

# CTA SUBMISSION



## *Canada Transportation Act Review*

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## Introduction

The Minister of Transport, the Honourable Lisa Raitt, has launched a statutory Review of the *Canada Transportation Act* to provide an independent assessment of how federal policies and programs can best ensure that the national transportation system “has the capacity and nimbleness to support Canada’s long-term economic growth and prosperity across all sectors.” The Minister of Transport has asked the Review to pay particular attention to the “urgency created by the recent backlog in grain deliveries (by rail) from the 2013-14 crop year.” The Review will also examine the extent to which the national transportation system has the capacity and adaptability that will allow it, and its users, to respond effectively to evolving international and domestic conditions and markets, including major global and national trends relevant to transportation; freight capacity needs; whether existing or planned capacity and performance improvements will be responsive to these needs and periodic demands for surge capacity; and possible steps to help ensure that the national transportation system has the capacity and nimbleness to support economic activity across all sectors over the medium- and long-term. Finally, the Review will be asked to give consideration to a number of other specific issues. The Canadian Trucking Alliance, a federation of the provincial trucking associations, representing over 4,500 trucking companies who in turn employ over 150,000 Canadians, is pleased to have the opportunity to make this submission to the review panel.

## Trucking Industry in Canada

The trucking industry is the dominant, most preferred mode of freight transportation in Canada. Ninety per cent of all consumer products and foodstuffs are shipped by truck as is about two-thirds of Canada’s trade (by value) with the United States. Include stats from the Conference Board. Trucking is not the cheapest mode of freight transportation. Its unmatched level of service is why most shippers turn to trucking most of the time. Only trucks are able to provide the flexible, door-to-door, service shippers rely upon in these days of Just-In-Time/Time-Definite service. Not surprisingly trucks dominate in the short-distance, time-sensitive delivery of smaller, lighter-weight loads of high-value added goods. By contrast, railways (the other land mode) dominate in the long distance shipment of heavy, bulky loads that tend to be less time sensitive. The overlap between the two modes is perhaps as little as five per cent of the freight marketplace. There is more co-operation than competition between the modes today than there has ever been.

### The Trucking Industry in Canada

- Trucks move 90% of all consumer products & foodstuffs.
- The transportation services sector represents 4.2% of Canada’s GDP, or \$53 billion. For-hire trucking accounts for 31% of the sector’s share of GDP; the air and rail segments represent 12% and 11%, respectively, while water transportation represented about 2%.
- Between 2011 and 2020, the for-hire trucking industry is expected to experience an output increase of 26% or from \$17 billion annually to \$21.4 billion in constant dollars.
- Trucks move 57% (by value) of Canada’s trade with the United States, while 17% is by rail, 16% by pipeline, 6% by marine and 5% by air.
- As a whole, the trucking industry (including for-hire carriers, private carriers, owner-operators and courier firms) generates over \$65 billion in revenues per year, with the for-hire sector accounting for over \$40 billion alone.
- There are over 300,000 truck drivers in Canada today, which includes both drivers in the for-hire trucking industry and private trucking activity.
- Approximately 180,000 (60%) are employed in the for-hire sector of the trucking industry.
- Nearly 1% of the Canadian population and over 1.5% of the labour force are truck drivers; it is the second largest occupation for males in the country.
- For-hire trucking accounts for 278,000 direct jobs and overall provides for almost 480,000 jobs, resulting in \$24 billion in personal income, generating \$4.2 billion in personal income taxes and \$4.1 billion in indirect taxes.
- The total economic footprint of the for-hire trucking industry was almost \$37 billion in 2011.
- The economic multiplier effect the trucking industry is also much larger than many other industries.

## Trucking Industry Perspective on the Canada Transportation Act

Despite being Canada's dominant mode of freight transportation, other than the statement of a National Transportation Policy, the trucking industry is really not impacted by the Canada Transportation Act. CTA's believes the objectives promoted in the existing policy statement contained in Section 5 of the Act – competition, efficiency, safety, security and sustainability – are appropriate and provide a reasonable basis for the exercise of federal jurisdiction – should the federal government show the necessary level of leadership and/or find mechanisms other than moral suasion to increase the level of regulatory harmonization that exists in the Canadian trucking industry today.

