



Canadian Transportation Agency

Performance Report

For the period ending
March 31, 1998

Canada

Improved Reporting to Parliament Pilot Document

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

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

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

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Foreword

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

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

This year, the Fall Performance Package is comprised of 80 Departmental Performance Reports and the government's "*Managing For Results*" report.

This *Departmental Performance Report*, covering the period ending March 31, 1998, provides a focus on results-based accountability by reporting on accomplishments achieved against the performance expectations and results commitments as set out in the department's *Part III of the Main Estimates* or pilot *Report on Plans and Priorities* for 1997-98. The key result commitments for all departments and agencies are also included in *Managing for Results*.

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

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

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

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CANADIAN TRANSPORTATION AGENCY



Performance Report

For the
period ending
March 31, 1998

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

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Chart of Key Results Commitments

The Canadian Transportation Agency (Agency) is just one of many players that contribute to an efficient and economically sound transportation system. Unlike a line department that has daily contact with Canadians, the Agency is a specialized transportation tribunal. It conducts most of its business with members of the transportation industry and those it serves, who happen to be in a dispute that the Agency must resolve.

The Agency relies on evidence gathered from consultations and exchanges with carriers, shippers and others in the Canadian transportation industry to assess its impact on the Canadian economy. From these discussions, it is clear that by properly carrying out its mandate the Agency contributes to competitiveness of the transportation industry and so has a positive impact on the overall Canadian economy.

Under the *Canada Transportation Act (Act)*, the Agency is required to assess the operation of the *Act*, as well as difficulties encountered in its administration. To that end, the Agency submits an Annual Report which is tabled in the House of Commons. The Agency is committed to providing improved information to Parliament and Canadians. The chart on the following page is a revised version of one published in Annex B of the Treasury Board President's 1997 Report and the Agency's 1998-99 Estimates, Part III - Report on Plans and Priorities.

Canadian Transportation Agency		
to provide Canadians	to be demonstrated by:	achievement reported in:
An administrative tribunal that helps achieve an efficient and accessible Canadian transportation system in all modes under federal jurisdiction	<ul style="list-style-type: none"> • sound quasi-judicial adjudication effected within the statutory timeframe • effective and essential regulation developed through consultation • the protection of consumers and carriers through the administration of an air carrier licensing system, rail certificates of fitness, international air agreements, international air tariffs and a regulatory compliance program • a fair and impartial regime for the settlement of disputes for the issues that fall under the Agency's jurisdiction • use of alternative dispute resolution mechanisms • the timely issuance of the maximum rate scale for western grain movements every year before April 30 • an improved access to the Canadian transportation system by eliminating unnecessary barriers to the mobility of persons with disabilities • advice to Government on the assessment of the operation and any difficulties observed in the administration of the <i>Canada Transportation Act</i> and other relevant legislation 	<p>Section III - Corporate - p. 9 Rail and Marine - p.11 Service Delivery and Services Standards - p. 23</p> <p>Section III - Corporate - p.9 Rail and Marine - p. 15 Air and Accessible - pages 17,18 and 20 Regulatory initiatives - p. 23 Also see Annual Report* - pages 5, 32 to 34 and 40 to 42</p> <p>Section III - Rail and Marine - pages 11 and 16 Air and Accessible - pages 16 to 21 Annual Report - pages 27 to 32</p> <p>Section III - Rail and Marine - pages 11, 12, 14 and 16 Air and Accessible - pages 19 and 21 Annual Report - pages 14, 15, 17, 21, 24, 36 to 38</p> <p>Section III - Rail and Marine - p. 12 Air and Accessible - p. 21 Annual Report - pages 15 and 39</p> <p>Section III Rail and Marine - p. 13 Annual Report - p. 18</p> <p>Section III - Air and Accessible - pages 20 and 21 Annual Report - pages 36 to 39</p> <p>Section III - Corporate - pages 10, 11 and 23 Annual Report - Chapter 3 - pages 55 to 70</p>

* The Agency's annual report was tabled in the House of Commons on June 13, 1998.

Section I: The Chairman's Message

By the end of 1997-1998, the Canadian Transportation Agency successfully reached its prescribed size. The transition from the National Transportation Agency (NTA) to the current Agency involved significant reductions (\$12.3 million and approximately 50% of its workforce). This transition was structured to minimize the impact on travellers, carriers, shippers and others served by the Agency, as well as on its own employees.

The Agency's mission is to administer transportation legislation and government policies to help achieve an efficient, accessible transportation system by education, consultation and essential regulation. However, the industry is quite different from the one that existed even a few years ago. Today, deregulation goes hand-in-hand with a reduced government presence. To be efficient in this new environment, the Agency must be flexible, responsive and pragmatic. It has to act quickly and decisively. While economic regulation is its primary role, the Agency acts increasingly as a conciliator and facilitator, using regulatory tools when necessary.

Consultations with shippers, carriers, users and others are an integral part of the Agency's work. Direct input by interested parties has helped the Agency set transportation rates, develop guidelines and codes of practice in place of regulations, and streamline processes. In 1997-98, the Agency continued to consult with clients to ensure that its role is well understood and to exchange views on rights and obligations under the new legislative framework. We, at the Agency, believe that this type of active role—however non-traditional for a “quasi-judicial” body—provides a stronger presence that helps us contribute to the health of the Canadian transportation system.

During the year, as required by subsection 42(2) of the *Act*, the Agency began to assess the *Act*'s operation. Since the legislation is relatively new, many aspects of the *Act* are untried and untested. However, since July 1, 1996, a growing body of informed opinion has taken shape on how the *Act* has benefitted and constrained various parties. Based on this information, as well as on its own experience, the Agency conducted a preliminary assessment of the *Act*'s contributions to Canada's transportation policy. This assessment was tabled in the House of Commons on June 17, 1998 as part of the Agency's Annual Report.

I believe this performance report, illustrates that Canadian travellers, shippers and carriers benefit significantly from the Agency's contributions in supporting an efficient, accessible transportation system. I am also confident that, in its first full year of operation, the Agency has laid a solid framework for the future.

Marian L. Robson

Section II: Overview

Mandate, Vision and Mission

The Agency performs all the functions vested in it by the *Canada Transportation Act* and other related legislation such as the *Coasting Trade Act*, the *Railway Safety Act* and the *Pilotage Act*. This includes applying national transportation policy, making regulations and introducing, wherever possible, guidelines and codes of practice. The Agency has all the powers, rights and privileges of a superior court, issuing decisions and orders on matters within its jurisdiction.

In addition, the Agency issues certificates or licences to carriers that wish to enter the rail and air markets. It resolves disputes over transportation rates, service and other matters. It also has a mandate to remove undue obstacles that impede the mobility of persons with disabilities who use federally regulated transportation.

