House of Commons
Canada

REPORT ON THE RECOMMENDATIONS OF THE NATIONAL TRANSPORTATION ACT REVIEW COMMISSION

REPORT OF THE STANDING COMMITTEE ON TRANSPORT

ROBERT A. CORBETT, M.P.
Chairman

June 1993

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HOUSE OF COMMONS

Issue No. 57

Tuesday, June 15, 1993
Wednesday, June 16, 1993

Chairperson: Robert A. Corbett

CHAMBRE DES COMMUNES

Fascicule nº 57

Le mardi 15 juin 1993
Le mercredi 16 juin 1993

Président: Robert A. Corbett

Minutes of Proceedings and Evidence of the Standing Committee on

Transport

Procès-verbaux et témoignages du Comité permanent des

Transports

RESPECTING:

Pursuant to Standing Orders 32(5) and 108(2), consideration of the N.T.A. Review Commission's Report entitled: ''Competition in Transportation — Policy and Legislation in Review''

INCLUDING:

Eighth Report to the House

CONCERNANT:

Conformément aux articles 32(5) et 108(2) du Règlement, examen du rapport de la Commission d'examen de la Loi sur les transports nationaux intitulé: «La concurrence dans les transports — Regard sur la politique et la législation»

Y COMPRIS:

Huitième rapport à la Chambre

Third Session of the Thirty-fourth Parliament,
1991–92–93

Troisième session de la trente-quatrième législature,
1991–1992–1993

Members of the Standing Committee on Transport

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(Quorum 5)

CLERK OF THE COMMITTEE

Marc Toupin

RESEARCH STAFF

John Christopher

CONSULTANT

David Cuthbertson

The Standing Committee on Transport

has the honour to present its

EIGHTH REPORT

In accordance with its mandate under Standing Order 108(2), your Committee embarked on a study of the recommendations of the National Transportation Act Review Commission. After hearing evidence in Ottawa, Vancouver, Winnipeg, Saint John (N.B.), and Halifax, your Committee has unanimously agreed to report to the House as follows:

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Acknowledgements

The Committee could not have completed its study without the cooperation and support of numerous people. The Chairman and Members of the Committee extend their thanks to all the witnesses who shared with them their insights as well as to the organizations and individuals who submitted briefs.

We also wish to acknowledge the excellent work of our research staff, John Christopher and David Cuthbertson, as well as the Clerk of the Committee, Marc Toupin, for their excellent counsel and untiring efforts in completing this exhaustive study on time and on budget.

Finally, the Chairman wishes to thank all the Members of the Committee for the many hours they dedicated to the study of these issues and the preparation of this report.

RECOMMENDATIONS

1. **That the Minister of Transport adopt the Commission's proposal that he direct departmental officials to investigate and determine the causes of the increased incidence of accidents involving air carriers other than Level I carriers, and take necessary corrective measures.**

2. **That the Minister of Transport and provincial Ministers responsible for trucking direct appropriate officials to investigate and determine the causes of the increased incidence of accidents involving straight trucks over five tonnes and take necessary corrective measures.**

3. **That the Minister of Transport place a moratorium on all abandonment applications for secondary and main line trackage until a basic national rail network has been established.**

4. **That, if no basic national rail network has been established by July 1, 1994, the Minister of Transport take immediate action to implement the NTARC's recommendations on line abandonment through amendments to the NTA, 1987, except that, with reference to main and secondary line abandonments, a broad and rigorous public interest test should be applied.**

5. **That the Minister of Transport exercise his responsibility and leadership to do whatever is necessary to try to obtain agreement on a basic national rail network within the next twelve months.**

6. **That, where there is a rail passenger service operating on a line for which an application for abandonment or conveyance has been made, the NTA, 1987, be amended to ensure that consideration is given to rail passenger service by the Agency before a decision to abandon or convey the line is made.**

7. **That the Minister of Transport introduce legislation as soon as possible providing VIA Rail with a mandate to operate a safe, efficient and reliable rail passenger service in Canada.**

8. **That the NTA, 1987, be amended to provide for a procedure whereby surplus rights-of-way and infrastructure can be "banked," in the public interest, for future rail and non-rail uses.**

9. That the Minister of Transport initiate the development of a policy and guidelines for the facilitation of the creation of shortline railroads and establish a federal-provincial task force to develop a uniform regime based upon the appropriate federal transportation legislation for the economic and safe regulation of federal and intraprovincial railways.

10. That the NTA, 1987, be amended to include provisions which would enable the railways, stakeholders and regional interests to collectively create regional rail networks.

11. That the Minister of Transport not implement the NTARC's recommendations concerning a comprehensive common user rail plant study and its application as a pilot project in eastern Canada.

12. That the Minister of Transport not accept the NTARC's recommendations concerning proposed refinements to the competitive line rate and final offer arbitration provisions in the NTA, 1987.

13. That the Minister of Transport not accept the NTARC's recommendation to abolish the compensatory rate provisions of sections 112 and 113 in the NTA, 1987.

14. That, if the survival of our two national airlines as viable competitors is in jeopardy as a result of their inability to manage capacity, the Minister of Transport should intervene and introduce a limited form of managed competition.

15. That the Minister of Transport should issue a policy directive to the National Transportation Agency to provide written reasons in respect of the disposition of all licencing applications in the north.

16. That the Minister of Transport not accept the NTARC's recommendation to automatically repeal the SCEA when the U.S. government removes anti-trust immunity for shipping conferences, but undertake a review of the legislation at that time and refer it to the Standing Committee on Transport.

17. That the Minister of Transport provide a reference to the Standing Committee on Transport to undertake a comprehensive review of the administration, structure and competitiveness of the Canadian ports system.

18. That the Minister of Transport not accept the NTARC's recommendation to exclude any reference to the importance of Canadian ports to Canada's export trade in section 3 of the NTA, 1987.

19. **That more clarity and definition should be given to the concept of the public interest and its application under the NTA, 1987, through amendments to that Act that set out particular guidelines that should be considered by the National Transportation Agency in its public interest decisions; and that those amendments include direction to the Agency to provide detailed reasons for its decisions explaining how and why it has applied the public interest test.**

20. **That the Minister of Transport not accept the NTARC's proposal to raise the foreign ownership limit for Canadian air carriers from the present ceiling of 25% to 49%.**

21. **That the Minister of Transport not accept the NTARC's recommendation to repeal Part VII, concerning acquisitions of Canadian transportation undertakings, of the NTA, 1987.**

22. **That the Minister of Transport not accept the NTARC's recommendation to remove regional economic development from section 3 of the NTA, 1987.**

23. **That the Minister of Transport not accept the NTARC's recommendation to exclude environmental matters from the NTA, 1987, but rather, include them in the Act.**

24. **That the Minister of Transport take immediate steps to convene a federal/provincial meeting on the issue of taxation policy for the transportation sector, and develop a plan that will not adversely affect the competitiveness and viability of Canadian carriers and present it to their respective governments for approval.**

25. **That the Minister of Transport provide for a further review of the operation of the NTA, 1987, and its complementary legislation in five years and that the Standing Committee on Transport be given the legislative mandate to do it.**

REPORT ON THE RECOMMENDATIONS OF THE NATIONAL TRANSPORTATION ACT REVIEW COMMISSION (NTARC)

INTRODUCTION

Section 266 of the *National Transportation Act*, 1987 (NTA, 1987) provides for a comprehensive review of the operation of this Act, the provisions of the *Railway Act* amended by this Act, the *Shipping Conferences Exemption Act* 1979 (SCEA), the *Motor Vehicle Transport Act* (MVTA), and any other Act of Parliament for which the Minister of Transport is responsible that pertains to the economic regulation of a mode of transportation.

In February 1992, the Minister of Transport announced the establishment of the National Transportation Act Review Commission (NTARC) composed of five commissioners. According to the legislation, this Commission had to complete its review and submit its report on or before January 31, 1993. The Commission completed its work on time, and made 56 recommendations. The Minister tabled the NTARC report entitled, "Competition in Transportation; Policy and Legislation in Review" in the House of Commons on March 9, 1993.

At that time, the Minister indicated his desire that the Standing Committee on Transport undertake a public examination of the Commission's report. It was his view that Transport Canada would derive considerable benefit from the Committee's findings and recommendations, particularly, in light of the fact, that the NTARC decided not to hold any public hearings. Clearly, the Standing Committee would be in a position to provide an important, indeed essential, public perspective on the recommendations contained in the report. On that basis, the Committee decided to accept the Minister's invitation and undertake a study including public hearings in Ottawa and major cities across Canada.

In addition, the Committee felt it was uniquely qualified to undertake this task because of its longstanding and direct involvement in economic regulatory reform of the transportation industry. This started with a comprehensive examination of the government's White Paper, Freedom to Move in 1985 resulting in a report entitled, "Change, Choice, Challenge" and continued with an extensive review of the new legislation which was proclaimed as the NTA, 1987, on January 1, 1988. On both occasions, the Committee travelled throughout Canada to hear the views of stakeholders, provinces, communities, business and labour groups, and the travelling public.

Similarly, our Committee heard and received the views of a cross section of more than 75 witnesses in hearings across Canada. What is clear to the Committee is that the bulk of the witnesses are in agreement with the pro-competitive thrust of the NTA, 1987, and the reflection of that in the major recommendations of the NTARC report. Indeed, even those who were philosophically and implacably opposed to the NTA, 1987, acknowledged that we could not return to a system of

comprehensive economic regulation of the transportation industry. This is not to say some concerns were not raised regarding certain of the key recommendations of the report and these are the ones that we will address in our review.

In order to do this, we concluded, as did the NTARC, that the only rational approach is to deal with the issues on a modal basis. Clearly, as far as air and trucking are concerned, there has been substantial deregulation whereas, with rail there continues to be considerable economic regulation, or what might be called regulated competition. In contrast, the marine industry was not heavily regulated before 1987 and consequently did not receive much attention in the NTA, 1987.

