Transportation News Digest
(For 2018)

Joseph Monteiro, Gerald Robertson and Barry E. Prentice

Address for correspondence: Joseph Monteiro, 608-2177 Burnhamthorpe Road West, Mississauga, Ontario, Canada L65L 5P9, sanjovin22@bell.net Gerald Robertson, 3 Alderbrook Drive, Ottawa, Ontario, Canada K2H 5W4.

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1.0 Introduction

In 2018, the Canadian transportation sectors failed to keep up with the exceptional results of 2017. The financial results were disappointing but major progress was made on the regulatory front. The *Transportation Modernization Act,* the major transportation Bill covering all transportation subsectors received Royal Assent. Autonomous vehicles and US-Canada tariffs attracted a great deal of attention. The year ahead, despite the threats of tariffs and the new United States-Mexico-Canada Agreement, does not appear to be one of doom and gloom.

2.0 Air Transportation

2.1 The State of the Industry - The Airlines

The spotlight was on Canada's major carrier, Air Canada, for the fourth consecutive year. Its traffic results showed some improvement from the previous year. Its load factor, available seat miles (capacity), and traffic (revenue passenger miles) for 2018 were: 83.3 points, 110.866b and 92.360b, compared to 82.3 points, 103.492b and 85.137b for 2017, representing a change of 1.0 points, 7.1% and 8.5%, respectively.[1] These statistics conceal many of Air Canada's other achievements. It introduced several new air services[2], offered customers new destinations and entered into several agreements.[3] In light of these accomplishments it received at least eight awards.[4]

Two noteworthy undertakings of Air Canada were it broke ground for a new facility that will house its ground support equipment service and cargo teams at Edmonton International Airport. The 50,000 square foot (4,645 square metres) building will be constructed by Terracap Group, representing an investment of $19 million by the airline over the term of the lease; and it entered into a definitive agreement with Aimia Inc. to acquire the aeroplan loyalty program. This acquisition cleared regulatory requirements. It also agreed with Air Canada, TD, CIBC and Visa for future participation in Air Canada's new loyalty program and agreed to provide continuity for Aeroplan members to earn and redeem miles with confidence.

WestJet's traffic results also showed some improvement. They were as follows: load factor, available seat miles (capacity), and traffic (revenue passenger miles) for 2018 were: 83.8 points, 32.939b and 27.587b, compared to 83.6% points, 30.998b and 25.904b for 2017, representing a change of 0.2 points, 6.3% and 6.5%, respectively.[5] Besides these statistical results, it introduced a number of new services[6], made significant investments in Quebec and Calgary, announced the introduction of its ultra-low-cost airline (Swoop) and deepened its partnership with Delta Air Lines.[7] In recognition of these undertakings, it received at least three awards,[8] At the financial level though both airlines showed positive net earnings they were considerably down. Air Canada's net earnings were $167m in 2018 compared to $$2.029b in 2017, a decrease of 91.8% and WestJet's net earnings were $91.5m in 2018 compared to $279.1m in 2017, a decrease of 67.2%.

2.2 Issues or Developments -

2.3. Air Liberalization

Liberalization of air agreements is not only important for increasing the flow of traffic (passengers and goods) but also important for the tourism industry in Canada. It has been occurring since 1977 and the notable developments in this area in 2018 are indicated: 1. The Honourable Marc Garneau, Minister of Transport on January 4, 2018, announced that Canada has successfully concluded new and amended air transport agreements with Ethiopia (five flights per week up from three), Cameroon, South Africa, Qatar and Morocco (code-sharing between Canada and these countries). Code-sharing occurs when an air carrier sells seats on a flight operated by another air carrier, allowing it to expand its network and product offerings. 2. On January 25, 2018, an expanded air transport agreement between Canada and Israel was concluded allowing designated airlines to operate up to 19 passenger flights per week (up from 12). 3. On July 27, 2018, agreements with Egypt and the United Arab Emirates were concluded. The former allows seven passenger flights per week and designated airlines now can serve any city in the other country's territory. The latter allows each government to allocate 68 per cent more capacity among its designated air carriers (i.e. the number of seats that carriers can sell). It also now contains four dedicated frequencies for all-cargo flights for the first time. 4. On December 1, 2018, Canada and the UK concluded a new open skies agreement allowing any number of Canadian and British air carriers to operate between both countries, giving those airlines full flexibility on route selection (including via third countries), frequency of service, and pricing. The agreement also includes unrestricted rights for all-cargo services and code-share services.[9]

2.4. Antitrust Issues

The purpose of antitrust laws is to protect the interest of the public in free competition. It protects consumers and ensures that companies do not conspire to abuse their market dominance or abuse their market power. Conspiring to fix price and certain matters are treated as criminal offences. The four noteworthy developments were: 1. The Australian Federal Court has ordered Air New Zealand (Air NZ) to pay AUD15 million (US$11 million) for its role in a global air cargo cartel as part of an ongoing case by the Australian Consumer and Competition Commission (ACCC) involving 15 of the world's leading airlines. 2. Canada's Supreme Court has cleared the way for a broader class-action lawsuit against Air Canada and British Airways by refusing to hear an appeal requested by Canada's largest airline in a decade-long price-fixing case. 3. Canada's Federal Court chief justice, on December 12, 2018, ordered a WestJet vice-president to appear before the Competition Bureau to explain the airline's anti-competitive tactics against Flair Airlines in certain markets. 4. EC Commission has opened a formal investigation to assess whether agreements between booking system providers Amadeus and

Sabre on the one hand, and airlines and travel agents on the other, may restrict competition in breach of EU antitrust rules.[10]

2.5. Bills or Regulatory Developments

In 2018 a number of legislative developments occurred ranging from the Royal Assent of the major transportation law to safety regulations. These are briefly described hereafter.

The Minister of Transport on May 23, 2018 issued the following statement regarding the Royal Assent of the *Transportation Modernization Act*. "I am pleased that the *Transportation Modernization Act* has received Royal Assent today, which shows the Government of Canada's commitment to improving our transportation system. … The first major element of this Act is that air passengers should know their rights and are entitled to clear, consistent, transparent and enforceable compensation, as well as minimum standards of treatment when things do not go as planned. … The Act is part of the Government's strategic plan for the future of transportation in Canada, Transportation 2030." It includes amendments to the *Canada Transportation Act* and other related transportation acts.[11]

Proposed Air Passenger Protection Regulations

The first major element promised by the Minister was delivered recently (December 17, 2018). The proposed *Air Passenger Protection Regulations* will establish airlines' minimum obligations toward passengers – including standards of treatment and in some circumstances, minimum compensation – for flights to, from and within Canada. Highlights of the proposed regulations include: 1) A requirement that airlines communicate in a simple, clear way with passengers regarding their rights and recourses, and provide the reasons for flight delays and cancellations; 2) The obligation for airlines to provide passengers with food, drink, and accommodation when their flights are delayed; 3) Compensation of up to $1,000 for flight delays and cancellations within an airline's control that are not safety-related; 4) Compensation of up to $2,400 if a passenger is denied boarding because an airline has over-booked the flight or because of other actions within an airline's control; 5) Rebooking and refund entitlements when flights are delayed, including, in some cases, the obligation for an airline to use a competing airline to get passengers to their destination; 6) A requirement that passengers be allowed to leave the airplane, when it's safe to do so, if a tarmac delay lasts for over three hours and there's no prospect of an imminent take-off; 7) A requirement that airlines facilitate the seating of children under 14 years in close proximity to an accompanying adult, at no extra charge; 8) Compensation for lost or damaged baggage, including a refund of any baggage fees; 9) Clarity on the policies that airlines must establish regarding the transportation of musical instruments; and 10) Administrative monetary penalties of up to $25,000 for airlines' non-compliance with their obligations under these regulations.[12]