Mission Statement

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

Operating Environment

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

While the Agency deals with Canadian consumers, shippers and carriers within its borders, it also recognizes the importance of the international market in which most Canadian carriers and their customers operate. Its decisions can affect the international competitiveness of Canadian producers and carriers.

Objective

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

Strategic Priorities and Challenges

The Canadian Transportation Agency will endeavor:

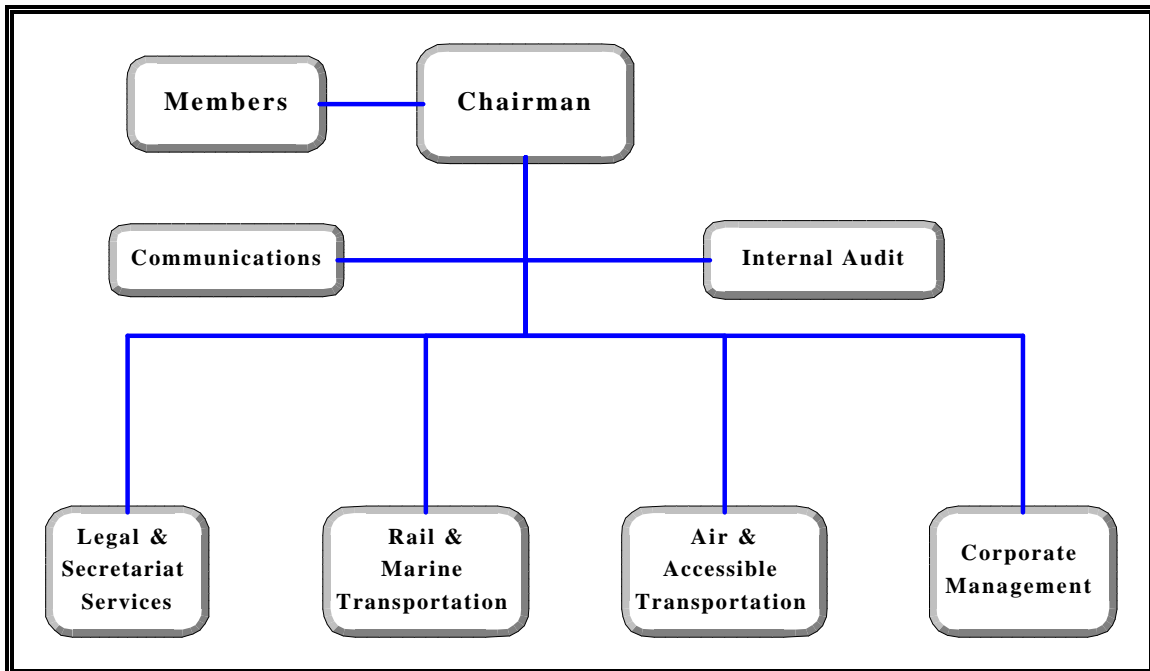
- as a quasi-judicial tribunal, to reach decisions independently through a process that demonstrates integrity and fairness to all parties;
- to ensure its clients are fully aware of its mandate, as well as their rights and obligations under the *Act* and other related legislation;
- to remain responsive to clients, within its legislated mandate, through open, timely and respectful communication;
- to provide the highest level of expertise and quality in its work.

Agency Organization

The Agency exercises its powers through a Chairman, a Vice-Chairman and up to five full-time and three part-time members, all appointed by the Governor in Council. Currently, there are 7 members comprising the Chairman, Vice-Chairman and five full-time members. The Agency has two program branches: Rail and Marine; and Air and Accessible Transportation. In addition, a Legal and Secretariat services branch and a Corporate Management branch support the overall program. See the chart on the following page for a more detailed overview.

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

Structure



Business Line, Organization and Program Composition

The Agency is a single business line—the Canadian Transportation Agency Program—with four sub-business lines:

Members and Regulatory Support

This sub-business line comprises the Chairman's office, Legal Services and Secretariat Services. It ensures due process through sound, timely and effective quasi-judicial adjudication and regulation in accordance with the legislation and Government policies and priorities. The Members determine applications, complaints, disputes and other matters pending before the Agency. With respect to matters within its jurisdiction, the Agency has all the powers, rights and privileges of a superior court, it can make rules, orders and regulations regarding those matters. Except for Governor in Council reviews or appeals, the Agency's findings or determinations upon a question of fact within its jurisdiction are binding and conclusive. Therefore, it is essential that the Agency have the optimum legal and regulatory support.

Rail and Marine Transportation

Through this sub-business line, the Agency helps ensure that rail and marine transportation services are adequate, viable and responsive to the needs of Canadian

businesses. The Agency meets these objectives in a number of ways. It issues “certificates of fitness” for Canadian railway companies and manages the rail infrastructure program effectively. This includes the resolution of disputes between railways and highways or utility authorities and the apportionment of costs for railway construction projects. The Agency also monitors the development of short lines in Canada and resolve complaints about the transfer and discontinuance of rail lines. It ensures that railway operation costing methods are based on sound and accurate data that will ultimately help develop federal railway policy. It administers applications, complaints and investigations affecting various marine activities including as of January 1, 1999 the investigation of complaints on fees set by port authorities as reflected in the *Canada Marine Act*. Finally, by resolving disputes between shippers, rail carriers and other interested parties, the Agency ensures that rates or conditions do not unfairly or unreasonably impede freight shipment, industrial development and trade. Through these activities, the Agency encourages and maintains fair competition while protecting the interests of transportation users.

Air and Accessible Transportation

This sub-business line helps ensure air transportation services (operating to, from and within Canada) meet certain minimum economic requirements. To that end, the Agency administers an air carrier licensing system, international air agreements, international air tariffs and an enforcement program. It also improves access to Canada's transportation system for persons with disabilities by resolving complaints filed by travellers with disabilities and by developing Codes of practice and regulations. As reflected in the *Civil Air Navigation Services Commercialization Act*, the Agency's appeal function for Nav Canada¹ charges will come under this sub-activity beginning on November 1, 1998.

Corporate Management

This sub-business line provides a complete range of management processes and administrative services to support the Agency's programs.

¹ Nav Canada is the newly created not-for-profit private sector corporation that operates the air navigation system.

Section III: Agency Performance

Performance Expectations

In its Part III of the Estimates, 1997-98 document, the Agency outlined four main expectations:

1. continue to provide information about the new legislative framework and mandate of the Agency and to better respond to stakeholders' concerns
2. finalize and implement its strategic plan, addressing the new role of the Agency, communication and education, the working environment for employees and work processes and operations
3. continue to pursue alternatives to regulations in keeping with the government's regulatory policy
4. reach its program review downsizing target while minimizing the impact of such reductions on program delivery to the public

In the following pages, the Agency describes a number of accomplishments for 1997-98, as well as activities undertaken to achieve those results. It's important to note that some expectations cannot be achieved within a single fiscal year. The need to better respond to stakeholders' concerns and to explore alternatives to regulations, for example, are ongoing activities. Therefore, the Agency will continue to report progress on these expectations in years to come.