### Federal Role in Trucking

The trucking industry is divided into two sectors in terms of regulatory oversight – intra-provincial trucking (where the companies involved operate solely within a provinces) which comes under provincial jurisdiction and extra-provincial (i.e., inter-provincial or international cross-border) trucking which comes under federal jurisdiction. The major piece of federal legislation governing the regulation of the trucking industry is the Motor Vehicle Transport Act (MVTA) which allows the provinces to regulate extra-provincial motor carrier undertakings on behalf of the federal government. The MVTA allows: federal regulation of the safe operation of extra-provincial motor carrier undertakings; provinces to regulate extra-provincial truck undertakings using their own rules, provided that they allow all carriers that meet federally prescribed fitness criteria (safety and insurance aspects) to operate; and, provinces to regulate the intra-provincial operation of extra-provincial truck undertakings using their own rules. Regulations under the Act are the commercial driver hours of service standards, the conditions of carriage; and Motor Carrier Safety Fitness Certificates (issued by the provinces).

### Key Issue

However, while the federal government has the constitutional responsibility for regulating extra-provincial motor carriers, the MVTA delegates to the provinces the administration over extra-provincial trucking regulation to the provinces. The result of this has been the development of a sub-optimal hodge-podge of regulations governing the trucking industry in Canada and a regulatory system that is slow, cumbersome and unresponsive to changes in technology and logistics practices. Perhaps the starkest example of this is the National Safety Code (NSC) for Trucks, introduced in 1987 and comprises 16 safety standards as the 'Made-in-Canada' response to the impending economic de-regulation of the industry and an antidote to any potential deterioration in safety resulting from deregulation. As of today, not one of the NSC standards (which include such things as carrier safety ratings, facility audits, trip inspections, driver hours of service, driver and carrier profiles,

#### Canada Transportation Act: Statement of National Transportation Policy

Declaration 5. It is declared that a competitive, economic and efficient national transportation system that meets the highest practicable safety and security standards and contributes to a sustainable environment and makes the best use of all modes of transportation at the lowest total cost is essential to serve the needs of its users, advance the well-being of Canadians and enable competitiveness and economic growth in both urban and rural areas throughout Canada. Those objectives are most likely to be achieved when

(a) competition and market forces, both within and among the various modes of transportation, are the prime agents in providing viable and effective transportation services;

(b) regulation and strategic public intervention are used to achieve economic, safety, security, environmental or social outcomes that cannot be achieved satisfactorily by competition and market forces and do not unduly favour, or reduce the inherent advantages of, any particular mode of transportation;

(c) rates and conditions do not constitute an undue obstacle to the movement of traffic within Canada or to the export of goods from Canada;

(d) the transportation system is accessible without undue obstacle to the mobility of persons, including persons with disabilities; and

(e) governments and the private sector work together for an integrated transportation system.

maintenance and inspections, load securement, etc.) has been uniformly adopted or uniformly enforced across the country. The NSC is neither national nor is it a code. Even the one NSC standard which the federal government actually regulates under the MVTA – the hours of service standard for extra-provincial truck drivers – has not been uniformly adopted. Since the provincial governments enforce the rules, albeit with a modest level of funding from the federal government (approximately \$25 million per year for the period 2009/10 to 2014/15), the federal government appears unable or unwilling to exert pressure on the provinces to adopt the federal standard. In conclusion, for the policy statement in the Canada Transportation Act to have effective meaning in trucking, would require Transport Canada to exert its constitutional authority over extra-provincial trucking and not continue to be relegated as it currently is, to being “just another seat at the table.”