Protection to Canadians from laser attacks on aircraft

On June 28, 2018, the Minister of Transport, announced a new measure which prohibits the possession of battery-operated hand-held laser over 1 milliwatt (mW) outside of a private dwelling without a legitimate purpose, such as for work, school, or education purposes. This Interim Order takes effect immediately and applies to: 1) a municipality within the greater Montréal, Toronto, and Vancouver regions; and 2) a 10-kilometre radius around any airport or certified heliport across Canada. The new measure allows Transport Canada and delegated law enforcement to issue fines on the spot to anyone who possesses a hand-held laser within a prohibited zone without a legitimate reason. The maximum fines are $5,000 for an individual and $25,000 for a corporation. In addition to the Interim Order, Transport Canada is also designating laser attacks on aircraft as offences subject to immediate fines under the *Canadian Aviation Regulations*. Air Transportation Association of Canada strongly applauded the Minister's actions.[13]

New fatigue regulations to make air travel safer for all Canadians
On December 12, 2018, Minister of Transport, announced changes to the Canadian Aviation Regulations to improve air travel safety for passengers and flight crews. The changes to the Canadian Aviation Regulations introduce: Prescribed flight and duty time limits that respect modern fatigue science and international standards to limit the amount of time a crew member can be on the job; and Fatigue Risk Management Systems that will allow operators the flexibility to set flight hours based on their unique operations if they can demonstrate that alertness and safety will not be affected.[14]

2.6. Labour Developments

On the labour front, three matters were reported in 2018. *First*, WestJet Encore on January 9, 2018 announced that an evergreen agreement was reached between WestJet Encore and WestJet Encore Cabin Crew Members (CCMs). The agreement covers work rules, compensation, including guaranteed minimum hours, and career progression and guarantees an ongoing annual review of the contract. *Second*, WestJet and the Air Line Pilots Association (ALPA) on May 25, 2018 agreed to a settlement process through the Federal Mediation and Conciliation Service and if required, final and binding arbitration. On December 21, 2018, WestJet said that it has received the award of the arbitrator. The award sets the terms for the first collective agreement including all outstanding terms and conditions of employment for pilots at WestJet and Swoop. *Third*, WestJet on July 10, 2018 received formal notice from Canada's Industrial Relations Board regarding the application for certification of its cabin crew members.[15]

2.7. Other Developments

Seamless air travel?
The Government of Canada has decided to collaborate with the World Economic Forum and partners to test emerging digital technologies and how they can improve security and the seamless flow of legitimate air travellers, with the launch of the Known Traveller Digital Identity prototype.[16]

Airline competition?
For the first time in years, competition in the Canadian airline industry is heating up. In June 2018, WestJet Airlines Ltd. launched its ultra low-cost carrier (ULCC) Swoop, offering cheaper flights for the more price-sensitive traveller. In 2018, Flair Airlines Ltd., another discount carrier, already in the air began to attract attention, and two additional ULCCs -Enerjet's FlyToo and Canada Jetlines Ltd. were eagerly eyeing entry together with International carriers.[17]

2.8. International Developments

On the international front, the important developments in the United States, European Union and the International Air Transport Association (IATA) are briefly described.

United States
On March 29, 2018, the *Air Cargo Security Improvement Act* was passed. The bill would direct TSA to take a number of steps to enhance air cargo security efforts and to aggressively move towards addressing current and future threats to air cargo. Three months late, on June 12, 2018, U.S. Customs and Border Protection (CBP) published the interim final rule on the mandatory *Air Cargo Advance Screening* (ACAS) program. The rule requires the inbound carrier or other eligible party to transmit specified advance cargo data to CBP electronically for any cargo transported onboard aircraft bound for the U.S. as early as practicable, but no later than prior to loading the cargo onto the aircraft.[18]

The European Commission
Three noteworthy initiatives taken by the European Commission were: *New rules on mental fitness of aircrew; Agreement on safeguarding competition in aviation*; and *European Union takes measures to strengthen aviation security.* The first, adopted in July 2018 provides for new safety rules to sharpen the mental fitness rules for pilots and cabin crew. They include support programme for psychological problems; psychological assessment of pilots before commencing flying; systematic testing for psychoactive substances of flight; and random alcohol testing of pilots and crew. The second, reached on November 21, 2018 by the European Parliament and Council provides for a provisional political agreement on new EU rules to safeguard competition in aviation from practices of non-EU carriers. The agreement on safeguarding competition in aviation ensures that aviation can continue to drive mobility, growth and job creation in the EU. The third, supported on November 21, 2018 by the European Member States includes a revision on background checks for aviation personnel which is an essential step to address so-called "insider threats" – a priority point in the global agenda on aviation security of ICAO and of the European Union.[19]

The International Air Transport Association
A few of the major initiatives undertaken by IATA were: 1. Safety projects (a. A Global Safety Predictive Analytics Research Center (SPARC) in Singapore; and b. A Dangerous Goods AutoCheck (DG AutoCheck). 2. Certification Program for Animals Travelling by Air. 3. Transparency in Payments. 4. Automation of Dangerous Goods Compliance Checks. It also called for European transport leaders to eliminate the barriers which limit the contribution of the aviation industry to Europe's competitiveness; and urgent action by the UK and the European Union to put in place contingency planning for the continuation of air services in the event of a 'no-deal Brexit'.[20]

3.0 Water Transportation

3.1 The State of the Industry - The Ports

In 2018, three of the largest four Canadian ports did very well recording increases in container traffic and cruise passengers compared to 2017. This can be seen from the port statistics presented hereafter.

For the Port of Metro Vancouver, the number of containers (TEUs i.e. twenty-foot equivalents) moving through it increased by 4.4% to 3,396,449 TEUs in 2018 from 3,252,220 TEUs in 2017, imports increased 4% to 1,781,069 TEUs from 1,713,247 TEU and exports increased 5% to 1,615,380 TEUs from 1,538,973 TEUs. For the Port of Montreal, the number of containers increased by 9.2% to 1,679,351 TEUs in 2018 from 1,537,669 TEUs a year earlier, imports increased 12.1% to 834,057 TEUs from 743,931 TEUs and exports increased 6.5% to 845,294 TEUs from 793,738 TEUs. For the Port of Prince Rupert, the number of containers increased by 12% to 1,036,009 TEUs in 2018 from 926,540.25 TEUs a year earlier, imports increased 9% to 569,070.50 TEUs from 523,985.25 TEUs and exports increased 16% to 466,938.50 TEUs from 402,555 TEUs. For the Port of Halifax, the number of containers decreased by 2.1% to 547,445 TEUs in 2018 from 559,242 TEUs a year earlier, imports increased 0.4% to 280,695 TEUs from 279,602 TEUs and exports decreased 4.6% to 266,750 TEUs from 279,640 TEUs.[21] The following results (2018 compared to 2017) were recorded by the cruise industry (revenue passenger) for various ports: for the Port of Metro Vancouver a 5.5% increase; for the Port of Halifax a 8.2% increase; for the Port of Montreal a 10.78% increase; and for the Port of Prince Rupert a -46% decrease.[22]

3.2 Issues or Developments -

3.3. Recent Mergers or Acquisitions

Mergers and acquisitions keep on changing the market structure in the container liner industry. In 2018, a few of the noteworthy mergers were: 1. The Montreal Port Authority (MPA) signed a Cooperation Agreement with Mundra Port, Gujarat State, north of Mumbai. This agreement aims to develop cooperation in marketing and business development while sharing information on marine operations and industry best practices. 2. Toronto-based investment firm InstarAGF Asset Management Inc. acquired 100 percent equity interest in AMPORTS Inc., an automotive port terminal operator and processing firm headquartered in Jacksonville, Fla., from Lincolnshire Management Inc. and its co-investors. 3. A new terminal for imported automobiles in the Port of Nanaimo on Vancouver Island in British Columbia plans to open in January 2019. The Nanaimo Port Authority said it will partner with Western Stevedoring and the auto division of SSA Marine (sister companies that are both owned by Carrix) to “design, build, finance and operate a multipurpose breakbulk terminal with an initial focus on European automobile import and processing.” 4. Western Stevedoring Company Limited and Grieg Star AS announced that Western Stevedoring has purchased 100 per cent of Squamish Terminals Ltd. from Grieg Star effective May 10, 2018. Squamish Terminals is a major break-bulk terminal situated at the north end of Howe Sound in the District of Squamish, British Columbia providing cargo handling services to markets globally.