Performance Accomplishments

The 1997-98 financial performance of the Agency is presented in the table below.

Financial information

Canadian Transportation Agency	
Planned Spending	\$21,744,000
<i>Total Authorities*</i>	\$56,763,000
1997-98 Actuals	\$56,709,000

***Note:** The \$35 million difference between the planned spending and the total authorities relates to final adjustments to subsidy payments that were formerly under the *National Transportation Act, 1987* and the *Railway Act*. Both of these subsidy programs were eliminated with the passage of the *Canada Transportation Act* on July 1, 1996.

The Agency's environment is best illustrated by examining the sub-business lines of Rail and Marine Transportation, and Air and Accessible Transportation. Results that transcend both of these sub-business lines are addressed under the heading "Corporate".

Corporate

In the spring of 1997, the Agency finalized and began implementing its strategic plan. The plan continues to guide the Agency's activities.

Key strategies are highlighted below:

- as a quasi-judicial tribunal, to reach decisions independently through a process that demonstrates integrity and fairness to all parties
- to ensure its clients are fully aware of its mandate, as well as their rights and obligations under the *Act* and other related legislation

In 1997-98, the Agency issued some **1,400 decisions all within 120 days** except in those cases where parties agreed to an extension which accounted for a small percentage (**approximately 6%**). Of the 6 appeals of Agency decisions dealt with in 1997-98, **none** was overturned by the Federal Court.

The Agency increasingly made use of its website to disseminate information. It also produced and distributed through mailings and at public events a number of brochures and guides to highlight legislative changes and to assist parties that may require Agency services. In some cases, these brochures or guides were done in consultation with the transportation industry and its users.

- to remain responsive to clients, within its legislated mandate, through open, timely and respectful communication
- to provide the highest level of expertise and quality in its work

Two key aspects of the Agency's mandate are to develop regulations pertaining to accessibility and to oversee the application of these regulations in all modes of transportation under federal jurisdiction. In keeping with government policy, the Agency continued to explore alternatives to regulations. In this regard, the Agency is developing, or has already introduced, codes of practice relating to the accessibility of air, rail and marine transportation.

The Agency publicly launched its Code of practice concerning the accessibility of passenger rail equipment and the terms and conditions of carriage in collaboration with VIA Rail and with representatives from the disability community.

Members and staff participated in more than 20 events in 1997-98 including meetings, consultations and trade shows, to explain the role of the Agency or gather information on how it could best respond, within its mandate, to the needs of carriers, shippers, municipalities, travellers with disabilities and other users of transportation.

The Agency produced a communications strategy that responds to the needs of those affected by the new regulatory environment. The strategy includes consultations with industry associations and international, provincial and local governments. It also emphasizes the use of information technology. The Agency increasingly

made use of its website to disseminate information. It also plans to ensure that current systems meet the Year 2000 challenge (See page 24).

Due to significant workforce reductions that took effect in 1996-97 and 1997-98, the Agency was declared a Most Affected Department. At the same time as it was losing approximately half of its workforce, the Agency adjusted to its new mandate and maintained its role as an efficient and responsive regulatory body. Moreover, a cooperative approach with unions and employees was helpful in maintaining the motivation and productivity of the remaining staff. This ensured that services to clients were not overly disrupted during the transition.

Originally, the Agency's budget was to be reduced by approximately \$13 million. However, unexpected tasks such as the appeal function of NAVCAN charges required additional resources. As of April 1, 1998, the Agency's operating budget (excluding transfer payments) was about 38 percent less than 1994-95 levels, a reduction of approximately \$12.3 million.

Each year, in keeping with section 42 of the *Act*, the Agency reports to the Governor in Council through the Minister. This report details applications to the Agency, findings and rulings. It also assesses the operation of the *Act* and notes any related administrative difficulties. The *Act* is relatively new and many aspects are untried and untested. However, since July 1, 1996, a growing body of informed opinion has taken shape on how the *Act* has benefitted and constrained various parties. Based on this information and the Agency's own experience, preliminary assessments were made about the effectiveness of the *Act* as a vehicle for implementing Canada's transportation policy. Chapter 3 of the Agency's Annual Report, tabled in the House of Commons on June 17, 1998, provides more details on these preliminary assessments such as the time for making decisions and dispute resolution and competitive access.

In 1996, the Agency received feedback from shippers that the Final Offer Arbitration (FOA) process under the *Act* had become too legalistic and costly. In the Spring of 1997, the Agency consulted with past participants in order to develop a set of proposed guidelines for the conduct of FOA. The draft guidelines were issued in spring of 1998 and should assist all those involved in the FOA process. (See page 14)

This early analysis means that, when the time comes, the *Act* can be fine-tuned where necessary. These adjustments will ensure that the *Act* continues to help foster Canada's transportation industry, a

The Agency's Annual Report is available on the CTA Website www.cta-otc.gc.ca
It is also available in alternative format.

sector vital to the national economy. In the coming years, the Agency hopes to consult more fully with the community to add greater depth to its assessment. Indeed, it will chart a course for ongoing consultation on the *Act*, ensuring that the process benefits those who require the information to improve Canada's transportation system.

Rail and Marine Transportation

Overview

The Agency provides independent, impartial and timely quasi-judicial services to protect the interests of the Canadian rail and marine transportation industries and the Canadian public. It avoids costly, protracted litigation. Instead, it uses mediation and facilitation to reduce conflicts, improve business opportunities and promote a viable, economic and efficient Canadian transportation system able to compete effectively in international markets.

During 1997-98, the Agency continued to process applications and complaints and revised procedures. In addition it consulted on the new legislation, including the Agency's role and the concerns of the transportation industry and those affected by it.

Infrastructure activities

The Agency approves the construction or operation of railways, resolves crossing and related issues between railways and others. To protect consumers, shippers, other parties affected as well as the railways, a person is authorized to construct or operate a railway and is issued a certificate of fitness only when the Agency is satisfied that the person has adequate liability insurance. In 1997-98, the Agency issued 37 decisions on new or existing certificates.

Approvals, decisions and facilitation respecting infrastructure can affect between \$200 and \$400 million in highway, railway and other construction costs annually. The Agency's dispute resolution process while ensuring independent and impartial adjudication, avoids costly litigation and attempts to promote a harmonious relationship between railways and those that interact with them. During the year, the Agency processed 331 applications, resolved 154 complaints and processed 21 filed agreements in this area.

