

*Includes contributions to employee benefit plans.

Explanation of variances

The variance between Planned and Actual Spending relates to increases in personnel costs because of collective agreement compensation and the Air Travel Complaints mandate for which funding is provided through temporary transfers from Transport Canada. As discussed under section 1.4.1 of this report, the Government has announced its intention to eliminate this funding over the next three years as part of the Government Expenditure Review exercise.

Table 2 Voted and Statutory Items

(in thousands of dollars)					
		2004-2005			
Vote		Main Estimates	Planned Spending	Total Authorities	Actual
Canadian Transportation Agency					
35	Operating expenditures	21,215	21,215	24,785	23,746
(S)	Contributions to employee benefit plans	3,496	3,496	3,430	3,430
Total		24,711	24,711	28,215	27,176

Table 3 Net Cost of Program

(in thousands of dollars)	2004-2005
Total Actual Spending	27,176
Plus: Services Received Without Charge	
Accommodation provided by Public Works and Government Services Canada (PWGSC) *	2,104
Contributions covering employer's share of employees' insurance premiums and expenditures paid by TBS	1,548
Worker's compensation coverage provided by Social Development Canada	37
Salary and associated expenditures of legal services provided by Justice Canada	26
2004-2005 Net cost of Agency	30,891

* does not include parking costs

Table 4 Contingent Liabilities

In the normal course of its operations, the Agency becomes involved in legal actions. Some of these potential liabilities may become actual liabilities when one or more future events occur or fail to occur. To the extent that the future event is likely to occur or fail to occur, and a reasonable estimate of the loss can be made, an estimated liability is accrued and an expense recorded on the Government's consolidated financial statements. These estimated liabilities are not recognized on the Agency's financial statement as a liability until the amount of the liability is firmly established. As of March 31, 2004 and 2005, the Agency had no contingent liabilities.

Table 5 Sources of Respendable and Non-Respendable Revenue

(in thousands of dollars)	2002-03	2003-04	2004-2005			
	Actual	Actual	Main Estimates	Planned Revenue	Total Authorities	Actual
Respendable Revenue (RR)						
Proceeds of disposal of surplus Crown assets	0.5	0.0	0.0	0.0	2.7	2.7
Sub-total - RR	0.5	0.0	0.0	0.0	2.7	2.7
Non-Respendable Revenue (NRR)						
Refunds of previous years' expenditures	100.7	60.1	0.0	0.0	28.2	28.2
Administrative Monetary Penalties	2.5	13.5	0.0	0.0	50.8	50.8
Sales of Goods and Services	13.2	12.9	0.0	0.0	1.4	1.4
Sub-total - NRR	116.4	86.5	0.0	0.0	80.4	80.4
Total	116.9	86.5	0.0	0.0	83.1	83.1

Table 6 Resource Requirements by Branch Level (thousands of dollars)

2004-2005				
Branches	Main Estimates	Planned Spending	Total Authorities	Actual Spending
Chairman's Office	3,519	3,519	4,013	3,712
Corporate Management	5,546	5,546	6,525	6,281
Rail and Marine Transportation	5,555	5,555	5,687	5,646
Air and Accessible Transportation	7,014	7,014	8,717	8,422
Legal Services and Secretariat	3,077	3,077	3,273	3,115
Total	24,711	24,711	28,215	27,176