According to reports by *Drewry Shipping Consultancy* and *Seaintelligence Consulting* there’s plenty of competition and potential for more merger and acquisition activity, and perhaps as many as 30 percent of the 100 largest *regional or niche* carriers may disappear over the next five years as a result of mergers and acquisitions.[23]

3.4. Antitrust Issues

Antitrust issues cover a number of areas described in the competition laws of each country. Agreements among *major* competitors to fix prices are outlawed in most countries. It is also worthwhile noting that all agreements are not in violation of the law, some may be purely to enhance efficiency (eg. vessel sharing agreements, slot agreements, etc.). The notable antitrust cases were: 1. The European Commission found that the Chilean maritime carrier CSAV, the Japanese carriers "K" Line, MOL and NYK, and the Norwegian/Swedish carrier WWL-EUKOR participated in a cartel concerning intercontinental maritime transport of vehicles, and imposed a total fine of €395 million. These five carriers formed a cartel in the market for deep sea transport of new cars, trucks and other large vehicles such as combine harvesters and tractors, on various routes between Europe and other continents for almost 6 years, from October 2006 to September 2012. 2. The U.S. Federal Maritime Commission (FMC) collected a total of $465,000 in civil penalties from six non-vessel-operating common carriers (NVOCCs) for violations of the *Shipping Act* or Commission regulations. The penalties resulted from investigations conducted by the FMC's area representatives in Houston and Seattle, as well as its Washington headquarters. The parties settled and agreed to the penalties without admitting to the violations to the *Shipping Act* or Commission regulations.[24]

3.5. Regulatory Developments

Arctic Shipping Safety and Pollution Prevention Regulations

To uphold the Government of Canada's high standards for marine shipping in the north, Transport Canada introduced new *Arctic Shipping Safety and Pollution Prevention Regulations*. The regulations incorporate the International Code for Ships Operating in Polar Waters (the Polar Code) into Canada's domestic legislation. The Polar Code addresses the unique hazards encountered by certain vessels that operate in the Arctic and Antarctic. The Polar Code and Canada's new regulations include a variety of safety and pollution prevention measures, including those related to vessel design and equipment, vessel operations and crew training. Drawing from decades of experience as an Arctic regulator, Canada played a key leadership role in developing the Polar Code at the International Maritime Organization.[25]

Noxious Substances Protocol

On April 23, 2018, the Government announced its ratification of the 2010 Hazardous and Noxious Substances Protocol, a global regime that ensures compensation for those affected by a hazardous and noxious substances spill. Though these types of spills are rare, they can have severe consequences on coastal communities, tourism activities, fishing industries, and can incur significant clean-up costs. The Government has long recognized the marine risk associated with the transportation of hazardous and dangerous goods along our coasts. By ratifying the Protocol, Canada agrees to apply the "polluter pay principle" – making ship owners liable for hazardous and noxious substances spills. Once the Protocol comes into force, a new global compensation fund to compensate affected individuals and communities will be established through contributions from industry.[26]

New regulations to better financially protect marine passengers in the event of marine accidents

On December 12, 2018, Minister of Transport, announced new regulations that require Canadian passenger vessel operators to carry a minimum of $250,000 in liability insurance for every passenger on board. This will ensure that all passengers and their families receive fair compensation in the event of injury or fatality in a marine accident, while protecting vessel operators against catastrophic losses and possible civil actions from passengers. Most vessel operators already carry this level of insurance;

however, the new regulations make liability insurance mandatory under the *Marine Liability Act* for passenger vessels. The new regulations will come into force on January 11, 2019.[27]

Oceans Protection Plan

On October 30, 2018, the Government proposed legislative changes to the Oceans Protection Plan. These amendments would improve marine safety and environmental protection by: 1) modernizing Canada's Ship-Source Oil Pollution Fund, including unlimited compensation for victims and responders in the event of an oil spill from a ship; 2) strengthening the legal authority to regulate marine vessels in order to protect the marine environment, including for example to protect endangered whale populations; 3) authorizing the Transport Minister to issue interim orders to allow for immediate actions to be taken to address a pressing risk to marine safety or environment; 4) enabling more proactive, rapid, and effective response to oil spills in Canada's waters, while maintaining the polluter pays principle; and 5) supporting research and innovation to enhance marine safety and environmental protection. Two inter-related pieces of legislation would be amended: the *Canada Shipping Act, 2001*; and the *Marine Liability Act*.[28]

Pilotage Act Review

Marine pilotage makes an important contribution to marine shipping, and ensures the safe transit of vessels. On May 31, 2017, the *Pilotage Act* Review was launched to modernize the *Pilotage Act* while keeping the elements that support Canada's excellent pilotage safety record. The Review was concluded on April 30, 2018 after extensive engagement across the country. The final report recommends strengthening five key components of the legislation: purpose and principles, governance, labour structure, safety framework, and tariff setting process. The Transport Minister will engage with key stakeholders and Indigenous peoples on the findings of the Review's final report. Potential changes will be aligned with the existing and future realities of marine transportation. This Review supports the delivery of safe, efficient and environmentally responsible marine pilotage services into the future.[29]

Canada's Ports Policy

The National Marine Policy was introduced in December 1995. In May 2018, Transport Canada published the 'Ports modernization review: discussion paper' following an announcement by the Transport Minister in March 2018 that the Ports Modernization Review was being launched. In a recent article, Professor Brooks indicates that Canada needs to revisit its port policy and remove CPAs that no longer serve a national strategic purpose yet remain eligible to draw on government funding. Canada's CPA ports need a better governance framework; their governance needs modernization, not their operations. Not only should CPAs meet the best governance practice reporting standards of publicly traded companies, but, as federal agencies, they must be transparent given that they're responsible to the citizens of Canada and the communities where they're located. The current Port Modernization Review wants not just efficient trade gateways, but also ports that are socially and environmentally responsible to their local communities. Currently, Canada's CPA ports are inconsistent in their financial, social and environmental performance reporting. This implies that a public-private relationship is needed, not a private one focused only on shareholder value. The Port Modernization Review should lead to greater clarity of port purpose, less political control through board appointments, and better reporting standards for Canada.[30]

3.6. Investment in shipping infrastructure

Investment in shipping infrastructure continues. In *British Columbia*, at the Port of Prince Rupert a new $250,000 funding initiative was launched to help communities and economic development agencies and an investment of $21.9 million was made for three projects; at the Nanaimo Port Authority a $6.3 million project was announced; and at four coastal communities a $2.5 million was provided for their role in a pilot project to develop, test and evaluate a new maritime awareness information system in Canada. In *Quebec*, the St. Lawrence Seaway Management Corporation allocated $35 million for infrastructure maintenance for the 2017-2018 winter season; the Port of Montréal made an investment of $18.4 million and plans were presented for a new large-scale container terminal project in the city of Contrecoeur; and the Port of Québec received $15.5 million in financial support from the National Trade Corridors Fund for infrastructure restoration. In *Ontario*, a $7.5 million investment was provided from the federal government to make improvements to infrastructure at the Port of Thunder Bay and a $17.7 million investment was provided to expand and diversify the Port of Hamilton's capacity and to increase its multi-modal transportation options. In *Nunavut*, the Government of Canada provided $12.6 million over three years to the Nunavut Fisheries and Marine Training Consortium. Besides, the above, a few federal investment initiatives were: a funding of more than $1.3 million through two programs aimed at removing abandoned boats; a funding of $412,475 to assess one boat and remove 18 in British Columbia under the Abandoned Boats Program; and a investment of $19.5 million under the Oceans Protection Plan, to construct four double-hulled barges.[31]