Railway operations or construction can create problems for adjacent property owners such as noise, vibration, pollution and improper drainage. To address these issues, the Agency consulted extensively with the railways, the Railway Association of Canada,

Rail Infrastructure Guides
! The Rail Infrastructure Directorate: A Guide
! Guide to Private (Farm) Crossings of Railways
! Guide to Railway Crossings of Other Railways
! Guide to Railway Line Construction
! Guide to Railway Works Cost Apportionment
! Guide to Road Crossings of Railways
! Guide to Utility Crossings of Railways
! How to File Complaints Concerning Damage From Railway Construction or Operation: A Guide
available at www.cta-otc.gc.ca

Transport Canada and the Federation of Canadian Municipalities. The Agency subsequently proposed a two-part process. First, railways and affected parties would attempt to solve the problem themselves. If unsuccessful, either party can refer the issue to the Agency for resolution. Upon agreement of all parties, the Agency formalized the procedure. It published a brochure on the subject to accompany the other Rail Infrastructure Guides.

The *Act* allows the Agency to administer legislation concerning railway crossings on behalf of a province; one such agreement was signed with the Province of Ontario in 1996-97. During 1997-98, consultations took place with New Brunswick, Nova Scotia and British Columbia. Such initiatives avoid duplication and provide to other governments the option of taking advantage of the expertise already residing in the Agency.

Transfer and Discontinuances of Rail Lines

The *Act* contains a streamlined process enabling Canadian railways to transfer or discontinue the operation of their railway lines. At the same time, the *Act* encourages the creation of short line railways. In this regard, the Agency monitors the development of short line railways such as their relationship with the federally regulated railway system and their effect on the transportation industry and its customers. The *Act* also ensures that government bodies have access to railway assets for any purpose at a reasonable price. The Agency resolved two formal and five informal complaints from parties who felt that their rights under the *Act* may have been compromised by non-compliance with the transfer and discontinuance process.

Subsidies

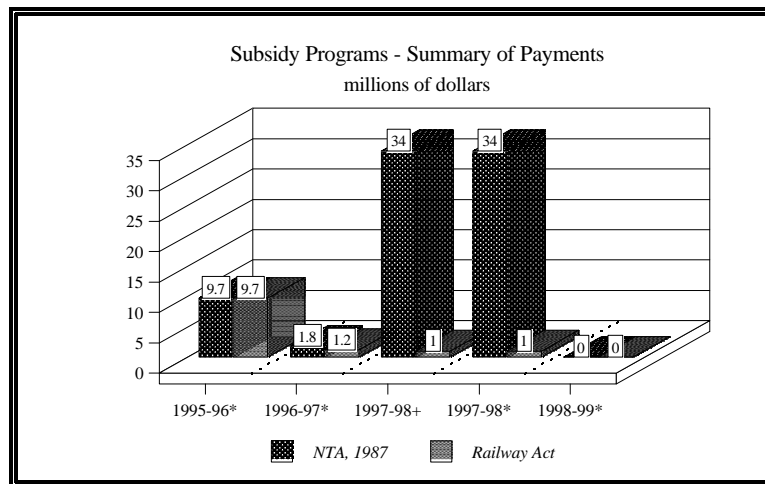
The Agency is required to complete outstanding subsidy claims made under earlier legislation (section 178 of the *National Transportation Act, 1987* and section 270 of the *Railway Act*). Both these subsidy programs were eliminated with the enactment of the *Canada Transportation Act*. Under the transitional activities required to finalize these subsidy programs, expected to end in 1998, the Agency processes claims for eligible freight and passenger operations in existence up to June 30, 1996. The Agency analyzes each claim to ensure its validity. It then verifies pertinent financial and operational data filed for each operation or service for which the railway claims a loss. This process

ensures that the government pays the legal compensation for services the railways provided to the Canadian public.

In 1997, the railways submitted the adjustments to their final claims relating to the 1996 calendar year. Included in these claims was an amount of \$ 26 million for losses resulting from a decrease in the value of railway assets for the time period during which these assets were under subsidy as authorized by the regulations. Accordingly, in its 1997-98 Supplementary Estimates, the Agency budgeted a total of \$35 million for anticipated statutory payments of the final claims as illustrated below.

* Actual + Estimates

Rail rates and cost development



As required under the *Act*, the Agency issued the annual maximum rate scale for transporting grain by rail in April 1997. The

The maximum rate scale for 1997-1998 crop year, which took effect August 1, 1997, was two percent higher than the previous rate. This increase reflected inflationary allowances for the prices of railway inputs such as labor, fuel, materials, and capital as well as a reduction to reflect the abandonment of grain dependant railway branch lines. For an average movement of 1,026 to 1,050 miles, the maximum rate for a tonne of grain was set at \$34.78, up \$0.69 from the previous rate.

process for determining the rate scale incorporated railway submissions of historical and forecasted price changes in a number of areas, as well as analysis and round-table consultations on a preliminary rate scale with producer representatives, grain companies, railways, federal and provincial governments.

In December 1997, the Minister appointed the Honorable Mr. Justice Willard Z. Estey to review Canada's grain handling and transportation system. The review's recommendations and their impact on current provisions of the *Act* dealing with the transportation of western grain, may affect the Agency in the near future. Following an invitation to participate in the review, the Agency made its submission in March 1998.

The Agency monitors accounting standards used by the Canadian rail industry which are contained in the *Uniform Classification of Accounts* (UCA). In 1997-98, the Agency continued to help the railways streamline their reporting requirements for the UCA. Meanwhile, the Agency improved other aspects of the costing process to reduce the burden of reporting while ensuring that cost determinations are fair and reasonable.

Several foreign governments expressed an interest in learning about the Agency's highly developed railway costing expertise. In response, staff made presentations to representatives from China, Indonesia and Mexico. This also included a visit to Indonesia with a team of other Canadian government officials who met with their counterparts to discuss railway reform in Indonesia.

Rail and Marine complaints and audit services

In 1997-98, the Agency's rail and marine sections invested considerable time to acquaint users with their rights under the *Act*, and to continue processing complaints from users of transport services. On the rail side, the Agency processed 115 complaints and information requests. One of these complaints resulted in one public hearing. On the marine side, the Agency handled 282 complaints, applications or information requests.

On March 30, 1998, the Agency started a major public hearing into the level of service complaint filed by the Canadian Wheat Board (CWB) alleging that the Canadian National Railways and Canadian Pacific Railway companies had not met their service obligations and that as a result the CWB had incurred substantial damages and losses.