It is not the intention of the Committee to consider, by any means, all of the NTARC recommendations. Certainly we have been impressed with the NTARC's analysis and the number of constructive and valuable recommendations contained in the report. On that basis, obviously, it would be redundant for the Committee to review each of them and therefore we will restrict our analysis to the most important and more particularly to those on which we heard concerns and criticism. However, we will start with the most essential element in transportation and one that transcends specific modal consideration: safety.

SAFETY

Safety is paramount in transportation. Before and since the NTA, 1987, there has been a continuing and emotional debate regarding the impact of deregulation on safety levels in the various modes. The NTARC could not find any causal connection between economic regulatory reform and the diminution of general safety performance and standards among the modes. However, the NTARC did flag two areas where there could be safety problems. One concerned the rising incidence of accidents involving other than Level I air carriers and the other involved an increasing accident rate for straight trucks over five tonnes.

In connection with these two areas the NTARC made two specific recommendations. We can only echo these and urge their implementation immediately. Therefore, we recommend:

1. **That the Minister of Transport adopt the Commission's proposal that he direct departmental officials to investigate and determine the causes of the increased incidence of accidents involving air carriers other than Level I carriers, and take necessary corrective measures; and**

2. **That the Minister of Transport and provincial Ministers responsible for trucking direct appropriate officials to investigate and determine the causes of the increased incidence of accidents involving straight trucks over five tonnes and take necessary corrective measures.**

It must be pointed out that some witnesses did not share the NTARC's conclusion that there was no evidence of any correlation between safety and deregulation. They believe that there has been a deterioration in safety and that the "bottom line" finally dictates the level of safety. "The bank has become the regulator and the S in safety has been replaced by the dollar sign." Concern was also expressed regarding the slow pace of the implementation of the Dryden Commission's

recommendations on airline safety as well as Transport Canada's move towards a renewed regulatory regime which would place more emphasis on self-regulation by the industry. Certainly, in connection with the proposed investigation of Level II and below air carriers, we think that special attention should be given to the question of the extent to which safety regulation can or should be delegated to the aviation industry.

No hard data or statistics were presented to the Committee in support of these concerns. In light of this, it appears only reasonable to the Committee, that the NTARC's conclusion that transportation safety has not deteriorated since the NTA, 1987, has to be accepted. However, we would be remiss if we did not emphasize that the government must continue, in this deregulated environment, to give the highest priority to safety and provide the resources necessary to do the job. It must be stressed, that under no circumstances, can safety be compromised and that it is the responsibility of the Minister of Transport to exercise the utmost care and vigilance to ensure that this never happens.

RAIL

It is generally conceded that as far as rail transportation is concerned, the NTA, 1987, was "a shipper's bill." There is certainly no doubt that the rail industry was not deregulated in the same manner as the air and trucking modes. Indeed, while some effort was made to increase competition between Canadian Pacific Railway (CP Rail) and Canadian National Railways (CN), a considerable amount of economic regulation was introduced to ensure that the shippers were protected from unfair competition. The result has been that the railways have had neither the "freedom to move" nor the "freedom to manage" clearly necessary in a deregulated market place where they face strong competition from the domestic trucking industry and American railways.

The NTARC all but said that our railways are facing a crisis which is threatening their very survival in the North American market place. It stated, "that the trucking industry and U.S. rail competitors pose a genuine threat to the future of Canada's railways and to the shippers who depend upon them. If Canada does not wish to pay the price of a serious deterioration of the rail mode in this decade, it is essential that the carriers be allowed and encouraged to make the changes needed to compete."

The NTARC concluded that the railways must be afforded the opportunity to reduce dramatically their infrastructure costs and must bring their labour costs and productivity levels more into line with those of the trucking industry and U.S. railroads. It was pointed out that average traffic density for CN and CP is about 60% of that achieved by comparable U.S. railroads. In order to match the density of the American railroads over 14,000 miles of light density track will have to be abandoned which the Commission estimates could result in savings of up to $260 million, per year for CN and CP combined. There are only three options for achieving plant rationalization of this magnitude: line abandonment; the creation of shortline railroads; and joint track sharing.

A. Line Abandonment

1. The Process

With respect to the abandonment of railway lines, the NTARC made specific recommendations aimed at simplifying and accelerating the current abandonment procedures in the NTA, 1987. These recommendations were based upon three key principles. First, the railways should be given the

freedom to exit a market without having to demonstrate loss or the absence of public need. This simply reflects the current situation for air and trucking. Second, commercial, provincial or local community interests should be provided with an opportunity to acquire abandoned railway lines. Third, the public should be protected through provisions allowing governments to assume responsibility for abandoned lines.

A majority of the witnesses that addressed this issue were generally in favour of the railways having the freedom to decide, on a commercial basis, how rail rationalization should be achieved. However, several said that this freedom should not extend to the abandonment of lines which connect to interchanges or to U.S. rail lines. They feel that the railways could, through "strategic" abandonments, reduce effective competition between them and limit the competitive alternatives for accessing U.S. railroads. They believe that the National Transportation Agency (the Agency) should maintain a regulatory overview of a public interest nature in connection with such lines.

In Atlantic Canada several witnesses expressed a different concern with regard to the NTARC's line abandonment recommendations. This has arisen as a result of the recent application of CP to abandon all of its Canadian Atlantic Railway network between Saint John, New Brunswick and Sherbrooke, Quebec. There is no argument that a major portion of this network is main line trackage and it was emphasized that the NTARC's proposals are not adequate to address the broad public interest implications and impact on the regional economy of such abandonments. In their view, the only appropriate and rational way to deal with abandonments of this magnitude is through the determination of an essential national rail network prior to any major rationalization and they called for a moratorium on secondary and main line abandonments until this basic network has been defined and in place.

At the time that this Committee considered the NTA, 1987, the focus was completely concerned with branch line abandonments. Nobody contemplated these provisions in the context of massive secondary and main line abandonments, and therefore they are really not appropriate to deal with such abandonments.

The Committee was informed that a federal/provincial task force, which includes the railways, has been working on the development of a basic, essential national rail network for the past 18 months. No one was able to predict, with any certainty, if and when it will be successful in reaching agreement on such a network. Doubt was expressed by a number of witnesses that this would ever happen, but they acknowledged that the most logical and sensible approach would be one where all of the current accelerated rail rationalization activity on the part of CN and CP should take place within the context of a viable and competitive national rail network plan. However, most felt that the railways should not have to wait for this to occur and should be free to continue to rationalize their networks now.

The whole thrust of the NTARC's abandonment recommendations is to streamline the process, making it less complicated and more efficient for the railways to rationalize their networks. In our view, the railways must be allowed the flexibility to manage their infrastructure (as is the usual case in most industries) in response to market forces to ensure the existence of the railway network required to meet Canadian transportation needs. However, we are very concerned that this process is obviously going to include major segments of secondary and main line track, particularly in eastern and central Canada. Clearly there are going to be crucial and momentous changes to the national rail

network. On that basis, it is essential for the future viability and competitiveness of our railway industry and the public interest that these changes take place based upon a coherent national rail plan — a national plan that reflects the key role that our railways have played in the development of regional economies. Certainly, priority must be given, in the determination of a core rail network, to its impact on regions like Atlantic Canada that rely upon efficient and competitive rail transportation to move their products to distant markets.

Neither the industry nor the broad public interest are well served through an uncertain and ad hoc approach to the rationalization of our rail network. The only solution that makes economic and social sense is to define a basic network and then proceed with rationalization.

The Committee shares the concern and scepticism of some witnesses that the federal/provincial task force has not made much progress, that its work will continue at a slow pace, and that it may not be able to reach a satisfactory conclusion. We find this very disturbing since we do not have the luxury of time in this case; our railways are in a crisis situation. Urgent and concrete action is required. A national highway network has been defined and we see no insurmountable obstacle to the determination of a basic rail network in the near future. In the interim, it is only sensible to put on hold all abandonment applications for secondary and main line trackage. Therefore, the Committee recommends:

3. **That the Minister of Transport place a moratorium on all abandonment applications for secondary and main line trackage until a basic national rail network has been established.**

We think, because of the urgency involved, that the federal/provincial task force should be given no more than one year to develop a network plan. Based upon the testimony we heard, we are not optimistic that this can accomplished but, as we have indicated, the railways are in no position to be able to wait an inordinate amount of time before major rationalization takes place. At that point, we think the Minister of Transport should put in place the NTARC proposals for an accelerated line abandonment process based upon commercial criteria thus allowing the railways to rationalize their networks. Therefore, we recommend:

4. **That, if no basic national rail network has been established by July 1, 1994, the Minister of Transport take immediate action to implement the NTARC's recommendations on line abandonment through amendments to the NTA, 1987, except that, with reference to main and secondary line abandonments, a broad and rigorous public interest test should be applied.**

While not being very hopeful that the task force will be successful, the Committee believes that every effort must be made to reach agreement on a plan. Obviously, the Minister of Transport is the key player in developing an essential national rail network. We think it is now time for the Minister to take control of this process and exercise the necessary leadership and direction to try and reach a conclusion on a basic rail network within the next twelve months. Therefore, we recommend:

5. **That the Minister of Transport exercise his responsibility and leadership to do whatever is necessary to try to obtain agreement on a basic national rail network within the next twelve months.**

Finally, in connection with line abandonments, it should be pointed out that under the NTA, 1987, the government has considerable discretionary power either through the issuance of policy directions or by varying or rescinding any decision or order of the Agency. This is done by executive action through an order-in-council. The NTARC recommendations do not remove these discretionary powers. Therefore, whatever unfolds regarding rail rationalization, these powers will be available to ultimately safeguard the public interest. Granted, their exercise is dependent upon the public policies of future governments. Nevertheless, we believe they offer some comfort to the stakeholders and communities affected by line abandonments.