3.7. Other Developments

Ports modernization review

Canada Port Authorities were established 20 years ago and since then many things have changed. To keep abreast of these changes, on March 12, 2018, the Honourable Marc Garneau, Minister of Transport, announced a review of Canada Port Authorities to optimize their role in the transportation system as strategic assets that support inclusive and sustainable growth and trade. Through a series of round tables and meetings, this review will include engagement activities with Indigenous peoples, Canada Port Authorities, provincial governments, municipalities, broader domestic and international marine sector stakeholders, and Canadians. The Vancouver Fraser Port Authority welcomed the federal government's review. Robin Silvester President and CEO of the port said "While we believe the current structure of Canada Port Authorities has worked very well to meet Canada's trade needs, the *Canada Marine Act* is now 20 years old. We look forward to working with and supporting the efforts of government, including any changes it may consider making to the authority's mandate or scope to ensure the Port of Vancouver remains economically and environmentally sustainable for the benefit of local communities and all Canadians."[32]

Review of Marine Atlantic subsidies quashed

The Federal Court of Canada has dismissed a claim for judicial review from Oceanex on Marine Atlantic subsidies. Since Oceanex and Marine Atlantic together bring in nearly all of the commercial freight in Newfoundland, the decision could have far-reaching effects. Oceanex had been arguing that the terms of union between Newfoundland and Canada stipulate that the federal government must operate a ferry service between the island and Cape Breton, but it doesn't say Ottawa must subsidize the service. Meanwhile, the *Canada Transportation Act* states, "competition and market forces, both within and among the various modes of transportation, are the prime agents in providing viable and effective transportation services." Lawyers for Oceanex argued that the minister should have considered Oceanex's competitive position when setting freight rates. Regarding the judicial review decision of Marine Atlantic's 2016-17 rates: Captain Sid Hynes, executive chairman of Oceanex in a statement said "While we are disappointed with the decision, we want to thank the court for its time and consideration of our Judicial Review application...."[33]

Arctic re-supply operations to be made safer and more efficient
Protecting the marine environment and all users of Canada's oceans and waterways is of paramount importance. Accordingly, the Government of Canada, under the Oceans Protection Plan, is investing $94.3 million over five years to make Arctic re-supply operations faster, safer, and more efficient for remote communities. The Safety Equipment and Basic Marine Infrastructure in Northern Communities initiative is providing on-the-ground equipment and infrastructure, along with training on how to use and maintain it. Transport Canada is now accepting proposals from the governments of Nunavut and Northwest Territories for projects to be funded by the $94.3 million fund. Territorial governments will work with local communities, Inuit and Indigenous peoples, and stakeholders to assess needs.[34]

Protection of endangered whales
In June 2017, a number of North Atlantic right whales were found dead in the Gulf of St. Lawrence. The Government passed regulations requiring a slowdown of vessels 20 metres or more and fined a number of vessels that did not comply. The commitment to protect whales is now also being undertaken in British Columbia. In March 2018, the Fisheries and Ocean Canada announced the investment of more than $12 million in new science funding and research projects to study the impacts of reduced prey availability and underwater noise on marine animals, including the southern resident killer whale, as part of the Oceans Protection Plan. Then, on June 22, 2018, Canada's Whales Initiative (a $167.4 million initiative) was announced in Vancouver to protect and support the recovery of killer whales. Studies are also being undertaken. One study finds that American regulations that limit vessel noise and traffic around endangered killer whales off the West Coast are working. And another study finds that when vessels slow down, underwater noise that may interfere with the ability of whales to feed is reduced. Whales use sound to locate prey and ship noise can interfere with their ability to do that.[35]

B.C. container truck drivers
The B.C. government has committed to beef up enforcement and increase trip rates and hourly wages for container truck drivers. "Our government has heard clearly from the container truck industry that more needs to be done, urgently, to help make things better for truck drivers, and we're taking action," said Claire Trevena, Minister of Transportation and Infrastructure. "We're putting more money in the pockets of drivers by increasing trip rates and hourly wages, and empowering the commissioner to look at the overall rate structure. These are the first of many steps we are starting immediately to make sure Canada's busiest port runs as efficiently as

possible while ensuring the sector's long-term stability and competitiveness." The rate increase is the first container truck drivers have seen in four years. Effective June 1, 2018, trip rates and hourly wages will be raised 2.6% for licensed container truck drivers serving the Port of Vancouver. The minimum daily call-out rate will also increase to $300 from $200.[36]

Need for Coastal Strategy
The lack of a central strategy could thwart the drive to create a thriving national cargo gateway on Canada's East Coast. There is a growing concern that without a central strategy - like the one that helped Western ports embark on a slew of key transformative projects - the modest funds available to the numerous Eastern Canadian port projects will fail to achieve the target of establishing a major national cargo gateway on Canada's East Coast. The coast is already under pressure from an average annual container volume growth of 6 per cent - double the growth on the Canadian West Coast - and the need to adapt to escalating vessel sizes. Development proposals put forward to handle expected future volume growth into East Canada include one to expand the Port of Montreal by creating a new terminal at Contrecoeur, and one to create a new terminal in Halifax.[37]

Climate action program
The Vancouver Fraser Port Authority, the organization responsible for the stewardship of the Port of Vancouver, announced its participation in the World Ports Climate Action Program. In this new international initiative, the port authorities of Vancouver, Los Angeles, Long Beach, Rotterdam, Antwerp, Hamburg, and Barcelona will be joining forces and working together on a number of projects that address the issue of global warming. The international collaboration was announced last week during the opening session of the Global Climate Action Summit in San Francisco. The World Ports Climate Action Program focuses on the following specific five actions: 1) Increasing efficiency of supply chains using digital tools. 2) Advancing common and ambitious public policy approaches on emission reductions within larger geographical areas. 3) Accelerating development of in-port renewable power-to-ship solutions or other zero emission solutions. 4) Accelerating the development of commercially viable sustainable low-carbon fuels for maritime transport and infrastructure for electrification of ship propulsion systems. 5) Accelerating efforts to fully decarbonize cargo-handling facilities in our ports.[38]

3.8. International Developments

EC review of shipping and liner shipping consortia
The European Commission is inviting comments on the legal framework exempting liner shipping consortia from EU antitrust rules that prohibit anticompetitive agreements between companies, known as the "Consortia Block Exemption Regulation". EU law generally bans agreements between companies that restrict competition. However, the maritime Consortia Block Exemption Regulation allows, under certain conditions, shipping lines with a combined market share of below 30% to enter into cooperation agreements to provide joint cargo transport services (known as "consortia"). Where such consortia face sufficient competition, where they are not used to fix prices nor share the market, their users may benefit from improvements in productivity and service quality. They are therefore exempted from the prohibition of anticompetitive agreements in Article 101(1) of the Treaty on the Functioning of the European Union (TFEU). The Consortia Block Exemption Regulation will expire on 25 April 2020. The

Commission has therefore launched a consultation seeking to collect views from stakeholders to assist the Commission's assessment of the impact and relevance of the Consortia Block Exemption Regulation, and to provide evidence for determining whether it should be left to expire or to be prolonged, and if so, under which conditions.[39]

US Shipping Act - Revisions
A law signed by President Trump in the first week of December 2018 has provisions designed to protect U.S.-based marine terminal operators and other domestic businesses such as harbor pilots, tug operators and equipment suppliers "from being forced to accept pricing from the ocean carriers in concerted action that will threaten their long-term sustainability and impede future investment in infrastructure and technology," says the law firm Holland & Knight. The legislation was drafted in reaction to consolidation in the global shipping industry as a wave of mergers and acquisitions swept through the container liner industry over the past 20 years and the major East-West trade lanes are now dominated by the three major carrier alliances. The law contains "the first substantive revision" to the *Shipping Act of 1984* since the *Ocean Shipping Reform Act* was enacted in 1998.[40]

U.N. agency sees 4 percent growth in maritime trade
The United Nations Conference on Trade and Development (UNCTAD) said global seaborne trade is doing well and supported the 2017 upswing in the world economy, but also expressed concern about "increased inward-looking policies and the rise in trade protectionism," especially trade tensions between the United States and China, Canada, Mexico and the European Union. Those remarks are contained in UNCTAD's annual Review of Maritime Transport, released on October 3, 2018. The report said total maritime trade volumes reached 10.7 billion tons in 2017, an increase of 411 million tons or 4 percent, half of which was dry bulk commodities. It expected a similar 4 percent growth this year. Global containerized trade increased by 6.4 percent in 2017. While the liner shipping industry saw further consolidation through mergers and acquisitions and global alliance restructuring, UNCTAD said it "observed growth in the average number of companies providing services increase" since it started monitoring capacity deployment in 2004.[41]