### **Other Relevant Federal Legislation**

Other federal legislation overseen by Transport Canada which directly impacts the extra-provincial trucking industry includes the:

- **Motor Vehicle Safety Act (MVSA)** – Regulates the manufacture and importation of motor vehicles and motor vehicle equipment to reduce the risk of death, injury and damage to property and the environment. The Canadian Motor Vehicle Safety Standards (CMVSS) set requirements on new equipment such as brake requirements for trucks and trailers, vehicle conspicuity (e.g., lighting), tires and under-ride devices;
- **Transportation of Dangerous Goods Act (TDGA)** – Enacted in 1992. The Act is supported by comprehensive regulations whose main purpose is to prevent the accidental release of dangerous goods and in the event of an incident, to provide information to first responders. There are specific requirements for each mode;
- **Bills of Lading Act (BLA)** – The document which identifies the parties, subject matter and terms and conditions of the contract of carriage. A bill of lading is instructive in determining carrier liability for loss and damage to goods and shipper/consignee liability in the event that freight charges are not paid.

As with the MVTA, in most cases the provinces have the right to introduce their own laws and regulations. For example, standards set under the MVSA often require changes to provincial “highway traffic” acts/regulations (e.g., weights and dimensions standards) to be effective. The federal TDGA regulations have been adopted (with some minor differences) by the provinces either by reference or via their own provincial regulations. With regard to the BLA, the applicable Canadian law regarding the interpretation of the bill of lading is that of the jurisdiction where the bill of lading was issued, that being, in most cases, the point of origin of the shipment.

### **Call for Review**

CTA provides the following comment on the issues slated for review of the Canada Transportation Act:

- **Grain Transportation** – Trucks move nearly all harvested grain over a very short distance to on-farm storage, and then by truck to the grain elevators for storage – also usually a very short distance -- from which it is moved by rail to port terminals, which in Canada are thousands of kilometres away. This final leg is of a distance that is too long and the loads too heavy and bulky, for trucks to be economically competitive compared to rail. Moreover, port facilities are generally not designed for receiving grain delivered by truck. While shipping grain by truck has grown in recent years, reflecting rationalization efforts of rail (fewer branch rail lines) and elevator (fewer delivery points) networks, and while this has also led to some increase in the length of haul for grain shipments by truck, it is still uncommon for trucks to move grain beyond short distances. While there are several trucking companies that specialize in grain shipments, most do not see

much prospect of trucking ever becoming a viable alternative to the railways, without a massive investment in upgrading and expanding the country's network of roads and highways. The seasonal nature of the business and the ups and downs of crop volumes are a drag on investment in transportation equipment and drivers. Regardless, there will likely never be enough roads and highways, trucks or drivers to make more than a modest dent in the volume of grain currently being shipped by rail.

- **Major Trends Relevant to Transportation** – Perhaps the most significant trend in freight transportation is despite changes in the mix and trajectory of trade, consumer behaviour and logistics practices, trucking will remain the dominant and fastest growing of the freight transportation modes. Some of the players will change. The types of services provided will continue to evolve. Technology will continue to drive improvements in productivity, safety and environmental sustainability. But, the old saying, “If You Got It, A Truck Brought It” will be as true for the foreseeable future as it is today. The challenge for governments at all levels will be to keep up with the changes in the industry to ensure the regulatory system reflects these changes and is an enabler of the pursuit of more productive, safer and environmentally-friendly innovation. Given the federal-provincial nature of trucking regulation in Canada, this is already a challenge and will only become more so in the future.
- **Freight Capacity** – The single most important question confronting the trucking industry today is whether it will be able to provide the capacity needed to meet the demand for freight transportation service going forward. The industry is facing a long-term, chronic shortage of qualified truck drivers. According to the Conference Board of Canada, the gap between the supply and the demand for truck drivers in the for-hire sector of the industry will reach up to 33,000 drivers by 2020. The industry is facing a demographic tsunami. It has the oldest workforce in the country. Twenty-six per cent of the current driving force in over 50 years of age. And, the industry is not attracting anywhere near its fair share of young people into the occupation. It is incumbent to go to the market to seek the rates in order to provide compensation packages that are competitive or better than other industries and to manage as best as it can in terms of accommodating work/life balance in order to attract people interested in becoming drivers. However, the occupation also needs to be recognized by the federal and provincial governments for what it is – a skilled occupation, not a low wage/skilled occupation like “burger-flippers” which is basically its current status with regard to immigration, the Canada Jobs Grant and the Temporary Foreign Worker Program.