2. Rail Passenger Services

While the general discussion of an essential national rail network usually focuses on the movement of freight, it should be remembered that rail passenger service must also be recognized. VIA Rail, in its appearance before the Committee, pointed out that the former provisions of the *Railway Act*, in effect before the NTA, 1987, provided that an application to abandon a branch line could not be approved unless it was determined that the line was not required to operate a rail passenger service. The NTA,1987, established an abandonment process whereby the needs of passenger services are not taken into consideration until after the decision to abandon has been made. This means that in connection with VIA services, negotiations must take place with the railways to preserve passenger services on the line. If this process fails, then the Governor-in-Council has the power to rescind the abandonment order.

It was pointed out that the current process creates great uncertainty and public concern regarding the future of rail passenger services. This issue has taken on greater importance since the railways have embarked upon a program of accelerated rationalization, not only of branch lines, but also of secondary and main lines. The best and most current example of this is CP's application to abandon its line between Saint John and Sherbrooke which is used by VIA.

VIA would like to see changes to the NTA,1987, which would ensure that the requirements of rail passenger services be taken into consideration by the Agency when deciding whether to order line abandonments. As has been indicated, we agree with the NTARC's approach to line abandonment in balancing the commercial interests of the railway and the public interest in network rationalization. In connection with rail passenger services, we think the public interest should prevail and the Agency given the jurisdiction to protect them through the abandonment process. Therefore, we recommend:

> **6. That, where there is a rail passenger service operating on a line for which an application for abandonment or conveyance has been made, the NTA, 1987, be amended to ensure that consideration is given to rail passenger service by the Agency before a decision to abandon or convey the line is made.**

Of course, the most appropriate solution to the preservation of rail passenger services, is through the provision of a legislative mandate for VIA. This Committee addressed this issue in its report of November 1989 on VIA and the future of rail passenger services in Canada. We pointed out that there was near unanimity among the witnesses on the importance of VIA having its own legislation. It was recognized that since its inception, VIA has never had sufficient autonomy or a

clear and specific mandate and has always been subject to the vicissitudes of government policy and the direct involvement of successive Ministers of Transport. This view was echoed by the Royal Commission on National Passenger Transportation which recommended that the federal government pass legislation giving VIA a corporate mandate to operate rail passenger services on a commercial basis.

We have just indicated how urgent it is to define a basis national rail network. We believe that it is just as important and crucial to protect and provide for rail passenger services through the enactment of legislation and there should be no further delay. Therefore, the Committee recommends:

7. **That the Minister of Transport introduce legislation as soon as possible providing VIA Rail with a mandate to operate a safe, efficient and reliable rail passenger service in Canada.**

3. Surplus Rights-of-Way

One inevitable result of the railways' accelerated network rationalization program and the possible determination of a basic rail network will be significant surplus rights-of-way. It was suggested to the Committee that there should be provision in the NTA,1987, for the "banking" of abandoned rights-of-way for possible future use. The idea would be to create a scheme to "mothball" the surplus lines based on their potential rather than present use.

This issue was raised at the time the Committee did its study on the potential for high speed rail services in Canada. The concern was that the most appropriate high speed rail route, in the corridor, has not been identified. However, CN and CP are involved in plans to rationalize and consolidate freight traffic in the corridor. Under the circumstances we thought it was necessary to ensure that any abandonment of track and right-of-way which could be of importance to the determination of the most suitable high speed rail route should be preserved for the future. We recommended that the Governor-in-Council use its power, under the NTA,1987, to ensure that surplus rights-of-way be protected and maintained in the event of the establishment of high speed rail services. We think this approach should be extended to all surplus lines and rather than leave it to the discretion of the government we think there should be a procedure enshrined in the NTA, 1987. Therefore, we recommend:

8. **That the NTA, 1987, be amended to provide for a procedure whereby surplus rights-of-way and infrastructure can be "banked," in the public interest, for future rail and non-rail uses.**

B. Shortline Railroads

The other alternative that the railways can pursue in the rationalization of their networks, apart from abandonment, is the sale of the line to a shortline railroad operator. To date, in contrast to the United States, where the creation of shortlines is a sophisticated, efficient and mature process not many shortlines have been created in Canada. However, clearly there are now going to be more opportunities for their establishment as the railways accelerate the process of shedding large amounts of unprofitable and low density rail lines. The NTARC recognized this and made recommendations to facilitate the conveyance of railway lines to shortline operators.

Most of the witnesses, including the railways, recognized the commercial importance of shortlines. It was pointed out that the key to commercial success and viability lies in the fact that most shortlines will operate within a province and therefore come under provincial jurisdiction. This means that federal railway collective agreements under the *Canada Labour Code* do not apply which allows the shortline operator to reduce operating costs through a smaller workforce combined with flexibility in their work rules. The few witnesses that expressed concerns about shortlines did so mainly because of the adverse implications for railway employment. Nevertheless, they acknowledged that shortlines preserve traffic and "feed" it to the main line operator which means it is not permanently lost to trucking. Indeed, it is fair to say that, while in principle opposed to shortlines, they have begrudgingly accepted that they are the only reasonable alternative to abandonment.

Several witnesses stated that the current federal and provincial regulatory processes for the creation of shortlines are slow, uncertain, complicated and expensive and actually mitigate against their establishment. The major reason for this is the lack of any framework for uniformity and consistency in rail policy and legislation, both among the provinces, and between the provinces and the federal government. With the exception of Saskatchewan, the provinces do not have up to date railway legislation which can appropriately and expeditiously deal with the shortline phenomenon. Furthermore, provincial legislation does not provide for the regulation of railway safety and consequently the provinces have no regimes or resources to deal with this important matter. It was suggested that they should adopt the federal safety regulations and contract with the federal government for their enforcement. Concern was also expressed that shippers on shortlines do not have available to them the branch line abandonment and competitive access provisions of the NTA, 1987. Again, it was proposed that the provinces should be encouraged to amend and update their legislation to make it compatible with NTA, 1987, so that all shippers are treated equally, and in connection with possible abandonment the public interest is protected.

Regarding the labour issue, great concern was expressed that recently the provinces of Ontario and British Columbia have enacted legislation to provide that successor rights established in federal railway collective agreements be transferred to provincial shortline operations. It was emphasized to the Committee that such legislation is a serious impediment to the creation of shortlines in both provinces.

The Committee is convinced that shortlines are the only viable and reasonable option to abandonment. They save jobs, and preserve the traffic for the main line railroads which helps to maintain employment levels in the national railways. It also means less heavy truck traffic on provincial highways. However, what is clear to the Committee, is that the current federal and provincial legislative and regulatory processes for the creation and control of shortlines must be improved and streamlined. This can only be accomplished through federal/provincial cooperation and a harmonization of rail policies and regulatory regimes. The aim would be to create an environment which will facilitate the development of shortline operations where they can be successful, and be the least cost and most efficient transportation alternative. Therefore, we recommend:

9. **That the Minister of Transport initiate the development of a policy and guidelines for the facilitation of the creation of shortline railroads and establish a federal-provincial task force to develop a uniform regime based upon the appropriate federal transportation legislation for the economic and safe regulation of federal and intraprovincial railways.**

CN pointed out to the Committee that the NTA,1987, does not contain a mechanism allowing one or more railway companies to obtain a blanket approval for the multiple conveyance of several rail lines that would allow for regional network rationalization. Currently, separate approval of multiple applications is required and this is complex and time-consuming. What CN envisages is area network rationalization which would have the support of other parties such as shippers, a province, municipality or a port. Consultations would take place and agreement reached which would then be presented as a package to the Agency for approval. We think there is merit in this approach and that consideration should be given to including changes in the NTA, 1987, to provide for regional network rationalization. Therefore, we recommend:

10. That the NTA, 1987, be amended to include provisions which would enable the railways, stakeholders and regional interests to collectively create regional rail networks.

C. The Common User Plant Concept

It was pointed out by the NTARC that the most comprehensive solution to plant rationalization was the separation of the operation and ownership of the railway infrastructure from the operation of the trains. It recommended that the Minister of Transport initiate a study of the feasibility of separating railway operations from the ownership of the infrastructure. It also recommended that the Minister and the Agency explore the possibilities of the application of this concept as a pilot project in eastern Canada.

While there was some support for this concept in Atlantic Canada, the overall reaction was lukewarm at best, and negative for the most part. Some witnesses expressed concern about technical and operating problems while others worried about the safety implications. Indeed, one witness said that the concept of railway companies competing on a rail "highway" system like the trucking companies is quite ludicrous from a logistical and safety point of view and added that the idea did not even merit a study.

What we see as the fundamental problem is, who would buy the infrastructure and the only answer we think is realistic is that it would be the federal government. For CP this would mean nationalization. However, in this era of severe fiscal restraint it is doubtful if any government in the foreseeable future will be prepared to provide the funds to purchase the infrastructure and operate it. Moreover, concern was expressed that the government would not be able to operate the infrastructure efficiently and meet the operational requirements of the railroads.

The debate on this concept has been going on for a long time. In light of the present reaction, we doubt it would be productive to devote further resources to a comprehensive study and the possible implementation of a pilot project. Far better to concentrate on the establishment of an essential national rail network and plant rationalization through a streamlined abandonment process and the creation of shortline railways. Therefore, we recommend:

11. That the Minister of Transport not implement the NTARC's recommendations concerning a comprehensive common user rail plant study and its application as a pilot project in eastern Canada.

D. Competitive Access Provisions

The NTA,1987, provided three major competitive access provisions for shippers: competitive line rates (CLRs); final offer arbitration (FOA) and interswitching. The NTARC made recommendations on the first two of these shipper protection mechanisms.

CLRs are intended to benefit shippers who are physically located on one rail line whose goods cannot reasonably and profitably be shipped by other means of transportation (truck/ship/barge/pipeline). In other words, these shippers are "captive" to one railway which has no effective competition and commands considerable market power. A captive shipper can ask the railway to set a freight rate for moving goods from its location to a competing rail carrier's line. If the parties cannot agree, the shipper can request that the Agency set a "competitive line rate" according to guidelines under the NTA, 1987.