4.0 Rail Transportation

4.1 The State of the Industry - The Railways

In 2018, the two major Canadian railways struggled to keep up with its performance in 2017. For CN, net income for 2018 was C$4,328m compared to C$5,484m in 2017, a 21.1% decrease, despite the 9.8% increase in total revenue and 4.8% increase in operating revenue. Its operating ratio was 61.6 compared to 59.8 in 2017, an increase of 0.8 (an increase in operating ratio means that efficiency has gone down). JJ Ruest, CN President and CEO said "With approximately C$1.3 billion of revenue growth in the final three quarters of the year, CN regained its position of strength and demonstrated again its ability to grow at low incremental cost. 2019 will be a year of building on this momentum."[42] For CP, net income for 2018 was C$ 1,951m compared to C$ 2,405m in 2017, a 19% decrease, despite the 12% increase in both total revenues and operating revenues. Its operating ratio was 61.3 compared to 61.6 in 2017, a decrease of 0.3 (a decrease in operating ratio means that efficiency has gone up). Keith Creel, CP President and CEO said "2018 was a record by almost every measure and will be remembered as a watershed year for our company, our record operating results are proof that the CP family is committed to making this company the best it has ever been." [43]

4.2 Issues or Developments -

4.3. Regulatory Developments

Transportation Modernization Act

On May 23, 2018 the *Transportation Modernization Act* received Royal Assent. The provisions pertaining to rail transportation are: 1) Providing a more transparent, fair, efficient and safer freight rail system that meets the long-term needs of users and facilitates trade and economic growth for years to come; and 2) Increasing safety by requiring railways to install voice and video recorders in locomotives to better understand events leading to an accident as well as help prevent future accidents.[44] It is worthwhile noting that the government only partially accepted three of the ten recommendations of the Senate Report (the need for additional flexibility for shippers to access the proposed "Long Haul Interswitching"; the need to permit the Canadian Transportation Agency to undertake rail investigations on its "own motion"; and the need for railway operational and costing data to be made available to shippers when accessing the "Final Offer Arbitration" (FOA) process to resolve rate disputes).

Canadian Transportation Agency Launches Consultation on Rail Transportation

As part of its Regulatory Modernization Initiative, the Canadian Transportation Agency (CTA) is launching consultations on rail-related regulations and guidance materials. These consultations will support the implementation of the *Transportation Modernization Act* (Bill C-49), which amends the *Canada Transportation Act* (Act) to introduce new measures related to freight rail. The CTA invites affected stakeholders to share their views to ensure that the CTA's rail-related regulations and guidance materials are relevant, clear and up to date. Comments should be sent to ferroviaire-rail@otc-cta.gc.ca. A discussion paper is available that explains many of the regulations and guidance materials under review. Specific areas where regulatory updates and related guidance material may be beneficial include: 1) Amending the *Railway Interswitching Regulations*, in order to smoothly implement provisions of the amended Act, including the new Long-Haul Interswitching remedy; 2) Designating rail-related provisions, and CTA Orders, as subject to Administrative Monetary Penalties (AMPs) – including new and enhanced shipper remedies under the amended Act; 3) Clarifying insurance filing requirements for freight rail operations; and 4) Updating insurance coverage requirements for passenger rail operations.[45]

Volume-Related Composite Price Indices for CN and CP (2018-2019)

The Canadian Transportation Agency (CTA) has redetermined the 2018-2019 Volume-Related Composite Price Index (VRCPI) for each of CN and CP, which will be used in determining the maximum revenue entitlement for the Canadian National Railway Company (CN) and the Canadian Pacific Railway Company (CP) for the movement of western grain in the 2018-2019 crop year. Originally issued on April 25, 2018, the VRCPI was redetermined based on a provision included in the *Transportation Modernization Act* (Bill C-49), which received Royal Assent on May 23, 2018. Determination No. R-2018-225 sets the revised indices at 1.4114 for CN, an increase of 2.1% from the 2017-2018 crop year, and at 1.4608 for CP, an increase of 5.7% from the 2017-2018 crop year.[46]

4.4. Railway Safety

Railway safety has always been a major concern and priority of the government of Canada. Statistics compiled by the Transportation Safety Board indicate that serious accidents involving both rail and pipeline transport of dangerous substances like crude oil and gas increased in 2017 over the previous year. Of the total 1,090 railway incidents that were serious enough to be deemed "accidents" last year, 115 involved dangerous substances, including five accidents where the substances leaked. That's up from 100 accidents involving dangerous goods in 2016 that included only two involving leaks.[47] Apart from this overall observation, a few matters of particular interest were reported in 2018.

First, the Transport Safety Board conducted an investigation of a freight train derailment in the fall of 2017 and released its report in March 2018. It concluded that cracks in a rail joint ultimately led to the derailment. Its report says the cracks made the rail joint weak and it ruptured under the weight of the Canadian Pacific Railway train. The train was heading west from Swift Current when 37 cars derailed near the Maple Creek subdivision. Many of the derailed cars released potash, but no dangerous goods were involved and no one was hurt.[48]

Second, the case involving the *Lac-Mégantic* accident continued into 2018 and was finally concluded in April 2018 after the following sentences. On January 19, 2018, jurors acquitted the three former Montreal, Maine and Atlantic (MMA) railway employees charged with criminal negligence causing death in the 2013 Lac-Mégantic rail disaster. On February 5, 2018, Transport Canada announced the results of its regulatory investigation to determine whether violations of the *Railway Safety Act* had occurred following the derailment. Charges were brought against a number of individuals, including senior officials of the Montreal Maine & Atlantic Canada Co. and the Montreal Maine & Atlantic Canada Railway Ltd, for violating obligations related to the application and testing of brakes under the *Railway Safety Act*. The outcome of this federal prosecution was that six individuals pled guilty to contravening rule 112(b) of the Canadian Rail Operating Rules by failing to ensure that a sufficient retarding force was present to prevent equipment from moving after applying handbrakes, thereby committing an offence under the *Railway Safety Act*. Five of the accused were fined $50,000 each, for a total of $250,000, which is the maximum fine provided under the *Railway Safety Act*, and one was sentenced to a conditional prison sentence of six months, the maximum sentence under the *Act*. In April 2018, New Brunswick Southern Railway Company Ltd., a railway owned by New Brunswick's Irving family pleaded not guilty to 24 charges alleging the company violated safety standards in the way it transported oil. Half of the 24 charges against the railway related to an alleged failure to create proper shipping documents and the other half alleged unqualified personnel.[49]

4.5. Labour Developments

The two railways CN and CP concluded several labour agreements in 2018.