In 1997-98, the Agency evaluated and improved the final offer arbitration (FOA) process. In consultation with industry representatives, for example, the Agency expanded and updated its list of arbitrators. It also developed and circulated draft guidelines for the arbitration selection-process and draft rules for the conduct of FOA. Interested parties informed the Agency that the selection process is important. They stressed that they would benefit by knowing the process used to select an arbitrator. Pursuant to subsection 163(1) of the *Act*, in the absence of an agreement by the arbitrator and the parties about arbitration procedures, Agency arbitration rules will apply. Thus, the Agency is presently developing these rules with input received from past FOA participants and other interested parties.

The Agency also reviews and audits certain accounting systems and operating statistics of federally regulated railways to ensure that they comply with the governing legislation, and that railway data are uniform and compatible for costing use.

The Agency signed a Memorandum of Understanding (MOU) with Transport Canada to share railway data as required for policy development, industry review, subsidy programs or research or evidence necessary for Agency applications or hearings. Through the MOU, the two bodies will avoid duplication, and a centralized audit will ensure transportation databases are consistent. During the current fiscal year, the Agency expects to sign another joint agreement for sharing information with Transport Canada, Statistics Canada, CP and CN.

1997-98 Audit Services Outputs
- 79 audits were conducted
- over 120 clients used the Agency statistical analyses
- over 70 clients made use of the geographic representation technology.

The Agency must review the *Railway Interswitching Regulations* when circumstances warrant and at least once in the five-year period after the regulations came into effect. Each year, approximately 150,000 cars are transferred between railways in Canada by interswitching. A railway must accept a rail car from a shipper located on that railway's line and switch it to a competitor's line, if the shipper so desires, where the two railway companies have an interchange. The rate per car to move over the short distance to access a second railway is set by the Agency. Interswitching provides Canadian shippers with competitive access to the marketplace. The review ensures that the rates, terms and conditions are fair and equitable to shippers and railways, and reflect current costs and economic conditions. The review of 1997 rate levels included consideration of section 112 of the *Act*. This section—a new feature—stipulates that Agency rates shall be “commercially fair and reasonable to all parties.” The Agency conducted extensive consultation throughout the country and as a result, the rates for blocks of less than 60 cars increased, on average, by 3.4 percent over 1996. Conversely, the rates for blocks of 60 or more cars declined, on average, by 21.4 percent. The Agency published the amendments to the rates in Part II of the Canada Gazette on December 10, 1997, and received positive feedback on its approach.

In 1997-98, the Agency processed 126 Coasting Trade license applications for foreign-registered passenger carrying vessels. Through the *Coasting Trade Act*, the Agency ensures that Canadian vessels are used for activities in Canadian waters to the greatest extent possible. The Canadian industry has become more aware of these applications and, as a result, more Canadian operators are objecting to the use of foreign passenger carrying vessels directed at the leisure and tourist markets. During the year, the Agency reduced the turnaround time to issue the Notice to the industry from four days to one. This reduced the average processing time for all applications.

Improved processing for Coasting Trade applications.

In some cases, the industry does require foreign vessels for urgent, short-term use. During the year, the Agency addressed this issue by allowing applicants to contact Canadian operators directly. These operators then inform the Agency that Canadian vessels are unavailable. This reduces the time required by the industry to respond to the application.

Pilotage authorities that are Crown Corporations can impose fair and reasonable charges for pilotage services; they are entitled to generate sufficient revenue to become financially self-sufficient. Under the *Pilotage Act*, the Agency investigates objections to pilotage tariff proposals. Any person who believes that a proposed tariff is prejudicial to the public interest may file an objection with the Agency. Once an objection is filed, the Agency must investigate the tariff proposal and decide whether it is prejudicial to the public interest. The Agency weighs the fact that pilotage services are mandatory against the right of shippers to recourse if they believe the charges are unfair. In 1997-98, the Agency completed its investigation of two tariff proposals of the Atlantic Pilotage Authority. In both cases, the Agency determined that the proposals were not prejudicial to the public interest. However in one of them it stipulated that a lower charge than the one proposed be implemented.

Under the proposed *Canada Marine Act*, the Agency will investigate complaints that fees set by Canadian port authorities are unjustly discriminatory. This new mandate is to take effect on January 1, 1999. It will complement the Agency's existing complaint resolution function under the *Shipping Conferences Exemption Act, 1987* and the *St. Lawrence Seaway Authority Act*.

Air and Accessible Transportation

Overview

Under the *Act*, the Agency protects the interests of consumers, shippers and carriers by ensuring that air carriers meet certain minimum economic requirements. The *Act* also requires the Agency to remove undue obstacles to the mobility of persons with disabilities from all transportation modes under federal jurisdiction. The *Act* establishes a simple regulatory framework with a single licensing regime for the whole country. This includes setting financial requirements for Canadian carriers wishing to enter the market and using aircraft with over 39 seats, and prohibiting the sale or offer for sale of transportation on an air service prior to licensing.

During the year, the Agency:

- processed 10,200 applications concerning licences, charters, tariff special permission and international agreements
- continued the process of issuing replacement licences for some 4,000 National Transportation Agency (NTA) licences

- participated in 13 bilateral discussions with other countries
- resolved 29 complaints on international tariff matters
- inspected 372 carriers to ensure compliance with the legislation
- consulted with interested parties to modify and simplify the current regulatory regime
- developed Codes of Practice on accessible services
- resolved 33 complaints filed by persons with disabilities

Licensing

Over 2,400 replacement licences have been issued to Canadian, U.S. and other foreign carriers since July 1, 1996, of which 717 were issued in 1997-98.

The Agency processed license applications to operate domestic air services, international scheduled services and international non-scheduled services. The Agency also ensured Canadian and foreign licensees continued to comply with legislation by holding such licences. Such activities protect the Canadian interest in two ways. They ensure that access to the Canadian domestic market is limited to Canadian operators. In addition, they ensure

access to the international air charter market to and from Canada is granted to foreign carriers on the basis of reciprocity.

In accordance with the legislation, the Agency ensures that all new Canadian applicants seeking to operate medium and large aircraft to carry passengers on domestic and international markets meet a financial fitness test.

Financial requirements, stipulated in the *Act* and the *Air Transportation Regulations*, help to minimize disruptions in service and are an important consumer protection measure. A Financial Requirement Guide for applicants, which sets out compliance procedures was prepared for applicants. **Six applications were reviewed in 1997-98.**

This test ensures that operators have sufficient funds to cover start-up, operating and overhead costs for a period of 90 days. The *Act* also requires that air carriers have adequate liability insurance and prohibits the sale or offer for sale of air services which have not yet been licensed by the Agency. These provisions help to protect consumers by minimizing disruption in service and the risk that a carrier's insurance is not valid in the case of an accident.