FOA applies to the carriage of goods by rail and air. The NTA, 1987, provides that when the shipper and carrier cannot agree to a rate they can submit their final best offer, in writing, to an agreed upon arbitrator. The arbitrator must choose between the two and his choice is final for one year unless extended by mutual agreement.

The NTARC pointed out that CLRs and FOA have not been used to any significant degree and that CN and CP have effectively decline to compete with each other through CLRs with the result that they are largely inoperative in Canada. Given this, the NTARC found no persuasive evidence of adverse commercial effects on railway viability from CLRs. However, the NTARC acknowledged that it had devoted considerable time and resources in analyzing the impact of these two shipper relief measures and whether changes were required. Ultimately, it recommended some refinements to the CLR and FOA provisions.

Despite the fact that there have been very few CLRs or FOA applications, all of the shipper witnesses said that the competitive access provisions have been very useful. This is because shippers have been able to use the threat of a CLRs or FOA in the negotiation of confidential rate and service contracts with the railways. The shippers readily acknowledged that they have been able to obtain lower rates from the railways because of these provisions. Nobody has been able to measure the value of these provisions but they clearly hover over every rate negotiation. As the NTARC observed, "the primary utility of the CLRs provisions is to provide some leverage to shippers in the bargaining of confidential contracts and their value is largely a function of perception."

With respect to the NTARC's recommendations for refinements to the competitive access provisions, all of the shipper witnesses opposed most of them and certainly those with the most impact on the current process. The general view was that the NTARC was preoccupied with the present financial crisis in the railway industry. As a result, it attempted, through its proposed changes, to offer some potential relief to the railways. The consensus was that these amendments would introduce ambiguity, delay, and contention, ultimately reducing the effectiveness of the existing provisions. While CLRs can be complicated, the great benefit of the current provisions is their objectivity, relative simplicity and clarity. Any endeavour to encumber these provisions with additional requirements and elements of subjectivity will guarantee their non-utilization by shippers. Some of the shippers proposed other refinements to these provisions which were naturally favourable to their interests. However, in the end, most conceded they would be happy with the status quo.

On the other hand, the railways appear to have all but abandoned, in resignation, their original position which was to oppose the inclusion of CLRs and FOA in the NTA, 1987. It appears to the Committee that the railways are now prepared to live with CLRs and FOA with one exception. They do not agree that U.S. railroads should have access to CLRs when there is no reciprocity for Canadian railways. However, both railways were in general agreement with the refinements proposed by NTARC.

The NTA, 1987, was an attempt to balance the interests of the shipper and those of the railways through the enactment of these competitive access provisions. We believe, based upon what we heard, that this delicate balance should not be disturbed. We are not persuaded that there are any serious problems with these provisions that require correction. Regarding the railways' concern about U.S. access to CLRs, we would note that our railways have not been prepared to compete with each other through CLRs. In addition they have acquired substantial and strategic railway operations in the United States. Therefore, we recommend:

12. That the Minister of Transport not accept the NTARC's recommendations concerning proposed refinements to the competitive line rate and final offer arbitration provisions in the NTA, 1987.

E. Compensatory Rates

The NTA, 1987, provides in section 112, that all rail rates are to be "compensatory", that is, they are to exceed the variable cost, as determined by the Agency, of the movement of the traffic concerned. As a matter of long time practice, the Agency and its predecessors have used long-run variable costs as the appropriate measure. Section 113 provides that upon complaint by any person that a rate is non-compensatory, the Agency is to investigate the rate and determine within 90 days whether the rate is compensatory. If the rate is not compensatory, and unless the Agency is satisfied that the rate does not have the effect or tendency of substantially lessening competition or significantly harming a competitor and was not designed to have that effect, the Agency is to make an order disallowing the rate and requiring the railway company to substitute a rate that is compensatory.

The NTARC recommended the abolition of the compensatory rate provisions of sections 112 and 113 in the NTA, 1987. It believed that the *Competition Act* offers adequate protection against predatory pricing and the abuse of dominance in a market. It saw no compelling reason for maintaining the provisions in the NTA, 1987.

While some witnesses concurred in this, several others were strongly opposed to the elimination of the compensatory rate provisions. It was argued that removing these provisions would favour one mode over the others. For example, there are Crown Corporations that must publish their rates and establish them to meet their legislative self-sufficiency mandates. The confidential pricing advantage the railways enjoy through the NTA,1987, must be controlled to protect the carriers and transportation modes that operate without similar privileges. Furthermore, the predatory pricing provisions of the *Competition Act* do not entirely correspond to non-compensatory rates. A rate can be set at market level, and therefore is not predatory, but still be insufficient to cover variable costs, thus being non-compensatory. Since this does not constitute predation as defined in the *Competition Act* it leaves other transportation modes without any recourse against unfair business practices. In

addition, predation is a criminal offense under the *Competition Act* and as a result, the onus of proof shifts and the accused transportation mode does not have the burden of proof as it does under the NTA, 1987. The modes of transportation seeking a prosecution under the *Competition Act* would have to absorb substantial research and time related costs involved in such a process. The necessity to prove the elements of a criminal offense makes recourse to the provision in the *Competition Act* and its successful utilization in a commercial case very unlikely.

It was indicated that two of the witnesses that appeared before the Committee are involved in a major multi-party complaint to the Agency alleging that the railways are charging non-compensatory rates for grain movements east of Thunder Bay. The point was made that it is essential to those modes which compete with the railways to have the Agency with it inherent expertise and experience in the intricacies of rail costing as an independent adjudicator of rail rates. Indeed, it was emphasized that it is inconceivable that the Competition Tribunal established under the *Competition Act* would be able to deal with such a technical and complicated complaint. As one witness said, "the costs, legal, procedural, chronological and instructive of bringing any tribunal anywhere close to the Agency's level of understanding of the 'black box' of rail costing would invariably frustrate the bringing of actions in these situations of potential abuse by the rail carriers."

As far as the railways are concerned, they are divided on this issue. CN supports the NTARC recommendation whereas CP opposes it on the basis that CN is a government owned entity. As long as this situation continues, CP wants to have the extra protection these provisions afford against unfair competition on the part of CN.

The Committee notes that there have been only five cases of non-compensatory rates that have been initiated, none of which, demonstrated an intention to lessen competition or harm a competitor. Nevertheless, the Agency is now seized with an important complaint under these provisions. On balance, we think that the arguments for retention of these provisions are persuasive. We are not convinced that the *Competition Act* can do the job. Therefore, we recommend:

13. That the Minister of Transport not accept the NTARC's recommendation to abolish the compensatory rate provisions of sections 112 and 113 in the NTA, 1987.

AIR

A. The South

The NTARC stated that aviation has been the most turbulent of the transport modes since its liberalization in 1984, confirmed by the NTA, 1987. It believes that air transport is the most complex and difficult problem facing Canadian transportation in this deregulated environment. The NTARC made several recommendations concerning foreign ownership, cabotage, block space and code sharing arrangements, open skies, multilateral air services agreements, slot allocation, allocation of international air routes, and charter services.

The problem the Committee has with the NTARC's analysis and recommendations is that individually and collectively they do not address the key problems facing the airline industry today. They are not particularly relevant to the current issues and do not make a significant contribution to their solution. As a result, we do not think it would be very helpful to the Minister of Transport to comment further on them in this report.

The Committee did not hear a great deal of testimony on the airline industry. However, it is fair to conclude from what we heard, that what is favoured, is a viable and competitive airline industry with two profitable and efficient national carriers. We agree with this, but of course, the burning question is how this can be achieved. Certainly, it is widely accepted, that the major problem for both airlines is overcapacity which is leading to destructive competition. There is no doubt that to a degree, this has been self-inflicted as a result of poor management, and compounded by the deep recession.

We are not going to comment on the regulatory and legal processes unfolding at the present time. Suffice to say, we hope that whatever happens, the results ensure a strong and competitive national airline system. It is interesting to note that the United States Congress has just passed legislation creating a 15 member bi-partisan national commission to make recommendations, within 90 days, concerning measures to revitalize the ailing American airline industry. It is quite possible, indeed likely, that regulatory and legislative initiatives will be the result of the Commission's work and may take the form of some type of reregulation.

We are not going to suggest another study of the airline industry. There is more than enough, on and off the record, regarding its problems and proposed solutions. However, we recognize that the situation of overcapacity and irresponsible competition cannot continue indefinitely without catastrophic results for the industry and the travelling public. It was suggested by a few witnesses that what was required was "smart" regulation. They were not, by any means, advocating a return to the comprehensive economic regulatory regime prior to 1984. What they are proposing is a limited form of better and smarter regulation which would stabilize the industry.

At this time, we are unable to see any alternative but to let the market place and events take their course. Notwithstanding this, we think the bottom line has to be the preservation of two viable and competitive national carriers, and if the only way that this can be achieved is through some form of regulated competition then we think it should be done. Such an approach should be an instrument of "last resort". If there is to be government intervention, the key is to regulate better and smarter to harness the market mechanisms in order to provide what the public interest requires. In other words, it has to be recognized that the discipline of competition may not always work and the public interest may well require public intervention. Therefore, we recommend:

14. That, if the survival of our two national airlines as viable competitors is in jeopardy as a result of their inability to manage capacity, the Minister of Transport should intervene and introduce a limited form of managed competition.

B. The North

The NTA, 1987, totally deregulated airline services in southern Canada but provided for a degree of economic regulation in the north. Northern regulation requires the Agency to satisfy itself, that prior to licensing additional airline services, that this would not lead to a significant decrease or instability in services in the region. The onus to demonstrate these adverse effects lies with intervenors who oppose the license application. This is commonly referred as the reverse onus test. The NTARC recommended this continue and that the Minister of Transport review the need for regulation in the north within five years.