CN: 1. CN announced on January 24, 2018 that members of the Canadian National Railways Police Association (CNRPA) have ratified a new six-year collective agreement with the company. 2. CN and the company's 1,800 locomotives engineers (Teamsters Canada Rail Conference (TCRC)) in Canada have successfully ratified a new five-year collective agreement. 3. CN and the Brotherhood of Locomotive Engineers and Trainmen (BLET) announced on June 4, 2018 that the 475 locomotive engineers on the Company's Illinois Central (IC) property in the United States have successfully ratified a new collective agreement. 4. In mid-December 2018, CN announced two tentative agreements. The first was with the United Steelworkers (USW) representing approximately 3,000 track and bridge personnel who work at CN across Canada. The second was with Unifor representing 2,100 mechanics, electricians and apprentices in Canada.[50]

CP: 1. On June 29, 2018, Canadian Pacific Railway Limited and System Council No. 11 of the International Brotherhood of Electrical Workers (IBEW) announced they have ratified a new three-year agreement. 2. The Teamsters Canada Rail Conference – Train & Engine (TCRC – which represents 3,000 conductors and engineers) have ratified a four-year agreement on July 20, 2018. 3. In early December 2018, CP ratified a five-year agreement with CP's Kootenay Valley Railway conductors and locomotive engineers. 4. On December 27, 2018, CP ratified a four-year agreement with Unifor, a union that represents 1,200 mechanical employees responsible for maintaining rail cars and locomotives. Keith Creel, CP's President and CEO said "We have now had back-to-back four-year agreements with Unifor. Agreements like this are positive steps for our 13,000-strong CP family, customers and the broader economy." The agreement was ratified on December 27, 2018.[51]

4.6. Investment in Railways

Several major planned investments in the railways were reported in 2018. 1. The construction of a bypass railway line in Lac-Mégantic. 2. A capital spending program by CN ($3.2 billion) focusing on key capacity projects. 3. A replacement of VIA Rail's fleet with the government providing funding to replace the Quebec City-Windsor Corridor. 4. The next phase of the GO Regional Express Rail (RER) system in Ontario. 5. A infrastructure investment ($9.2 million) for improvement of B.C.'s Ashcroft Terminal by the Federal government. 6. A plan by CP to invest ($1/2 billion) on new high-capacity grain hopper cars. 7. Research grants ($250,000) to reduce air emissions from rail transportation. 8. New projects and initiatives ($20 million) to improve rail safety. 9. A funding ($335,000) to improve rail safety in Mont-St-Hilaire. 10. A funding ($3.3 million) to improve rail safety in Alberta. 11. A funding ($3.3 million) for infrastructure at the Central Manitoba Railway Pine Falls subdivision. 12. A grant ($315,000) for connected and automated vehicles and for research and development to reduce air emissions from rail transportation. 13. A VIA Rail investment ($16.4 million). 14. A plan by Ontario to build a New Etobicoke GO Station.[52]

4.7. Other Developments

Railway emission reduction

A report released by the Railway Association of Canada (RAC) indicates that Canada's railways are on pace to meet greenhouse gas (GHG) reduction targets set out by the rail sector and the federal government, according to the latest Locomotive Emissions Monitoring (LEM) Program. The LEM report summarizes the progress that railways have made towards reducing GHGs and criteria air contaminants (CAC) from locomotives operating in Canada, and highlights the initiatives that the industry has taken in reaching its goals in this area.[53]

VIA Rail - Sustainable Mobility Report

The highlights of VIA Rail's *Sustainable Mobility Report* are : 1) Increased number of passenger trips: 4.39 million, +10.5% over 2016; 2) Increased inter-modal ridership: +97% since 2012; 3) Reduced GHG emissions: -34% per passenger-kilometer since 2005; 4) Planned investments in safety and efficiency: $88.4 million; 5) Reduced train incidents: -77% per million train-miles since 2014; and 6) Increased average hours of training per employee: 46 hours, +48% over 2014. As part of its transformation plan it has launched phase 1 of its procurement process.[54]

Churchill rail service resumes

In 2017, Churchill lost its only rail service provided by Omnitrax due to severe spring flooding. Omnitrax was unable to make the repairs. The Federal Government then stepped in and the line was sold to Arctic Gateway Group, a private-public partnership. The deal from Ottawa included at least $117m from the federal government. Arctic Gateway completed the repairs and inspections that were required and confirmed that the track is now safe for passenger operations. On October 31, 2018, rail service to Churchill resumed.[55]

4.8. International Developments

'State of Good Repair' rail projects

The U.S. Department of Transportation's Federal Railroad Administration (FRA) issued a Notice of Funding Opportunity (NOFO) on November 15, 2018 for the Federal-State Partnership for State of Good Repair Program (Partnership Program). The NOFO makes more than $272 million in grant funding available. Then on December 21, 2018, the Secretary announced that the U.S. Department of Transportation's Build America Bureau (the Bureau) will provide the Dallas Area Rapid Transit (DART) System a $908 million Railroad Rehabilitation & Improvement Financing (RRIF) direct loan for financing the Cotton Belt Corridor Regional Rail Project.[56]

Europe to Asia Rail Traffic

Train service to China has grown rapidly in the decade since it began, and it continues to grow from 1 to over 3,600 trains in ten years. The number of containers transported between Europe and Asia has seen a consistent rise. Deutsche Bahn is making great strides toward its goal of transporting 100,000 standard containers a year by 2020. It expects to reach the 90,000 mark in 2018. DB has established a new unit, DB Cargo Eurasia, to shift more traffic between Europe and Asia to rail over the long term. The new unit will operate service to and from China and will handle all of the related activities at the Group. A dedicated office opened in Shanghai in August 2018 for this purpose.[57]

More funds proposed for greening and digitalising transport
The Community of European Railway and Infrastructure Companies (CER) welcomes the joint vote of the Committees on Industry, Research and Energy and on Transport and Tourism on the Connecting Europe Facility (CEF) and the increased budget for greening and digitalising transport. The November 23, 2018 vote offers greater support for rail transport in Europe, with an increase of EUR 7.2 billion in current prices (EUR 6.4 billion in constant prices), resulting in an overall budget for transport of EUR 37.8 billion (33.6 billion in constant prices), including the amounts transferred from the Cohesion Fund and from the Defence budget. This increase in the transport budget is a reflection of the European Parliament's commitment to invest in greening and modernising transport.[58]

5.0 Highway Transportation

5.1 The State of the Industry - The For-hire Trucking Carriers

The top four for-hire trucking companies in 2018 were Transforce Inc., Mullen Group In., Canadian National Transportation and Day & Ross. How the largest two companies fared can be seen in the following results. Transforce's total revenue amounted to $5.123 billion, up 5.91% from $4.837 billion a year earlier in 2017. Net income was $292 million, or $3.22 per diluted share, versus $158 million, or $1.70 per diluted share, a year ago. Its operating income was $430.5 million, versus $178.4 million, a increase of 141%. Mullen Group in 2018 generated revenue of $1.2608 billion, an increase of $122.3 million or 10.7 percent as compared to $1.1385 billion in 2017. Its net income was -$43.8 million (or -$0.42 per share), a decrease of 166.7% as compared to the $65.5 million (or $0.63 per share in 2017).[59]

Urban transit did marginally well. Total operating revenue (excluding subsidies) for 10 of Canada's largest urban transit properties increased to $4.002b in 2018 from $3.906b in 2017, a 2.45% increase. Over the same period, passenger ridership levels increased 4.1% to 1.856b in 2018 from 1.783b in 2017.[87] The Couriers and Messengers Services Price Index increased 3.9% in 2018 compared to a year earlier. Both the couriers (+3.6%) and the local messengers and local delivery components (+5.0%) increased.[60]

5.2 Issues or Developments -

5.3. Recent Mergers and other anti-trust matters
In 2018 alone, at least twenty-five Mergers and acquisitions (M&A) were reported.[89] M&A in the Canadian trucking industry have picked up in recent years. What's driving all the activity? And should it be a big concern for consumers and fleet technology vendors? In short, the deals are being driven by a host of factors — none of them foretelling any real doom and gloom for the industry. In fact, one could make the case that the consolidation trend could represent a positive move for the Canadian trucking sector.[61]

5.4. Regulatory Developments
Strengthening Motor Vehicle Safety for Canadians Act

The *Strengthening Motor Vehicle Safety for Canadians Act* (Bill S-2) received Royal Assent. It is a major step in improving road safety. This Act provides the Minister of Transport with new powers and the ability to: 1) Order a company to recall a vehicle to correct a defect; 2) Order a company to pay for the cost of repairs so consumers don't bear the cost; 3) Order a company to conduct tests on a vehicle and to provide the results back to the Minister; 4) Order a company to fix a new vehicle before it's sold; and 5) Negotiate a settlement with a company which is alleged to be in violation of the *Motor Vehicle Safety Act*. In addition, the *Act* gives Transport Canada the ability to: 1) Perform more in depth vehicle inspections in relation to safety concerns; and 2) Allow more flexibility to support innovative technologies, such as connected and automated vehicles. The *Act* also paves the way for Transport Canada to impose future administrative monetary penalties (i.e. fines) to manufacturers of up to $200,000, per violation, for any contravention of the *Motor Vehicle Safety Act*.[62]