Charters

In keeping with government policy to eliminate unnecessary regulation, the Agency also began reviewing the *Air Transportation Regulations* with respect to international charter flights. The regulatory proposal was prepublished in Part I of the Canada Gazette on October 11, 1997. The Agency also notified interested parties and invited comments by December 10, 1997. During December 1997, the proposed changes received extensive unfavorable media attention. This negative attention was based on the misperception that

the proposed changes would increase the regulation of charter flights. As a result, the Agency received many additional submissions. In total, 180 submissions were received, most of which focused on the need to reduce regulation. Meetings were held with interested parties to allow them to elaborate on their submissions. Government officials, including those from Industry Canada, Transport Canada and the Department of Foreign Affairs and International Trade were invited to observe these meetings. In March 1998, the Minister of Transport announced a review of the international passenger charter policy. The Agency was invited to participate. Since this review will affect revisions to the *Air Transportation Regulations*, the Agency put its own regulatory project on hold.

The Agency operates a telephone service seven days a week for emergency charter situations occurring outside normal business hours. In 1997-98, Members and staff dealt with and **resolved 221 such situations.**

The Agency continues to ensure that advance payments received by air carriers from charterers for charter flights are fully protected. This measure protects charter passengers by refunding their money or providing alternate transportation if a carrier or a charterer is unable to fulfill its obligations

International agreements and tariffs

As the "aeronautical authority" for Canada, the Agency administers, within its jurisdiction, the 67 bilateral air agreements now in place. As a member of the Canadian delegation, the Agency also helps negotiate bilateral air agreements with foreign governments by providing advice on economic and regulatory matters. Many of these discussions result in new or amended agreements.

The Agency in 1997-98, participated in **13 negotiations** involving **10 countries** and issued **96 decisions** on the operation of international air services.

The Agency is also involved in the work of the International Civil Aviation Organization (ICAO), the body responsible, amongst other things, to foster the planning and development of international air transport. The Agency has primary responsibility for Canada's facilitation activities at ICAO. These activities include the removal of obstacles placed by customs, immigration and other formalities on the free and rapid passage of passenger, cargo and aircraft. The Agency chaired one meeting of the National Aviation Facilitation (FAL) Committee which coordinates facilitation policies among Departments concerned with, or responsible for, various aspects of the movement of aircraft, crews and traffic and ensures that there is an agreed Canadian position. The Agency continues to implement and administer legislation and Air Transport Agreements between Canada and foreign states as they apply to fares, rates, schedules, and terms and conditions of travel. This ultimately results in efficient, competitive and economic air services provided to shippers and travellers by a Canadian industry able to compete internationally under fair and reasonable terms.

Tariff special permission applications must be processed within 3 working days. In 1997-98, the Agency processed **6,880** as compared to **6,000** in 1996-97 within such timeframes.

The Agency also processed requests to modify existing tariffs. These requests, crucial to maintaining a competitive and dynamic market, are used to quickly correct fares improperly quoted in computer reservation systems.

Consumer Complaints

In 1997-98, the Agency received 126 complaints about issues such as flight delays, service, denied boarding, overbooking and fares. In these cases, the Agency verifies whether the carrier has complied with the terms and conditions set out in its tariff. In the majority of cases, while carrier compliance is found, traveller dissatisfaction stems from being unaware of all the terms and conditions of carriage set out in the tariff. Passenger tickets outline the general terms and conditions of carriage. However, specifics, such as the amount of compensation in given situations, baggage limits, carrier liability and fare restrictions, are not included. Travellers, therefore, often become aware of these matters only after they have filed a complaint. To better assist and inform travellers, the Agency publishes a brochure entitled “Fly Smart”. This brochure contains helpful information about flying to, from and within Canada and offers insight into what to do in certain situations. For example, the brochure prepares the traveller for potential situations, such as flight delays, cancellations or lost baggage.

Just a Call Away

In 1997, the Agency received **1,394 telephone calls** relating to consumer concerns on its 1-800- 883-1813. To increase public awareness of its role in consumer complaints, the Agency participated in three travel and trade shows in 1997. In August, Agency staff had a display at the International Air Show held in Abbotsford, B.C. Approximately 15,000 copies of “Fly Smart” were distributed. This brochure is available on the CTA website.

Compliance

The Agency has two programs to encourage voluntary compliance with legislation and regulations. The Periodic Carrier Inspection Program is designed to ensure that all air carriers licensed by the Agency, are regularly visited by one of the Agency’s investigators. That program also includes visits to terminal operators subject to the *Personnel Training for the Assistance of Persons with Disabilities Regulations*. During the visit, the investigator verifies that the carrier or the terminal operator complies with the regulatory and legislative requirements. The Targeted Investigations Program focuses on carrier or individuals who are suspected of operating illegally. These programs identify non-compliant operations and ensure air carriers and terminal operators comply with the legislation. In so doing, they benefit both Canadians and the air transportation industry.

Where an unlicensed carrier operates a publicly available air service, or a licensed carrier does not respect the terms of its licence, the public is placed at risk: it is highly probable that the carrier's insurance, if it exists at all, would not be valid in the event of an incident. Such activities also place licensed carriers, which are operating legally, at an economic disadvantage since the illegal competitor avoids insurance, tariff and training costs.

The *Act* provides for an Administrative Monetary Penalties (AMP) scheme. The Agency is currently developing regulations that will permit penalties of up to \$5,000 for an individual and \$25,000 for a corporation for contravening any designated provision. However, the proposed system includes a series of graduated penalties based on the frequency and seriousness of the offence. In July 1997, as part of the consultation process, the Agency sent a document to some 2,000 interested parties. Staff also met with the Air Transportation Association of Canada and airport representatives. At the end of the year, the Agency was drafting an enforcement manual that will outline how it will administer the AMP system. This manual will be distributed to interested parties for comment.

Accessible Transportation

The Agency ensures that persons with disabilities can access the federally regulated transportation system without encountering undue barriers to their mobility. To fulfil its mandate, the Agency resolves complaints filed, develops and administers regulations and codes of practice, monitors industry and consumer issues, and works closely with its Accessibility Advisory Committee. This committee comprises groups representing persons with disabilities, carriers, manufacturers and other government departments.

During 1997-98, in keeping with current government policy, the Agency continued to explore alternatives to regulations. In February 1998, following the considerable efforts of the Agency's Accessibility Advisory Committee and other interested parties, the Agency introduced its *Rail Code of Practice*. At the end of the year, the final draft of the marine Code of Practice was being prepared.

The Agency advised and assisted the Intercity Bus Accessibility Subcommittee of the Minister of Transport's Advisory Committee on Accessible Transportation. This subcommittee had been working for several years to develop a voluntary standard for accessible intercity bus services. In 1997-98, the subcommittee put aside the document. It asked the Agency to draw on its expertise to prepare a code of practice. As a result, the Agency drafted a Bus Code which was later agreed to by both industry and consumers and released by Transport Canada.