The Committee heard one witness, First Air, which operates extensive services in Canada's north. It supported the NTARC's recommendation but pointed out that in reality, the north has been deregulated. This is because the Agency has approved the great majority of applications for northern services. It was argued that the Agency is not applying the reverse onus test as envisaged by the Act and in its summary decisions has not given any indication of why it approves applications. The fear was expressed that, as a result, overcapacity is rapidly becoming a serious problem with all of the attendant consequences that have occurred in the south. In order to remedy this situation it was suggested that the Minister of Transport indicate to the Agency, through a policy directive, under the NTA, 1987, or by some other type of signal, that it should adopt a more realistic approach in licensing additional airline capacity in the north.

Certainly, the Committee would not want to see the same situation develop in the north as is now gripping southern air services. If overcapacity is a problem, and northern airlines are not prepared to be responsible, then we think there is merit in government intervention. Therefore, we recommend:

15. That the Minister of Transport should issue a policy directive to the National Transportation Agency to provide written reasons in respect of the disposition of all licencing applications in the north.

TRUCKING

At the time this Committee was reviewing the provisions of the NTA, 1987, and the *Motor Vehicle Transport Act*, concerning the deregulation of the extraprovincial trucking industry, we expressed concern regarding the implementation of a National Safety Code and the lack of uniformity in trucking standards and regulations across Canada as a result of different regimes in every province. The Committee was assured by the government that a National Safety Code would be developed under the leadership of the Minister of Transport and would be uniformally and fairly administered across the country. In addition, the Committee was told that every effort would be made, in light of deregulation, to get the provinces to cooperate in the establishment of a uniform and harmonious regulatory regime for extraprovincial trucking.

The Committee is concerned that this has not been achieved in either area. This is demonstrated by the NTARC analysis and two strong recommendations calling upon the Minister of Transport and the provinces to harmonize the operating and technical standards for extraprovincial trucking and resolve, expeditiously, the inconsistencies of regulation, interpretation and enforcement of the National Safety Code. In both cases, if this cannot be accomplished through negotiation and cooperation by March 31, 1994, then the NTARC recommends that the federal government exercise its jurisdiction, which it has delegated to the provinces, to achieve the required uniformity and harmonization.

The Canadian Trucking Association, in its appearance before the Committee, confirmed the NTARC's views and strongly supported its recommendations. Other witnesses also welcomed them, and said they were essential to reduce interprovincial trade barriers in trucking thus providing shippers with a more effective and efficient trucking system. The application of different operating and technical standards and the uneven administration and enforcement of the National Safety Code are costly at a time when carriers and shippers can ill afford it.

We also, strongly concur, and urge the Minister of Transport and the provinces to achieve the harmonization that is so necessary to the continuing viability and competitiveness of our trucking industry in the North American market place. If this cannot be achieved, we think that the federal government should take unilateral action to resolve these two issues.

MARINE

A. SCEA

The major issue in the marine mode considered by the NTARC was whether or not the *Shipping Conferences Exemption Act* (SCEA) should be repealed. Under the Act, conferences of ocean shipping lines, primarily carrying containerized cargo, that collectively agree on rates and terms of service are exempted from the provisions of the *Competition Act*. In other words, the Act legitimizes cartels allowing them to collectively set rates and levels of service for Canadian shippers.

In its analysis of the impact of the SCEA, the NTARC observed that the number of conferences serving Canada since 1987 has decreased while the number of independent shipping lines has increased. Furthermore, rates set by conferences for a number of major commodities are now at, or below, 1983 levels while service has improved. Indeed, it was acknowledged by the NTARC that competition has increased between conferences and independents and the importance and predominance of conferences in various ocean shipping markets has declined. It could find no evidence that the conference exemption has had any significant adverse economic impact on Canadian shippers.

However, the major problem that the NTARC had with the SCEA was that it is contradictory and incompatible with the pro-competitive thrust of the NTA, 1987. Nevertheless, it felt that it would be unwise to repeal the SCEA until the United States and Canada's other major trading partners were prepared to act together. As a result, the NTARC recommended that the Minister of Transport introduce legislation to repeal the SCEA at such time as United States anti-trust immunity for shipping conferences is withdrawn. In the interim period, the NTARC proposed two changes to the SCEA: that the federal cabinet reduce to 10 days the notice period for independent action by shipping conference members; and that the Minister of Transport introduce amendments to section 5 of the SCEA to permit shipping conferences to contract for "through freight rates for precarriage or onward land carriage".

The Committee heard a considerable amount of testimony on this matter. Several witnesses strongly advocated the repeal of the SCEA as soon as possible rather than wait for the United States to abolish anti-trust immunity for conferences. In their view, the SCEA has not worked for Canadian importers and exporters; is totally antiquated; affords conferences protection which has been abused regularly by them; is a costly administrative mechanism which shippers pay for; and means higher freight rates because they are inevitably based on the operating costs of the least efficient member carrier in the conference rather than would be the case in an open competitive market.

On the other hand, several witnesses supported the NTARC's recommendation to continue the SCEA while others strongly advocated that Canada should not automatically abolish the SCEA in the unlikely event that the U.S. government repeals the *U.S. Shipping Act of 1984*. They advocated "a

wait and see approach" and proposed that a review be done of the SCEA at that time. They pointed out that conferences provide a degree of stability which is beneficial to both carriers and shippers. As well, there is considerable competition among the members of the conference because they are free to take independent action in negotiating a non-conference rate with an individual shipper. It was stated that this is often done and one witness went so far as to say that conferences are often involved in rate wars within the SCEA regime.

The Committee was informed that most of Canada's major trading partners recognize shipping conferences and exempt them from their competition legislation. Numerous recent studies and reviews have indicated that the SCEA has not impeded market forces but rather, complemented them and that they have been the dominant influence in Canadian liner trades. Moreover, these studies demonstrate that Canadian shippers have enjoyed favourable freight rates and high service levels over the past decade. Finally, it was suggested that any unilateral action by Canada to abolish the SCEA could jeopardize Canadian ports such as Halifax and Vancouver. This is because shipping lines currently serving Canada via U.S. ports might drop direct calls to Canada shifting their business totally to easily accessible U.S. ports.

Like the NTARC, we are persuaded by the weight of the evidence that the SCEA should not be repealed at the present time. However, we do not believe that the Act should be automatically repealed in the event the Americans remove conference immunity. We think that the most reasonable approach is for a comprehensive review to be done of the SCEA at that time. Therefore, the Committee recommends:

16. That the Minister of Transport not accept the NTARC's recommendation to automatically repeal the SCEA when the U.S. government removes anti-trust immunity for shipping conferences, but undertake a review of the legislation at that time and refer it to the Standing Committee on Transport.

Regarding the other two interim proposals for change, generally speaking, the witnesses on both sides of the SCEA argument supported the NTARC's recommendations with few exceptions and we do as well.

B. The Canadian Ports System

While not making any specific recommendations on Canada's port system the NTARC made some interesting observations. In its view, the present structure of the port administration system is not sufficiently flexible to respond to the rapidly changing trading patterns of the global market place. More particularly, our major ports are facing increasingly stiff competition from American ports and they must be in a position to be able to respond quickly and efficiently. The NTARC concluded its short analysis by pointing out that:

> "The current situation of overlapping jurisdictions, costly centralized administration, and lack of investment flexibility at the individual port level has a negative impact on the economic viability of ports, as well as the industries they serve. The solution to this problem would require a major overall of the Canadian ports administration system."

There was general agreement with the NTARC's observations among those witnesses who were concerned with port operation and competitiveness. Some of them thought that there are too many layers of bureaucracy in Ottawa overseeing port activities. Canada's port system is divided

into three jurisdictions: Local Port Corporations (LPCs); the Harbour Commissions; and more than 500 harbours and wharves administered by Transport Canada. The roles of these three systems are not clearly defined and they compete with one another on quite different competitive terms. This can lead to uncoordinated and potentially destructive competition among federally funded entities. The existing approach to managing the port systems tends to be inefficient and discriminatory. As one witness stated, the port system is characterized by federal money competing against federal money. Moreover in this era of fiscal restraint, the question has to be asked, how many ports does Canada need and how many can it afford? Witnesses called for more coordination of federal port policy and more local financial and operational autonomy for local port corporations. It was suggested that one model to look at would be that of the various autonomous local airport authorities which have recently been established at major airports such as Vancouver and Montreal.

We have been concerned about Canadian port competitiveness for some time and had hoped to do a comprehensive study on this issue. The strong testimony of witnesses confirms our belief that there are important port administration and competitive issues that require examination. Therefore, we welcome the NTARC's comments and think that it is time that an evaluation of Canada's ports system should be done. In that light, we would note, that it was acknowledged by Ports Canada that it is probably time a review was undertaken since the last examination was approximately 10 years ago and the result was the 1983 *Canada Ports Corporation Act.*

As indicated previously, we are not enthusiastic about more studies, particularly those done by costly independent commissions. However, we believe that this Committee, with its background and expertise, is a credible, efficient, cost-effective and adequate alternative to the usual approach. Moreover, our process is always open and public. Therefore, we recommend:

17. That the Minister of Transport provide a reference to the Standing Committee on Transport to undertake a comprehensive review of the administration, structure and competitiveness of the Canadian ports system.

In connection with its review of the purpose clause (section 3) of the NTA, 1987, the NTARC suggested that section 3(1)(*g*) be replaced with a general policy goal that the Canadian transportation system facilitate interprovincial and international trade. The result of this is to remove the reference to the primacy of Canadian ports and their importance to Canada's export trade. This is the only reference to the role of Canada's ports in the NTA, 1987.