#### The Driver Shortage in Canada

- Shortage will reach up to 33,000 across the country by 2020 in the for-hire sector alone, which represents a gap of at least 17% of the driving force.
- Driver supply is forecast to be stagnant: 176,600 in 2011; 178,000 by 2020.
- Average age of a truck driver in Canada is 46 vs 41.5 for all workers. Plus truck drivers are aging more rapidly.
- Share of drivers 20-29 has declined to 8.8% of driver population.
- Only 12% of truck drivers are under 30, compared to almost half of railway and motor transport labourers.
- Drivers in the 30-34 years age range comprise 8.5% of the driving force, compared to 10.4% for total labour force.
- 26% of current truck drivers are over 55 years of age.
- Wage growth of for-hire truck drivers has been less than 1% per year since 1998.
- Since 1986, 87% of productivity gains flowed to consumers via lower freight rates.

The remainder of this submission deals with the other specific issues falling under the scope of the review that are relevant to trucking.

### Specific Issues

The following is CTA's response to the other specific issues the panel has been directed to review:

- **Are adjustments to the current transportation legislative and policy framework required to support Canada's international competitiveness, trade interests, and economic growth and prosperity?** Yes. The current processes and mechanisms for achieving regulatory harmonization with regard to trucking regulations are failing as evidenced for example by the National Safety Code for trucks. This not only creates inefficiencies and an un-level competitive playing field within Canada it makes it difficult for Canada to address North American harmonization issues, since we do not speak with one voice. Moreover, too often Canada has ceded regulatory initiative to the United States. Consequently, Canadian perspectives and concerns are not considered and US Congress ultimately dictates what certain Canadian trucking regulations look like. While harmonization or at least compatibility with US rules can be and often is a good thing, it should not preclude Canada from playing a leadership role or from developing regulations that reflect Canadian market and other conditions. The Canadian trucking industry is one of the most, if not the most innovative in the world. Canadian carriers are as or more focussed on safety and environmental sustainability than anywhere else in the world. If regulatory standards are to be developed that work for Canada as well as the United States, we need our government to be at the table with useful policies and positions to impart.
- **How can strategic transportation gateways and corridors be developed and leveraged to support Canadian prosperity through linkages to global markets?** The availability of world-class, efficient and productive infrastructure – roads, highways and bridges – has a direct impact on the reliability and predictability of supply chains and therefore in terms of where direct investment flows to. Canada is the only major industrialized country on the planet not to have a national highway policy. A program of long-term, predictable, sustained and dedicated funding for a national highways program should be established. One source of funding for a dedicated national highway trust fund could be the federal excise tax on diesel fuel which currently serves no policy purpose whatsoever. The Government of Canada currently relies solely on moral suasion and as indicated above, it is not working well. The federal government could also leverage provincial infrastructure investment in projects of significant strategic national interest and participation/cooperation in adherence to federal policies and standards through the introduction of a national highway trust fund. The federal government currently uses its National Highway Trust Fund to leverage state/municipal adherence to national policies and standards. As part of the New Building Canada Plan, the federal Gas Tax Fund (GTF) provides predictable, long-term, stable funding to municipalities for local infrastructure including local roads and bridges and, as of 2014, for highways. However, some municipalities have been a major impediment to infrastructure development. For example, the missing piece from an Asia-Pacific Gateway infrastructure system perspective is the completion of the North Fraser Perimeter Road. Opposition from the City of New Westminster, even though funding and support was in place from both senior levels of government, the regional transportation authority and neighbouring municipalities, precluded the project from going forward. In certain cases, the federal government needs to have the will, authority and levers to override parochial local decisions.
- **How can the quality and utilization of transportation infrastructure capacity be optimized through, for example, improved alignment of transportation policies and regulations and/or the use of innovative financing mechanisms?** Consideration also needs to be given as to how to maximize the utilization and capacity of existing infrastructure in order to relieve bottlenecks and congestion. Current logistics practices adhere to a 24-hour a day clock. For example, the more that can be done to incent shippers to ship or receive goods during off-peak times is one way to maximize capacity utilization. Shippers establish delivery schedules. Most truckers would prefer to operate during off-peak periods as much as possible. Unfortunately, too many shippers will not pay to have staff available to load or unload during the off-peak times. In addition, the public, which often complains about truck traffic, is often opposed to off-peak deliveries if it means