Tougher Penalties for Dangerous Driving Start September 1

Ontario's Government for the People is taking steps to ensure Ontario's roads are safe for everyone. Starting September 1, 2018 there will be tougher penalties for careless driving endangering pedestrians. Drivers convicted of careless driving causing bodily harm or death will face: Fines from $2,000 to $50,000; Six demerit points; A driver's licence suspension of up to 5 years; and Up to 2 years in jail.[63]

Saskatchewan government – Mandatory driver training

In the first week of December 2018, the Saskatchewan government announced mandatory training for new semi drivers, which will take effect in March 2019. Drivers will be required to take at least 121 hours of training in the classroom and behind the wheel. The government decided to grant farmers an exemption from mandatory entry level training. The exemption prompted reaction from Canadian Trucking Alliance president Stephen Laskowski. He told media that all commercial semi truck drivers should be required to take mandatory training. Why a vehicle is on the road should not matter when deciding safety.[64]

Electronic Logging Devices

The Canadian Trucking Alliance (CTA) submitted comments responding to Transport Canada's publishing of the electronic logging device regulations in *Canada Gazette* Part 1. On February 27, 2018, the Canadian Trucking Alliance, Teamsters Canada and the Private Motor Truck of Canada called on governments to move quickly in the implementation of the electronic logging device (ELD) mandate. The major groups representing trucking interests across Canada are asking the federal and provincial governments to all commit to a process that would see a publication of the final rule by June 2018 and the ELD rule enforced in each province by December 2019. The three groups believe the safety benefits of ELDS cannot be delayed and that an 18-month transition will allow industry and governments to properly transition to the mandate. The CTA senior vice-president of policy said that the process to mirror the impending Canadian ELD mandate with the U.S. rule is going smoothly. "The goal of this effort in Canada is to mirror the effort here in the U.S.," so that here is no conflict between the countries over e-logs. David Carruth CEO of 55-truck LTL fleet ONE For Freight says electronic logging devices can save fleets money and pay for themselves.[65]

Canadian Transportation Agency and Secretariat of Communications and Transports of the United Mexican States sign MOU on information sharing

Scott Streiner, Chair and CEO of Canadian Transportation Agency and Benjamín Alemán Castilla, Chief Executive of the Rail Transport Regulatory Agency (on behalf of the Secretariat of Communications and Transports of the United Mexican States), signed a Memorandum of Understanding (MOU) committing their organizations to share information and best practices related to the discharge of their adjudicative and regulatory mandates, and developments in rail transportation.[66]

5.5. Policy Developments

Ride sharing regulation for B.C.

Ride sharing in B.C. took a big step forward on February 15, 2018. An all-party committee in the legislature unanimously supported a plan for ride-hailing services throughout the province. The committee's report makes 32 recommendations to help pave the way toward introducing and regulating ride-hailing in B.C. The report entitled "Transportation Network Companies in British Columbia" was published by the BC Select Standing Committee on Crown Corporations Transportation on February 18, 2018 and can be found on www.leg.bc.ca.[67]

The Canada Labour Code and Trucking

The Canadian Trucking Alliance (CTA) along with Atlantic Provinces Trucking Association and local carriers met with the Hon. Patty Hajdu, Minister of Employment, Workforce Development and Labour to discuss federal labour standards at a roundtable session in New Brunswick. One of the Minister's stated priorities is to modernize the Canada Labour Code and federal labour standards and this session was an opportunity for the industry to provide direct input. At the roundtable, CTA discussed several issues with the Minister including ELDs, Driver Inc., independent contractor status, the provision of rest areas, the legalization of marijuana amongst a host of other issues specifically related to the labour code.[68]

Mandatory Entry Level Training

The Canadian Trucking Alliance (CTA) and its member associations continue to work with governments across Canada to raise the bar for truck driver training by introducing mandatory entry level training (MELT) for truck drivers. As the Humboldt tragedy brought nation-wide attention to the issue of commercial driver training, the governments in Western Canada have now joined Ontario in taking leadership along with their partner provincial trucking associations. "The Canadian Trucking Alliance (CTA) would like to commend the provinces of Alberta, Saskatchewan, and Manitoba for their recent acknowledgement of the importance of introducing mandatory entry level training for our sector," said Scott Smith, chair of the Canadian Trucking Alliance. "As an industry, we have confidence our government partners in all provinces currently without mandatory entry level training will continue to work with CTA member provincial trucking associations to introduce similar requirements that raises the bar as it relates to commercial truck driver training."[69]

5.6. Investment in Infrastructure

Several investments on highway infrastructure were reported in 2018. 1. The Champlain Bridge building in Montreal. 2. The Ontario Widening Highway 401. 3. Extension of the Trillium line in Ottawa ($50 million). 4. The Pink Road and De La Vérendrye Boulevard in Gatineau expansion ($13.9 million). 5. A funding ($2.9 million) for Connected and automated vehicles. 6. A funding ($390,000) for research on connected and automated vehicles. 7. A funding ($2.8 million) to Trucking HR Canada. 8. An investment ($102.5 million) in transportation infrastructure in the Northwest Territories. 9. An investment ($2.4 million) in transportation technologies to improve efficiency at the Buffalo and Fort Erie Border Crossing. 10. An investment in infrastructure on Highways 6 and 39 in Saskatchewan ($53.3 million) by the Government of Canada. 11. A $386k in funding for research on self-driving vehicles ($386,000) for the City of Vancouver. 12. A funding for connected and automated vehicles by Transport Canada ($1.3 million). 13. The Gordie Howe International Bridge project ($5.7 billion). 14. A funding for transportation infrastructure in the territorial North (400 million). 15. An investment by UPS Canada (200 million). 16. A DHL Supply Chain investment in North America ($300 million). 17. Funding opportunities for infrastructure projects on December 18, 2018 by the Government of Canada.[70]

5.7. Other Developments

Trucking harmonization
The Canadian Trucking Alliance (CTA) has made 11 suggestions for improving trucking harmonization in Canada, in a submission to the Council of Transport Ministers. The suggestions range from electronic logging devices (ELD's, the need to harmonize hours-of-service regulations in all jurisdictions to the development of a national strategy on truck parking.

Autonomous Vehicles
The Senate Committee on Transport and Communications has suggested that Canada is "ill-prepared" for the arrival of driverless vehicles and calls for a national self-driving cars strategy (in a new report - "*Driving Change: Technology and the Future of the Automated Vehicle*".). The report consists of two parts. Part 1 of the report highlights advantages to safety, environment, society, and economics, but also significant challenges in the form of employment displacement, privacy risks, and cyber security concerns. Part 2 of the report focuses on the Committee's recommendations regarding the federal government's role in planning for the arrival of AV and CV technologies. Based on the evidence provided by automakers, lawyers, police, and industry stakeholders, the Committee provided a list of 16 recommendations.

Ride sharing regulation for B.C.
Ride sharing in B.C. took a big step forward on February 15, 2018. An all-party committee in the legislature unanimously supported a plan for ride-hailing services throughout the province and made 32 recommendations. Eight months later, on November 19, 2018, the B.C. government introduced legislation to allow ride-hailing companies to enter the market by fall of 2019, while putting priority on safety for passengers.