We have just demonstrated how important we think Canada's port system is to the economy and our ability to compete in the global market place. Obviously, we think that there should be a reference to Canada's ports in Canada's major piece of transportation legislation. Therefore, the Committee recommends:

18. That the Minister of Transport not accept the NTARC's recommendation to exclude any reference to the importance of Canadian ports to Canada's export trade in section 3 of the NTA, 1987.

THE PUBLIC INTEREST

Throughout the NTA, 1987, there are a numerous instances where reference is made to the concept of the "public interest". For example, it is mentioned in connection with branch line abandonment, is the basis of the investigation provisions of the NTA, 1987, (sections 59 to 63) and

Part VII provides for the review of proposed acquisitions of Canadian transportation undertakings on the basis of whether or not they are against the public interest. The NTARC also referred frequently to the public interest as being an important concept but did not attempt to define it in any way.

Similarly, during our hearings, the concept kept surfacing and we often asked witnesses what they thought the public interest should be and how it should be defined. None of them was able to shed much light on this notion but all, recognized its importance in the resolution of economic regulatory issues. Some, indicated that the major reason they could not be helpful is because the NTA, 1987, does not set out very specific guidelines or criteria for the application of the public interest by the Agency in specific cases. Furthermore, they stated that, in many regulatory decisions, the Agency does not provide detailed reasons as to why and how it has applied the public interest test.

However, the Committee was informed that jurists, legislators and regulators have been trying to come to grips with this concept for at least 100 years. They have not been very successful because of its elusive and ephemeral nature. Nevertheless, the Supreme Court of Canada has dealt with the definition of the public interest in several cases. (C.T.C. v. Worldways Airlines Ltd. [1976] 1 S.C.R. 751; Memorial Gardens Association (Canada) Limited v. Colewood Cemetery Company et al., [1958] S.C.R. 353; Union Gas Co. of Canada Ltd. v. Sydenham Gas and Petroleum Co. Ltd. [1957] S.C.R. 185). The Court has said that the determination by a tribunal or regulatory agency of what is or is not in the public interest is a formulation of an opinion by the quasi-judicial body based on the facts and circumstances of each case. It is not a question of fact, it is predominately the formulation of an opinion and the decision cannot be made without a substantial exercise of administrative discretion which is delegated to the Agency by Parliament.

Obviously, it is not possible for this Committee to attempt any precise definition of the public interest and what it should be in various regulatory situations. However, Parliament can, through legislation, provide some assistance to the regulator as to what criteria and factors should be taken into consideration when making a decision. Granted, they can never be definitive but they can be both useful and helpful to the regulator and those who are being regulated. Furthermore, the regulator can contribute to this process by providing more detailed and informative reasons as to how and why it arrived at its decision which it claims is in the public interest.

In that light, we believe that attention must be given to the definition of this concept when amendments are contemplated for the NTA, 1987. More precision and substance should be given to the public interest in those areas where it is to be applied by the Agency. Furthermore, we think that the Agency must be encouraged either through Ministerial directive or amendments to the Act to provide more detailed reasons for its decisions and, from time to time, issue guidelines and/or criteria that it uses to make this "formulation of opinion". Therefore, we recommend:

19. That more clarity and definition should be given to the concept of the public interest and its application under the NTA, 1987, through amendments to that Act that set out particular guidelines that should be considered by the National Transportation Agency in its public interest decisions; and that those amendments include direction to the Agency to provide detailed reasons for its decisions explaining how and why it has applied the public interest test.

GENERAL

A. Foreign Ownership

The NTARC recommended that the foreign ownership limit for Canadian airlines should be raised from 25% to 49%. It believed that relaxation of the limit would be a pro-competitive measure and would provide Canadian carriers with greater access to capital.

The witnesses that commented on this recommendation were divided on the issue. Some thought, like the NTARC, that Canadian carriers needed to have access to larger pools of capital and equity participation while others, see no persuasive reason why the limit should be raised until the Americans do so. It also should be noted that the other modes do not have such a limitation and none of the modal-specific witnesses thought it was necessary. However, in connection with rail, it might become an issue with the creation of shortline railroads, if substantial segments of track were for sale to foreign, albeit, mostly American interests.

This Committee wrestled with this question during its consideration of the NTA, 1987. In the end, the argument of reciprocity with the United States won out, but in order to ensure flexibility of response to a change in American policy, the Committee did not entrench the limit in the legislation. Rather, it provided that the Governor-in-Council could change the limit at its discretion. We see no reason to depart from this position at this time. We would only note that the recently established Congressional Commission referred to above, has, as one of its terms of reference, to review the foreign ownership limits for the American aviation industry. Therefore, we recommend:

20. That the Minister of Transport not accept the NTARC's proposal to raise the foreign ownership limit for Canadian air carriers from the present ceiling of 25% to 49%.

B. Part VII — Acquisitions of Canadian Transportation Undertakings

The NTARC recommended that Part VII of the NTA, 1987, be repealed and that the exemption of transportation services from the *Investment Canada Act* be removed. It pointed out that this part is directed to both the regulation of competition within Canada and foreign investment in transportation services. It did not see the necessity of having a separate set of investment rules for the transport sector, and in connection with domestic competition, it thought that the regulatory review resulted in unnecessary duplication, expense and delay and that the provisions of the *Competition Act* were adequate.

Again, those witnesses who choose to comment on Part VII were divided regarding the NTARC's recommendation. Some agreed for the same reasons as the NTARC, while others thought it was important to have specific provisions for the transportation industry because of its strategic importance to the Canadian economy. The transportation sector is sufficiently critical to the economic and social well-being of Canada and sufficiently unique in characteristics to deserve separate treatment under the NTA, 1987. It was emphasized that the Americans have transportation-specific legislation and rules such as the *Jones Act* which provides comprehensive protection for the American shipping industry, and that it may well be useful to retain Part VII in

order to ensure some degree of reciprocity concerning transportation services. Furthermore, it is a highly specialized industry and the Agency has a reservoir of expertise, experience and specific knowledge of transportation issues. Certainly, all of that would have been needed in connection with the Agency's recent review and decision on the proposed acquisition of an interest in Canadian Airlines International by American Airlines. As far as Investment Canada is concerned, it was noted that no application has been denied by that agency.

On balance, we think that the issues and problems in the transportation industry warrant special and unique consideration because of their complexity and the importance of the industry to the country. We think the argument that the provisions in the NTA, 1987, can provide a counterweight to the American approach has merit. Overall, we are more confident that the interests of the industry will be better served and enhanced by maintaining special procedures in the NTA, 1987. Therefore, we recommend:

21. That the Minister of Transport not accept the NTARC's recommendation to repeal Part VII, concerning acquisitions of Canadian transportation undertakings, of the NTA, 1987.

C. Regional Economic Development

The NTARC recommended that section 3 (the purpose clause) of the NTA, 1987, exclude regional economic development as an element of transportation policy. It simply thought that regional development policy should be expressed in legislation directly concerning that subject.

The witnesses were divided on this issue with some supporting the NTARC's recommendation while others felt very strongly that this provision should be retained. In their view, the important role of transportation in fostering regional development is not just an historical curiosity—it is a continuing imperative. In fact, carrying out transportation policy with a regional economic development dimension can be a much more effective instrument for regional development than explicit and dedicated regional development programs. This view was strongly expressed by witnesses in Atlantic Canada. They pointed out that the reference to regional economic development does not infer, as seems to have been reflected in the NTARC's recommendation, any obligation on the part of the federal government to provide funds for unnecessary or inefficient infrastructure or services for the sole purpose of temporarily stimulating the regional economy. It was conceded that the existence of adequate transportation infrastructure and services will not by themselves guarantee regional economic development. However, their absence will surely retard the economic potential of a region. This is particularly true in Atlantic Canada where manufacturers and producers have to sell to distant markets to sustain levels of production necessary to maintain competitive operations. Reliable and efficient transportation is essential to the well-being of the Atlantic region.

The dilemma for the Committee is that we do not know what the impact is of this provision and indeed of the whole purpose clause on transportation policy and regulation. Consequently, we cannot assess what difference it would make whether it remains or is removed. However, what is clear is that this Committee grappled with this question at the time of its review of the NTA, 1987. Then the Committee received very strong testimony from the regions that transportation is a key to regional economic development and that it was essential to acknowledge that in the NTA, 1987. We have received further convincing evidence particularly from Atlantic Canada witnesses. On balance, in the final analysis, if this provision continues to give comfort to some regional and remote interests, then we think that it should be left in the Act. Therefore, we recommend:

22. That the Minister of Transport not accept the NTARC's recommendation to remove regional economic development from section 3 of the NTA, 1987.

D. Environmental Considerations

The NTARC recommended that consideration of environmental matters not be addressed specifically in the NTA, 1987, but rather continue to fall under environmental protection statutes of general application. It acknowledged that concerns were expressed that the NTA, 1987, is silent on the environment and suggestions were made to include it in the Act. However, the NTARC did not think the NTA, 1987, should be amended to specifically reinforce environmental protection as it felt that this was being done adequately by dedicated pieces of environmental legislation.

Again, the witnesses were divided on this issue. Of those that took a particular interest, several thought there was good justification for including environmental considerations in the NTA, 1987. After all, it is a fact that the transport sector is a major contributor to environmental degradation and air pollution. To suggest that environmental matters not be specifically addressed in the Act is to shun the responsibility for one of the major issues facing modern society. If transportation is part of the environmental problem then the NTA, 1987, should play a role in considering environmental matters. We think these views have merit and we would simply add, that we recently confirmed this approach in our review of the new motor vehicle safety legislation. Therefore, the Committee recommends:

23. That the Minister of Transport not accept the NTARC's recommendation to exclude environmental matters from the NTA, 1987, but rather, include them in the Act.