trucks operating in their neighbourhood at night. Local by-laws (truck routes/bans) often reflect this attitude. Notwithstanding the productivity and efficiency advancements that have been made since economic deregulation was introduced in the trucking industry in the late 1980's, there is still waste in the supply chain. Too often trucks will meet their delivery appointments at distribution centres, intermodal yards, terminals, ports, etc., only to have to wait for a considerable period of time to be unloaded. With the number of hours a driver can be on-duty restricted by the hours of service regulation this can severely impair productivity. Motor carriers, their customers, the consignees and third party logistics providers all need to work together to maximize efficiency. This will require all participants in the supply chain to take responsibility, to set performance standards and to work together. Too often the focus on efficiency is limited to beating the carriers down to obtain the lowest price of transportation service down as opposed to the efficiency of all parties to the transaction. This can boil over into strained relations between supply chain stakeholders, which are not conducive to partnership, a healthy transportation sector or fulfillment of policy goals. While there may not be regulatory or policy solutions to address this – it is ultimately up to the parties and the market – it also underscores the importance where government does intervene (such as in the case of the Port of Vancouver where service has been disrupted) that all parties are at the table and any proposed solutions include joint responsibilities for all the participants in the supply chain.

- **How can technological innovation contribute to improvements in transportation infrastructure and services?** Technologies such as intelligent highway systems, scale by-pass, etc., can contribute to improved commercial traffic flow, fewer delays, reduced congestion and more efficient and predictable delivery times. The trucking industry is investing massively in GPS and other on-board management systems to improve the utilization of its equipment and human capital, to match loads, fill back-hauls, etc. Similarly, new truck designs which could enable increased carrying capacity, and therefore improved productivity and efficiency – as well as improved safety and sustainability – are as indicated previously very slow to be adopted on a national level by the provinces under the current standards-setting processes.
- **Are adjustments to transportation safety and environmental regimes needed to continue achieving high standards for safe and sustainable transportation, given increasing system volumes/demands?** Yes. In general, Transport Canada needs to make sure the regulations in its responsible for keep pace with technological advances and changes in logistics practices. Currently, the department should introduce a universal electronic logging device (ELD) mandate to improve compliance with the federal hours of service regulations which were designed to be consistent with fatigue management principles and best practices. The Canadian Trucking Alliance has been calling for this action for years. The current basis for enforcement and compliance with the hours of service rules is the paper log book, which is inefficient, subject to errors and easily manipulated. The US Department of Transportation is expected to introduce a final rule on ELDs in 2014 or early 2015. Similarly, Transport Canada should be preparing a manufacturing standard that would require all new heavy trucks to be equipped with roll-stability systems as part of the standard new vehicle package, not as an option. The technology works and is cheap insurance. In addition, the US Department of Transportation is expected to introduce a similar standard soon. It bears repeating that the Canadian trucking industry is one of the most innovative and nimble trucking industries on the planet. Canadian motor carriers are known for their innovations in developing and adopting safe, lower emissions, fuel efficient and productive equipment and strategies. Canada should be a leader in trucking regulations, standards and practices and not always waiting for the United States.
- **How can rapid changes in the North and associated challenges for the continued safety, security, and sustainability of the northern transportation system be addressed, and specifically, the federal role in supporting the northern transportation system?**

Infrastructure investment in the North is perhaps the single most important area where there is a role for the federal government. For example, the twinning of Highway 11/17 across the top of the Lakehead in Northern Ontario is a vital link between Western and Eastern Canada that needs improvement.

The other specific issues falling within the scope of the panel's review are specific to modes other than the trucking industry.

### **Conclusions**

At this stage in its history, a review of the Canada Transportation Act is very timely. As the spokesperson for the dominant mode of freight transportation in Canada, the Canadian Trucking Alliance hopes this submission is of interest and value and would be pleased to provide further information as required by the panel.