Transitional Funding for Discontinuation of Bus Routes
On October 31, 2018, Greyhound discontinued serving routes in Western Canada and Northern Ontario. A few private sector transportation provider showed an interest in taking over many of these routes. The Government of Canada welcomed this interest recognizing that some gaps

remain. The Government is open to consider providing provinces funding support on a cost-shared and transitional basis.[71]

5.8. International Developments

US - Funding for infrastructure

A number of infrastructure grants were announced in 2018 in the US. The major grants were: U.S. Department of Transportation granted half a billion dollars in Infrastructure Investments; US announced grants ($264 million) to Modernize and Improve America's Bus Infrastructure; U.S. DOT provided Emergency Relief ($1 billion) was provided for Road and Bridge Repairs; U.S. DOT provided more than $63b to Major Transportation Infrastructure Investments; U.S. announced $1.5b in BUILD Transportation grants to Revitalize Infrastructure; and FTA awarded $16.m to enhance transit access nationwide.[72]

Europe - Day Without a Road Death

In Europe, the objective of eliminating road fatalities is being spearheaded with EDWARD (European Day without a Road Death) Day. A Day without a Road Death is spreading to other countries. The objective of the campaign, launched by the European Traffic Police Network (TISPOL) and supported by the European Commission, was that no one should die on European roads on EDWARD Day. While road fatalities have been decreasing in Europe as many as 25,260 people still lost their lives on EU roads in 2017. In view of this, the European Commission has taken major steps to reach close to zero fatalities and serious injuries by 2050. In the US too, the Transportation Secretary announced that "The good news is that fatalities are trending downward after increasing for the two previous years. But, the tragic news is that 37,133 people lost their lives in motor vehicle crashes in 2017.[73]

6.0 Other Transportation Matters

In this section, only a few important matters related to transport that made the news in 2018 are described.

6.1. National Carbon Pricing System

Pollution costs are seen in droughts, floods, extreme weather events, and the impacts on health. A price on carbon pollution is one of the most efficient tools we have to fight climate change and drive clean innovation. In light of this, the federal government plans to introduce legislation for the federal carbon pricing system after consultation on the draft legislative proposals. A regulatory framework describing the proposed federal approach to carbon pricing for large industrial facilities was released. This component of the federal pricing system would create a price incentive for large industrial facilities to reduce emissions while limiting the potential impacts of carbon pricing on their international competitiveness. The system is designed to reward facilities with efficient operations and support clean innovation. Right now, carbon pricing is in place in four provinces (Alberta, BC, Ontario and Quebec), covering more than 80 percent of the population. All provinces have committed to adopt some form of carbon pricing.[74]

6.2. Climate Change

Studies on climate continue to be published. 1. A new report (*Mission Possible: Reaching net-zero carbon emissions from harder-to-abate sectors by mid-century*) from the Energy Transitions Commission (ETC) has suggested the heavy-duty transport industry can achieve net-zero carbon emissions at minimal costs to the global economy, through ambitious policy, accelerated innovation and investment. The report says it's technically and financially feasible to reach net-zero carbon emissions by 2060 – earlier in developed countries – at a cost of less than 0.5% of global GDP. 2. *The Economist* of London reported that studies show that burning heavy marine fuel with sulphur emissions actually slows global warming because the cooling effect of sulphur outweighs the warming effects of carbon dioxide. Scientists at the Centre for International Climate and Environmental Research in Oslo calculated that shipping in net terms reduced man-made warming by seven per cent in 2000. However, when the UN's International Maritime Organisation's (IMO) new rules go into effect (requiring use of lower-sulphur fuels by ships after 2020) the cooling effect from shipping will be lost.[75]

6.3. United States, Mexico, Canada Agreement (USMCA)

On September 30, 2018, President Donald Trump signed off on the new USMCA agreement. He called it a great deal for all three countries. The old North American Free Trade Agreement (NAFTA) is now known as USMCA. Air Canada commended the Governments of Canada, the United States and Mexico on reaching a new trade agreement. The American Trucking Associations (ATA) welcomed the new trade agreement. On November 30, 2018, President Donald Trump, Canadian Prime Minister Justin Trudeau and Mexican President Enrique Pena Nieto officially signed the USMCA during the G20 summit in Buenos Aires. The highlights of what they agreed to: *1. Autos:* The deal struck offers a measure of protection for both Canada and Mexico, ensuring each country won't be affected by any auto tariffs unless exports top 2.6 million units annually. As expected, the deal calls for cars to have 75 percent of their content originate in the U.S. and Mexico, up from the current 62.5 percent, and for 40 percent of a car to come from workers whose pay averages more than $16 per hour. *2. Other Tariffs:* The deal doesn't resolve the dispute over U.S. tariffs on steel and aluminum imports from Canada and Mexico—or the retaliatory tariffs that each country placed on them. *3. Dispute Panels:* NAFTA had three kinds of dispute settlement systems. The new deal will remain basically unchanged, but renamed. State-to-state dispute settlement—formerly in Chapter 20—is being kept. The old NAFTA's so-called Chapter 19 dispute-settlement mechanism—which hears bi-national anti-dumping and countervailing duties cases—remains untouched in the new agreement. *4. Dairy:* As part of the deal, the U.S. is getting expanded access to Canada's protected dairy market. Canada will eliminate its so-called Class 7 milk pricing system. Market access for the U.S. will exceed Canada's concessions in Trans-Pacific Partnership talks. Canada gave up 3.3 percent of its market in those TPP talks, but the U.S. has since quit the deal. *5. No Sunset:* The countries agreed to a 16-year term for the deal, with a review to identify and fix problems and a chance of a deal extension after six years. *6. Intellectual Property:* The office of the U.S. Trade Representative boasted that the deal would provide "new protections for U.S. intellectual property," which the U.S. had been seeking. Copyright will, for instance, extend 70 years after an author's death. *7. Higher Thresholds:* Both Canada and Mexico agreed to raise the thresholds at which they apply duties to cross-border purchase, another key U.S. demand. Mexico raised its so-called de minimis level to $100 from $50. Canada raised its level to C$150 ($117) for duties, from C$20 earlier, and C$40 for sales taxes. In a study released by the Fraser Institute, Gary Hufbauer, co-author of *The U.S.-Mexico-Canada-Agreement: Overview and Outlook* says that the three countries missed an opportunity to create freer trade across North America. It also identifies how USMCA differs from NAFTA, and what elements of the two agreements are the same.[76]

In sum, the major transportation subsectors in 2018 struggled to keep up with the exceptional results of these subsectors in 2017. The financial results (net earnings) were disappointing notwithstanding that the statistics on traffic were positive. To add to this, the new agreement with the US and the imposition of tariffs added to the uncertainty as transportation follows trade. Major progress was made on the regulatory front. The *Transportation Modernization Act,* the major transportation Bill covering all transportation subsectors received Royal Assent. In air transportation, new regulations were made on safety (laser and air travel) and regulations were proposed to protect air passengers. In rail transportation, regulations were made to give effect to the new provisions in the new transportation act (volume-related composite price indices for CN and CP) and consultations were begun on (interswitching, administrative monetary penalties, insurance requirements and coverage for freight and rail passenger). In water transportation, safety regulations to protect passengers were passed (insurance and noxious substance) or proposed (Arctic shipping, ocean protection plan and pilotage). In road transportation, *Strengthening Motor Vehicle Safety for Canadians Act,* a major step in improving road safety, received Royal Assent. Provincial governments also followed the federal government in passing regulations on safety (for example, tougher penalties for dangerous driving in Ontario, and mandatory driver training in Saskatchewan). Apart from the regulatory front, several investments were reported in the rail, water and the road subsectors together with numerous other interesting developments. The year ahead, despite the threats of tariffs and the new United States-Mexico-Canada Agreement does not appear to be one of doom and gloom.

Endnotes

[1] Air Canada Reports 2018 Annual Results, February 15, 2019, www.aircanada.ca

[2] See footnotes 3 and 2 in Transportation Digest for January – June 2018 and Transportation Digest for July – December 2018.

[3] For instance: 2018 *Europe Your Way* Collection, a media-rich news hub and resource; Rouge airplanes on routes to British Columbia; Air Canada Signature Service; an innovative biojet fuel project at Toronto Pearson Airport; Air Canada expanded its range of North America Economy fares; the first joint venture agreement between a Chinese and North American airline; next-generation, satellite connectivity on its wide-body international flee; IATA certification for transport of live animals; Air Canada unveiled its newest Maple Leaf Lounge at Saskatoon; The Cabinet Créatif de Montréal; and Air Canada unveiled its newest Maple Leaf Lounge at LaGuardia Airport in New York City.

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