Table 7-A 2004-2005 User Fee Reporting - User Fees Act

A. User Fee	Fee Type	Fee Setting Authority	Date Last Modified	2004-2005					Planning Years		
				Forecast Revenue (\$000)	Actual Revenue (\$000)	Full Cost (\$000)	Performance Standard	Performance Results	Fiscal Year	Forecast Revenue (\$000)	Estimated Full Cost (\$000)
Fees charged for copies of licences and permits *	O	<i>Canada Transportation Act</i>	1998	< 1	< 1	< 1	nil	nil	05-06 06-07 07-08	< 1 0 0	< 1 0 0
Fees charged for copies of orders and decisions *	O	<i>Canada Transportation Act</i>	1999	1	1	1	nil	nil	05-06 06-07 07-08	< 1 0 0	< 1 0 0
Fees charged for the processing of access requests filed under the <i>Access to Information Act</i>	O	<i>Access to Information Act</i>	1992	< 1	< 1	15	Framework under development by TBS More info: http://laws.justice.gc.ca/en/A-1/index.html	Nine requests were completed within the prescribed 30-day time period and two requests within 31 to 60 days according to the provisions included in the act.	05-06 06-07 07-08	< 1 < 1 < 1	15 15 16
			Total (O)	< 1	1	16		Total	05-06 06-07 07-08	1 1 1	16 15 16
B. Date Last Modified: not applicable											
C. Other Information: * In 2005-2006, user fees charged for the provision of copies of Agency licences, permits, orders and decisions were abolished.											

O = Other Products and Services

Table 8 Response to Parliamentary Committees, Audits and Evaluations for Fiscal Year 2004-2005

Response to Parliamentary Committees
During the reporting period, there were no Parliamentary Committee recommendations on which the Agency was asked to respond.
Response to the Auditor General
During the reporting period, no recommendation of the Auditor General was addressed specifically to the Agency.
External Audits (note: these refer to other external audits conducted by the Public Service Commission or the Office of the Commissioner of the Official Languages or the Official Languages Branch of the Public Service Human Resources Management Agency)
No external audits were done during fiscal year 2004-2005.
Internal Audits or Evaluations
Three internal audits were conducted during 2004-2005, as well as follow-up audits on prior years' reports. Internal audits were conducted on: <ul style="list-style-type: none">• the Information Technology (IT) component of the Information Services Directorate: recommendations, which management has implemented, concerned strengthening of network administrators' passwords and the need to record the performance of weekly network maintenance and network and firewall access monitoring.• the Agency's Application Information System (Appinfo): recommendations regarding the strengthening of user passwords and the implementation of a training process to ensure that all functions of the Appinfo system are fully utilized have been agreed to by management.

Internal Audits or Evaluations (cont'd)

- the Rail and Marine Complaints and Audit Services Directorate: although the audit report had not been finalized at year-end, management has agreed with draft recommendations concerning increased opportunities for staff training and more effective use of the Appinfo system.

Follow-up audits were conducted in order to provide senior management with assurance that prior recommendations had been acted upon by those responsible for the areas selected for follow-up.

Follow-up audits were conducted on:

- the Financial Information Strategy;
- the Contracting for Services and Credit Card Usage; and
- the Legal Services Directorate.

The Air Travel Complaints Commissioner's Office follow-up was also conducted in 2004-2005, but will be completed in 2005-2006 at which time a report including all four follow-ups will be issued.

More information concerning the audits is available at the following Web site:
www.tbs-sct.gc.ca/rma/database/newdeptview_e.asp?id=29.

Table 9 Travel Policies and Service Improvement Initiative

The Agency follows the Treasury Board of Canada Secretariat (TBS) Special Travel Authorities and the TBS Travel Directive, Rates and Allowances.

Although the Agency was not identified as one of the lead or core departments and agencies under the Service Improvement Initiative, some important steps were taken to improve service to Canadians since the inception of this initiative.

As part of a consultation process undertaken in 2002, a pilot survey was developed for the Agency's coasting trade application process. Thirty stakeholder responses were received from the mail-out survey.

In response to the feedback received, the Agency undertook to redesign the coasting trade process and, for the first time, a significant portion of an Agency process is now electronic. This has resulted in improved service standards to both the applicant and the respondents, as well as greatly improving accuracy, access and functionality of the Canadian Merchant Fleet database.

While the Agency has limited capacity to conduct broad, ongoing surveys, the positive learning from pilot surveys was used to incorporate stakeholder feedback in a number of other initiatives. For example, the Agency seeks periodic feedback to measure the satisfaction of shippers, producers and carriers regarding the efficacy of the processes used to determine volume related price indices. Furthermore, all clients of the Agency's mediation process are asked to complete an evaluation questionnaire. The information gathered is used to make improvements as required.