E. Taxation Policy

Although the issue of taxation was not part of the NTARC's mandate, it felt compelled to deal with it because of the many submissions which emphasized how important taxation policy is to the efficiency and competitiveness of the transportation sector. All modes emphasized to the NTARC that the overall tax burden in Canada is substantially higher than in the United States. This makes it difficult for them to compete effectively with their American counterparts. In addition, they also said that there are some inequities in taxation levels among the various modes in Canada which inhibits their ability to compete. Higher fuel taxes, a marked disparity in property taxes for rail carriers, and more favourable U.S. depreciation rates were singled out as being major impediments. On that basis, the NTARC recommended that all levels of government adopt taxation policies and rates that do not compromise the ability of Canadian carriers to compete in domestic and international markets.

All of the witnesses that considered this issue, for the most part, simply agreed with the NTARC's analysis and strongly endorsed its recommendation. They accepted the argument that the Canadian transport industry is at a competitive disadvantage with the United States because of disparities in the levels of taxation. A glaring example of this was brought to the attention of the Committee with regard to railway locomotive fuel taxes. A recent study done by the Senior Grain Transportation Committee compared the incidence of fuel tax rates per tonne of grain for Canadian and American railways. The study found that the total fuel taxes incurred by CN and CP amounted to

$1.20 per tonne, of which, .40 cents relates to the federal excise tax, and .80 cents to various provincial taxes. In comparison, the U.S. federal and state fuel taxes, expressed in Canadian dollars, amounted to .19 cents per tonne. This results in a difference of $1.01 per tonne or $34.3 million based on a volume of 34 million tonnes per annum.

Numerous studies have been done on this issue over the past four years which highlight the disparities in the two tax regimes. We believe that the time for further study is over and concrete action is now required. We recognize that taxation policy goes far beyond the mandate and responsability of the Minister of Transport and his provincial counterparts. However, we believe that any initiatives must come from those who have direct responsability for transportation in Canada. Here again, as in the case of developing an essential national rail network, a high degree of federal/provincial cooperation will be required if this is to be attained. To a large extent, the success of this process will be dependent upon the leadership of the Minister of Transport and while we agree with the NTARC's recommendation, we believe greater emphasis should be placed on the federal government's role in resolving such an issue. Therefore, we recommend:

24. That the Minister of Transport take immediate steps to convene a federal/provincial meeting on the issue of taxation policy for the transportation sector, and develop a plan that will not adversely affect the competitiveness and viability of Canadian carriers and present it to their respective governments for approval.

F. Further Assessment of the NTA, 1987

Most of the witnesses said that the NTARC's review of the NTA, 1987, and complementary legislation was very valuable. However, there was less than enthusiastic response for another statutory review in five years time, although a few witnesses thought further periodic reviews should be done. They pointed out that, the future challenges presented by the North American and global market places and the fast pace of change that will be required by our transportation industry to respond, dictate that further reviews will be needed to update the regulatory and legislative framework.

We think the NTARC has made a valuable and constructive contribution to the review process. However, our concern with it was the cost and the fact that it was not done in public. As has been indicated, we too are not excited about further comprehensive studies of the transportation industry—certainly, not ones that require a great deal of time and money. Nevertheless, we think that there should be some sort of provision, as a safeguard, in the NTA, 1987, for further review of its operation and that this should be done by this Committee. Therefore, we recommend:

25. That the Minister of Transport provide for a further review of the operation of the NTA, 1987, and its complementary legislation in five years and that the Standing Committee on Transport be given the legislative mandate to do it.

CONCLUSION

Throughout our hearings witnesses continually emphasized the need for a coherent and coordinated national transportation policy. They stated that Canada requires an integrated multi-modal policy, that respects competition and market forces, that is implemented consistently at

all levels of government, that treats all modes fairly and that serves both the stakeholders and the public interest. All modes should be examined in a coordinated way, and not in isolation, which is too often the practice now. When asked whether this was realistic, some witnesses expressed doubt while others said that we have no choice but to develop such a policy because the survival of the industry depends upon it.

Canada has been striving to develop such a policy since Confederation. Geography, great diversity and the federal structure have all played a role in making it difficult to achieve and strike a fair balance between the forces of competition and the protection of the public interest. Nevertheless, we believe it is vital that we continue to endeavour to provide the transportation industry and the public with a safe, efficient and rational national transportation policy. The industry is going through its most difficult period and faces problems of crisis proportions. It must adjust and transform itself to meet the emerging competitive challenges in trade and travel patterns of the North American and global market places. Governments must provide, through legislative and regulatory policies and regimes, the framework necessary so that the industry has the flexibility to respond quickly and effectively to rapidly changing market forces, while at the same time fulfilling important national transportation goals.

In our view, the only way this can be accomplished is through much more federal/provincial cooperation and coordination in the transportation sector than we have experienced to date. We have called for this at several important points in this report. In order for there to be a basic national rail network, the creation of viable shortline railways, a harmonized and standardized national safety code for trucking, and fair taxation policies that do not impede the industry's ability to compete with its U.S. counterpart, we must have an unprecedented level of federal/provincial cooperation and agreement. Transportation desperately needs this approach and we believe we have no choice but to pursue it with urgency and concerted effort.

Appendix A

List of witnesses

Organizations or Individuals	Issue	Date
Aircraft Operations Group Association Wayne Foy, Chairman.	53	Tuesday, May 25, 1993
Asia North America Eastbound Rate Agreement (Canada) (ANERA (Canada)) Guy G. Bouchat, President & Chief Executive Officer, Montreal Shipping, Inc.; W. David Angus, Legal Counsel.	56	Wednesday, June 2, 1993
Atlantic Provinces Transportation Commission Ramsay M.S. Armitage, General Manager; Peter Vuillemot, Assistant General Manager.	55	Tuesday, June 1, 1993
Brookville Transport Limited R.H. Oland, President.	55	Tuesday, June 1, 1993
Canada Grains Council Douglas E. Campbell, President.	52	Tuesday, May 11, 1993
Canada Ports Corporation Arnold E. Masters, Chairman of the Board; Jean Michel Tessier, President and Chief Executive Officer; Hassan Ansary, Executive Vice-President.	53	Tuesday, May 25, 1993
Canada Transpacific Stabilization Agreement (CTSA) Barry Olsen, President, Maersk Canada; Richard Rusk, Legal Counsel; Edward LeBlanc, Managing Director.	56	Wednesday, June 2, 1993
Canada–United Kingdom Freight Conference Raymond R. Miles, Chief Executive Officer, Canada Maritime Agencies Ltd.	43	Wednesday, April 21, 1993
Canada Westbound Rate Agreement (CWRA) Edward J. Le Blanc, Managing Director; Richard Rusk, Legal Counsel.	54	Tuesday, May 25, 1993

Organizations or Individuals	Issue	Date
Canadian Air Line Pilots Association Capt. Harvey Bergen, First Vice-President; Roger Burgess–Webb, Manager, Information Services.	48	Thursday, April 29, 1993
Canadian Business Aircraft Association J.B. Lyon, President. L. Russell Payson, Director	48	Thursday, April 29, 1993
Canadian Fertilizer Institute Roy Parkes, President and CEO, Nitrochem Inc.; Andrew Elliott, Director, Marketing Programs, Potash Corporation of Saskatchewan Sales Limited; Dave DeBiasio, General Manager, Supply and Distribution, Cominco Fertilizers Limited; Jim Brown, Managing Director; Roger L. Larson, Assistant Managing Director.	49	Tuesday, May 4, 1993
Canadian Industrial Transportation League Maria Rehner, President; Geoffrey R. Cowell, Manager, Transportation Department, Noranda Sales Corporation.	48	Thursday, April 29, 1993
Canadian International Freight Forwarders Association, Inc. Karl H. Legler, President; Christopher Gillespie, Director of the National Board of Directors.	54	Tuesday, May 25, 1993
Canadian Manufacturers Association Wayne Howard, Chairman, CMA National Transportation Committee; Vice-President, Unilever – Lipton Monarch; Wayne Smith, Manager, Traffic & Transportation Department, INCO Ltd.; Ted Zier–Vogel, Vice-President, Noranda Sales Corporation Ltd.; Don Weirsma, Manager of Transportation.	47	Wednesday, April 28, 1993

Organizations or Individuals	Issue	Date
Canadian National Railway Company (CN) Paul M. Tellier, President and Chief Executive Officer; Yvon Masse, Executive Vice-President and Chief Financial Officer; Jack McBain, Senior Vice-President, Operations; Serge Cantin, General Solicitor.	38	Wednesday, March 31, 1993
Canadian Oilseed Processors Association Robert Broeska, President; Jim Foran, Legal Counsel, Aikins, MacAulay & Thorvaldson; Woody Galloway, Manager, Canola Acquisitions, CanAmera Foods.	52	Tuesday, May 11, 1993
Canadian Pulp and Paper Association Howard Hart, President; David W. Church, Director, Packaging, Purchasing and Transportation; J.R. Edgar, Vice-President, Transportation, Repap Enterprises Inc.; James E. Foran, Barrister & Solicitor, Aikins, MacAulay & Thorvaldson; Barry Hagen, Manager, Transportation Services, MacMillan Bloedel Limited; R.T. Beckwith, Corporate Traffic Manager, E.B. Eddy Forest Products Ltd.	54	Tuesday, May 25, 1993
Canadian Public Employees Union Denise Hill, Vice-President, Airline Division; Amber Hockin–Jefferson, Chairperson, Division Health and Safety Committee; Richard Balnis, Senior Research Officer, Research Department.	50	Thursday, May 6, 1993