The Agency prepared a Canadian working paper for consideration at the November 1997 meeting of the ICAO's Panel of Experts on Facilitation in Montreal. The working paper proposed major revisions to the implementation guidelines of ICAO standards and recommended practices relating to the transport of passengers with disabilities.

The Panel approved the revised format, adding amendments that reflected comments at the meeting and proposals from other countries. The Panel will continue working on the paper. Once approved by the ICAO, the revised guidelines will help states improve accessibility in air transportation.

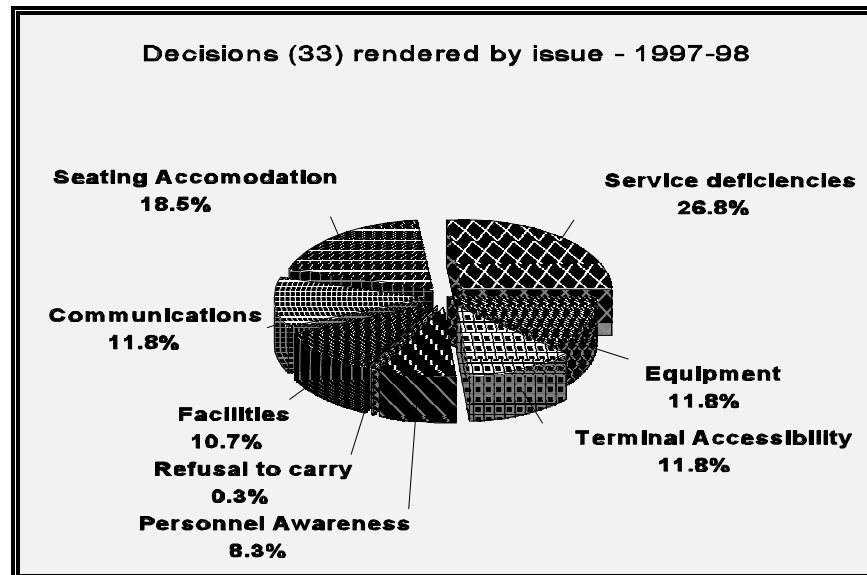
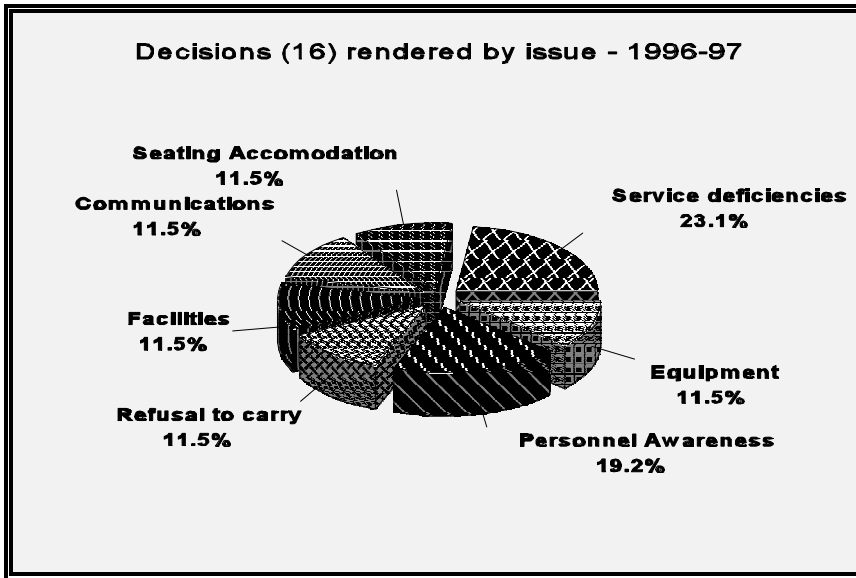
The Agency released its Communication Barriers report to coincide with the meeting of the ICAO's Panel of Experts on Facilitation. The report's 25 recommendations look at barriers to communication faced by persons with disabilities who travel by air. They include issues such as consumer awareness, alternative-format policies and provision of personal help. The action plan includes the creation of four industry/consumer working groups that will:

- propose an Air Travel Guide for persons with disabilities
- develop a Generic Alternative Format Policy to outline transportation related information that will be provided in alternative format
- investigate the possibility of establishing an Assistive Communication Device Policy
- establish guidelines and raise awareness regarding access needs to public-use machines in the transportation network.

The Agency will monitor the implementation of the report's recommendations by surveying the air transport industry and it will complete its action plan over the next two years.

Travellers with disabilities who encounter obstacles within the federally regulated transportation system may file a complaint with the Agency. In 1997-98, the Agency resolved 16 of 20 new formal complaints, as well as 17 carried over from the previous year. In keeping with the Agency's role as a facilitator, the staff attempts to resolve disputes before a formal complaint is filed. In 1997-98, the Agency resolved 60 such disputes, an increase of 20% compared to 1996-97. The charts on the following page compare decisions issued over two fiscal years.

Accessibility Complaints



Service Delivery and Services Standards

As a quasi-judicial body, the Agency renders decisions within set statutory time frames (e.g. 120 days) and as such these timeframes constitute service standards. In most circumstances, the statutory time period is sufficient. However, if all parties agree, extensions are possible. The Agency has found that, in certain cases, extra time is needed for the parties to address complex issues such as production of information, preliminary legal issues and environmental considerations. In its annual report, the Agency points out that there might be a vested interest on the party against whom the application is made not to grant the extension. The Agency offers a solution to this problem, that is to amend the legislation to specify criteria or circumstances under which the Agency could, on its own motion, extend the 120-day limit to render its decision. The Agency does not have much flexibility in terms of prioritizing one case over another. They all have to be dealt with within the pre-defined time frame. Therefore, for the Agency caseload, the issue is not as much one of prioritization, but one of making sure that all cases will be dealt with within these timeframes.

The Agency seeks to arrive at mutually satisfying solutions before problems escalate into disputes that result in formal complaints to the Agency. This core value underpins all Agency actions both as a quasi-judicial body and as a facilitator in dispute resolution matters. For example, staff in both Accessible Transportation and Rail Infrastructure regularly mediate issues between carriers and consumers.

Furthermore, the Agency is always reviewing its standards and processes. For example, the Agency has reduced the average processing time from four days to one for applications regarding the use of foreign vessels in Canadian waters. A number of initiatives are underway where feedback is sought from Agency clients in all modes of transportation. For example, the Agency has received positive feedback for issuing timely decisions that respect clients' deadlines. On the other hand, as mentioned earlier, the Agency received feedback from shippers that the Final Offer Arbitration (FOA) process under the *Act* had become too legalistic and costly (See page 14). In response, after consulting with past participants, the Agency proposed revised guidelines that will assist applicants with the FOA process.