The Agency will continue to seek opportunities for client feedback and service improvement as part of our performance management process.

SECTION IV – OTHER ITEMS OF INTEREST

4.1 Annual Reports

Annual Reports for 1997 to 2004 (each covering the calendar year) are available on the Agency's Web site at www.cta.gc.ca/publications/ann-rpt/index_e.html.

4.2 Contacts for Further Information

Postal address: Canadian Transportation Agency Web site: www.cta.gc.ca
Ottawa, Ontario, Canada K1A 0N9

Performance Area	Contact Name	Title	Telephone Number and E-mail Address
Legal Services and Secretariat	Claude Jacques	General Counsel and Secretary	(819) 997-9323 claud.jacques@cta-otc.gc.ca
Air and Accessible Transportation	Gavin Currie	Director General	(819) 953-5074 gavin.currie@cta-otc.gc.ca
Rail and Marine	Seymour Isenberg	Director General	(819) 953-4657 seymour.isenberg@cta-otc.gc.ca
Corporate Activities	Sue Stimpson	Director General	(819) 997-6764 sue.stimpson@cta-otc.gc.ca
Planning	Carole Girard	Director	(819) 953-2829 carole.girard@cta-otc.gc.ca
Communications	Craig Lee	Director	(819) 953-7666 craig.lee@cta-otc.gc.ca

4.3 Legislation and Regulations Administered

A. The Agency has primary responsibility for the following Act:

<i>Canada Transportation Act</i>	<i>S.C. 1996, c. 10</i>
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B. The Agency shares responsibility for the following Acts:

<i>Access to Information Act</i>	<i>R.S.C. 1985, c. A-1</i>
<i>Canada 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>Privacy Act</i>	<i>R.S.C. 1985, c. P-21.</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>
<i>Shipping Conferences Exemption Act, 1987</i>	<i>R.S.C. 1985, c. 17 (3rd Supp.)</i>

C. The Agency has sole responsibility for the following regulations and other statutory instruments:

Air Transportation Regulations

Canadian Transportation Agency Designated Provisions Regulations

Canadian Transportation Agency General Rules

Personnel Training for the Assistance of Persons with Disabilities Regulations

Railway Costing Regulations

Railway Interswitching Regulations

Railway Third Party Liability Insurance Coverage Regulations

Railway Traffic and Passenger Tariffs Regulations

Railway Traffic Liability Regulations

Uniform Classification of Accounts and Related Railway Records

D. The Agency shares responsibility for the following regulations:

Carriers and Transportation and Grain Handling Undertakings Information Regulations

The Jacques-Cartier and Champlain Bridges Inc. Regulations

The Seaway International Bridge Corporation, Ltd. Regulations

These Acts and Regulations are available in the “Legislation” section of the Agency’s Web site www.cta.gc.ca/legislation/index_e.html.

4.4 Canadian Transportation Agency Results Chain

Strategic Outcome

A fair and transparent economic regulatory regime that helps achieve a viable and accessible national transportation system



Intermediate Outcomes

- Federal transportation issues are resolved fairly, effectively and efficiently
- Undue obstacles for persons with disabilities are removed from federally regulated transportation
- Economic and other interests of transportation users, carriers and other affected parties are protected



Outputs

- Decisions and orders
- Licences, permits, certificates of fitness and other determinations
- Codes of practice, tools and regulations
- Educational materials
- Revenue cap for Western grain by rail
- Processed and resolved complaints
- Advice concerning administration of the *Canada Transportation Act*
- Administrative monetary penalties issued
- Reports



Activities

- Conduct hearings
- Mediate disputes
- Process air travel complaints
- Communication activities, including speeches, presentations, publication and dissemination of information, etc.
- Monitoring and investigation activities to ensure compliance with regulations, legislation and international agreements
- Issue licences, permits, certificates, recommendations and other determinations
- Administrative determinations
- Develop and implement regulations
- Develop codes of practice, guidelines and similar tools
- Consultations with key stakeholders