Regulatory Initiatives

During 1997-98, the Agency worked on two major regulatory projects. The first one dealing with amendments to the *Air Transportation Regulations*. The second one was developing new regulations concerning designated provisions for Administrative Monetary Penalties. Please see pages 17 (*Charters*) and 20 (*Compliance*) of the performance section for more details.

Year 2000

The most recent estimates on the Agency's Year 2000 Readiness Project do not indicate any resource deficiencies. If needed, any resource shift will be made internally. As of July 1998, the Agency is making progress with an estimated 55% completion of work and in keeping with projects plans, it expects to be 100% ready by January 1, 2000. It should be noted that none of the Agency systems were designated as Government-wide Mission Critical Systems.

The Agency is currently conducting risk assessment and regulatory impact assessment activities. Contingency plans are expected to be developed for any Agency mission-critical system exposed to Year 2000 impact by the December 1998 target date established by the Treasury Board Secretariat.

Section IV: Financial Information

Table 1 - Summary of Voted Appropriations

Authorities for 1997-98				
Financial Requirements by Authority (thousands of dollars)				
Vote		1997-98 Planned Spending	1997-98 Total Authorities¹	1997-98 Actual
Canadian Transportation Agency				
35	Program expenditures	19379	19379	19343
(S)	Payments to railway and transportation companies under the <i>Railway Act</i> ¹	-	1000	1000
(S)	Payments to railway companies under the <i>National Transportation Act, 1987</i> ¹	-	34000	34000
(S)	Spending of proceeds of the disposal of surplus Crown assets	-	19	0
(S)	Contributions to employee benefit plans	2365	2365	2366
Total Agency		21744	56763	56709

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

Table 2 - Comparison of Total Planned Spending to Actual Spending

Comparison of Total Planned Spending to Actual Expenditures, 1997-98							
(\$ thousands)							
Business Line	Full-time equivalents	Operating	Capital	Subtotal: Gross Voted Expenditures	Statutory Grants and Contributions	Total Gross Expenditures	Total Net Expenditures
Planned Spending	260	21540	200	21740	4	21744	21744
<i>Total Authorities</i>	-	21559	200	21759	35004	56763	56763
Actual	252	20346	1359	21705	35004	56709	56709
Cost of services provided by other departments							42
<i>Total Authorities</i>							42
Actual							42
Net Cost of the Program							21786
<i>Total Authorities</i>							56805
Actual							56751

Table 3 - Historical Comparison of Total Planned to Actual Spending

Planned versus Actual Spending
(\$ thousands)

Business Line	Actual 1995-96	Actual 1996-97	Planned Spending 1997-98	Total Authorities 1997-98	Actual 1997-98
Canadian Transportation Agency	297417	27800	21744	56763	56709

Table 4 - Financial Crosswalk between old and new resource allocations

This was provided in the Agency's 1996-97 Performance Report

Table 5 - Resource requirements by Organization and Business line - Not applicable

Table 6 - Revenues to Vote - Not applicable

Table 7 - Revenues to the CRF - Not applicable

Table 8 - Statutory Payments - not applicable

Table 9 - Transfer Payments

Transfer Payments by Business Line

(Thousands of dollars)

Business Lines	Actual 1995-96	Actual 1996-97	Planned Spending 1997-98	Total Authorities 1997-98	Actual 1997-98*
Canadian Transportation Agency	266767	2918	4	35004	35004

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

Table 10 - Capital Spending by Business line - not applicable

Table 11 - Capital Projects by Business line - not applicable

Table 12 - Status of Major Crown Projects - not applicable

Table 13 - Loans, Investments and Advances - not applicable

Table 14 - Revolving Fund Financial Summaries - not applicable

Table 15 - Contingent Liabilities - not applicable

Section V: Consolidating Reporting

This does not apply to the Agency

Section VI: Other Information

A. Agency Annual Report

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

Available on Internet: www.cta-otc.gc.ca/eng/toc.htm#Publications and Reports

B. Contacts for Further Information

Postal Address: Canadian Transportation Agency Web site: www.cta-otc.gc.ca
Ottawa, Canada K1A 0N9

Performance Area	Contact Name	Title	Telephone number & Internet address
Regulatory Support	Marie-Paule Scott, Q.C.	General Counsel and Secretary	(819) 953-6698 marie-paule.scott@CTA-OTC.X400.gc.ca
Air and Accessible	Gavin Currie	Director General	(819) 953-5074 gavin.currie@CTA-OTC.X400.gc.ca
Rail and Marine	Seymour Isenberg	Director General	(819) 953-4657 seymour.isenberg@CTA-OTC.X400.gc.ca
Corporate Activities	Joan MacDonald	Director General	(819) 997-6764 joan.macdonald@CTA-OTC.X400.gc.ca
Planning	Luc Gaudet	Director	(819) 953-2829 luc.gaudet@CTA-OTC.X400.gc.ca
Communications	Daniel Lavoie	Director	(819) 953-7666 daniel.lavoie@CTA-OTC.X400.gc.ca

C. Legislation Administered

The Agency has sole responsibility for:

<i>Canada Transportation Act</i>	<i>S.C. 1996, c. 10</i>
<i>Shipping Conferences Exemption Act, 1987</i>	<i>R.S.C. 1985, c. 17 (3rd Supp.)</i>

The Agency shares responsibility to Parliament for the following Acts:

<i>Access to Information Act</i>	<i>R.S.C. 1985, c. A-1</i>
<i>Budget Implementation Act, 1995</i>	<i>S.C. 1995, c. 17</i>
<i>Budget Implementation Act, 1996</i>	<i>S.C. 1996, c. 18</i>
<i>Canadian Environmental Assessment Act</i>	<i>S.C. 1992, c. 37</i>
<i>Civil Air Navigation Services Commercialization Act</i>	<i>S.C. 1996, c. 20</i>
<i>Coasting Trade Act</i>	<i>S.C. 1992, c. 31</i>
<i>Energy Supplies Emergency Act</i>	<i>R.S.C. 1985, c. E-9</i>
<i>Financial Administration Act</i>	<i>R.S.C. 1985, c. F-11</i>
<i>Pilotage Act</i>	<i>R.S.C. 1985, c. P-14</i>
<i>Railway Relocation and Crossing Act</i>	<i>R.S.C. 1985, c. R-4</i>
<i>Railway Safety Act</i>	<i>R.S.C. 1985, c. 32 (4th Supp.)</i>
<i>St. Lawrence Seaway Authority Act</i>	<i>R.S.C. 1985, c. S-2</i>