Organizations or Individuals	Issue	Date
Canadian Railway Labour Association É.G. Abbot, Executive Secretary; John E. Platt, International Representative, International Brotherhood of Electrical Workers; Ron Bennett, Canadian Legislative Director, United Transportation Union; Theo Scull, National Vice-President, Canadian Brotherwood of Railway, Transport and General Workers; Gilles Hallé, Vice-President, Brotherhood of Locomotive Engineers.	41	Tuesday, April 20, 1993
Canadian Shipowners Association T. Norman Hall, President; Jean-Paul Sirois, Director, Economic Research.	41	Tuesday, April 20, 1993
Canadian Shippers' Council James D. Moore, Vice-Chairman; H. Pierre Racine, Director; Walter Mueller, Secretary.	54	Tuesday, May 25, 1993
Canadian Trucking Association Erwen Siemens, Chairman of the Board; Gilles J. Bélanger, President; Laura Scott Kilgour, Executive Director; Graham Cooper, Director, Government Affairs.	44	Thursday, April 22, 1993
Central Western Railway Thomas Payne, President and Chief Operating Officer.	51	Monday, May 10, 1993
Chamber of Shipping of British Columbia Richard Barlow, President; John Turpin, Director.	51	Monday, May 10, 1993
City of Brandon Rod Ficek, Councillor.	52	Tuesday, May 11, 1993
City of Saint John Elsie Wayne, Mayor; Ralph B. Murray, Senior Transportation Policy Advisor.	55	Tuesday, June 1, 1993

Organizations or Individuals	Issue	Date
Coalition of Provincial Organizations of the Handicapped (COPOH) Dave Martin, Provincial Coordinator, Manitoba League of the Physically Handicapped; Don Halechko, Chairman, Manitoba League of the Physically Handicapped; Paula Kierstead, Member, COPOH Human Rights Committee; April D'Aubin, Research Analyst.	52	Tuesday, May 11, 1993
Communications Plus Cheryl Stagg, President.	56	Wednesday, June 2, 1993
Conair Aviation Ltd. Barry Marsden, President and Chief Executive Officer; Walter Wesnowsky, General Manager.	51	Monday, May 10, 1993
Consumer and Corporate Affairs George Addy, Senior Deputy Director of Investigation and Research, Mergers Branch; Gilles Ménard, Deputy Director of Investigation and Research, Civil Matters Branch; Robert Lancop, Chief, Division A, Civil Matters Branch.	50	Thursday, May 6, 1993
CP Rail System I.B. Scott, Chairman and Chief Executive Officer; R. J. Ritchie, President of the Railway; David Flicker, Associate Vice-President, Legal Services.	42	Tuesday, April 20, 1993
First Air John Crichton, Executive Vice-President.	46	Tuesday, April 27, 1993
Halifax–Dartmouth Port Development Commission Tom Trainor, Vice-Chairman; Wade Elliott, Director of Marketing; Cheryl Bidgood, Research Analyst; J. Robert McGee, Gateway Program Marketing Officer, Halifax International Airport.	56	Wednesday, June 2, 1993

Organizations or Individuals	Issue	Date
Halifax Port Corporation David Bellefontaine, President & Chief Executive Officer.	56	Wednesday, June 2, 1993
International Association of Machinists and Aerospace Workers Louis Erlichman, Canadian Research Director; Vincent Blais, Administrative Assistant.	45	Tuesday, April 27, 1993
LUSCAR Ltd. Emile J. Dubois, Manager, Transportation; James E. Foran, Legal Counsel.	53	Tuesday, May 25, 1993
Manitoba Pool Elevators Charles Swanson, President; Ken Edie, Vice-President.	52	Tuesday, May 11, 1993
National Automobile, Aerospace and Agricultural Implement Workers Union of Canada (CAW–Canada) Bob Chernecki, Assistant to the President; Jo-Ann Hannah, CAW Research; Dennis Cross, CAW Local 101, CP Health and Safety; John Merritt, CAW Local 100, CN and VIA Health and Safety; Norm Romas, CAW, Rail Division; Stan Horodyski, CAW, Rail Division.	54	Tuesday, May 25, 1993
National Transportation Act Review Commission (Defunct) John Gratwick, Former Commissioner; Horst Sander, Former Commissioner; Warren Everson, Former Executive Director.	39	Thursday, April 1, 1993
New Brunswick Department of Transportation The Honourable Sheldon Lee, Minister of Transportation; W.W. Steeves, Executive Director, Policy and Motor Vehicle; D.L. Johnson, Director, Transportation and Communications Policy; Margaret Grant–McGivney, Transportation Policy Officer.	55	Tuesday, June 1, 1993

Organizations or Individuals	Issue	Date
Novacor Chemicals Ltd. Ken Gutierrez, Vice-President, Logistics and Marketing Services; Terry Park, Manager, Logistics – Methanol.	51	Monday, May 10, 1993
Railtex Bruce Flohr, President.	47	Wednesday, April 28, 1993
Railway Association of Canada Robert H. Ballantyne, President; James N. Speirs, Vice-President.	53	Tuesday, May 25, 1993
Saint John Port Corporation K.R. Krauter, General Manager and Chief Executive Officer.	55	Tuesday, June 1, 1993
Saint John Board of Trade Steves MacMakin, President; Tom Gribbons, Chairman, Transportation Committee.	55	Tuesday, June 1, 1993
Saskatchewan Department of Highways and Transportation Bernie Churko, Acting Assistant Deputy Minister, Policy and Programs Division.	54	Tuesday, May 25, 1993
Thunder Bay Harbour Commission C.A. Cook, General Manager and C.E.O.; S. Paul Kennedy, Director of Marketing.	52	Tuesday, May 11, 1993
Transport Canada Honourable Jean Corbeil, Minister; Huguette Labelle, Deputy Minister; Paul Gauvin, Assistant Deputy Minister, Finance.	40	Thursday, April 1, 1993
Transport 2000 R.R. Evans, President; Harry Gow, Vice-President.	44	Thursday, April 22, 1993
United Grain Growers T.M. Allen, President and Chairman of the Board; Paul Earl, Manager, Corporate Affairs.	52	Tuesday, May 11, 1993

Organizations or Individuals	Issue	Date
United Transportation Union — Canada Ron Bennett, National Legislative Director.	54	Tuesday, May 25, 1993
Vancouver Port Corporation Patrick Reid, Chairman; Norman Stark, President.	51	Monday, May 10, 1993
VIA Rail Marc LeFrançois, Chairman of the Board; Ronald E. Lawless, President and Chief Executive Officer; Jean D. Patenaude, General Counsel.	45	Tuesday, April 27, 1993
Western Canadian Shippers' Coalition Tom Culham, Chairman; Kevin Doyle, President, Sultan Limited; Barry Hagen, Manager, Transportation Services, MacMillan Bloedel; Emile Dubois, Manager, Transportation, Luscar Ltd.; Terry Park, Manager, Transportation and Distribution, Novacor Chemicals Ltd.	51	Monday, May 10, 1993

Appendix B

List of submissions

Organizations	Issue	Date
Aircraft Operation Group Association	53	May 25, 1993
Alberta Department of Transportation and Utilities	–	May 19, 1993
Asia North America Eastbound Rate Agreement (Canada) (A.N.E.R.A. Canada)	56	June 2, 1993
Atlantic Provinces Transportation Commission	55	June 1, 1993
Bakytis, Victor	–	May 28, 1993
Brookville Transport Limited	55	June 1, 1993
Brotherhood of Maintenance of Way Employees	–	June 4, 1993
Canada 3000 Airlines Limited	–	May 31, 1993
Canada Grains Council	52	May 11, 1993
Canada Ports Corporation	53	May 25, 1993
Canada Transpacific Stabilization Agreement (C.T.S.A.)	56	June 2, 1993
Canada–United Kingdom Freight Conference	43	April 21, 1993
Canada Westbound Rate Agreement (C.W.R.A.)	54	May 25, 1993
Canadian Air Line Pilots Association	48	April 29, 1993
Canadian Airlines International Ltd.	–	May 28, 1993
Canadian Brotherhood of Railway, Transport and General Workers	–	May 27, 1993
Canadian Business Aircraft Association	48	April 29, 1993
Canadian Chemical Producers' Association	–	May 14, 1993
Canadian Fertilizer Institute	49	May 4, 1993
Canadian Industrial Transportation League	48	April 29, 1993
Canadian Industrial Transportation League — Western Council	–	May 28, 1993
Canadian International Freight Forwarders' Association	54	May 25, 1993
Canadian Manufacturers' Association	47	May 28, 1993
Canadian National (CN)	38	March 31, 1993
Canadian Oilseed Processors Association	52	May 11, 1993
Canadian Pulp and Paper Association	54	May 25, 1993
Canadian Railway Labour Association	41	April 21, 1993

Organizations	Issue	Date
Canadian Shipowners Association	41	April 21, 1993
Canadian Shippers' Council	54	May 25, 1993
Canadian Trucking Association	44	April 27, 1993
Canadian Union of Public Employees (CUPE)	50	May 6, 1993
Central Western Railway Corporation	51	May 10, 1993
Chamber of Shipping of British Columbia	51	May 10, 1993
City of Saint John (NB)	55	June 1, 1993
Coalition of Provincial Organizations of the Handicapped (COPOH)	52	May 11, 1993
Communications Plus	56	June 2, 1993
Conair Aviation Ltd.	51	May 10, 1993
Consumer and Corporate Affairs	50	May 6, 1993
Consumers' Association of Canada	–	May 31, 1993
Council of European & Japanese National Shipowners' Associations (England)	–	May 26, 1993
Council of Maritime Affairs	–	May 19, 1993
CP Rail System	42	April 20, 1993
East Canada South American Rate Agreement (E.C.S.A.)	–	May 31, 1993
First Air	46	April 27, 1993
Fraser River Harbour Commission	–	June 10, 1993
Halifax Board of Trade	–	May 18, 1993
Halifax–Dartmouth Port Development Commission	56	June 2, 1993
Halifax Port Corporation	56	June 1, 1993
International Association of Machinists and Aerospace Workers	45	April 27, 1993
International Automobile Aerospace and Agricultural Implement Workers Union of Canada (CAW–Canada)	54	May 25, 1993
Kenneth, Frederick C.	–	May 19, 1993
LUSCAR Ltd.	53	May 25, 1993
Manitoba Department of Highways and Transportation	–	June 10, 1993
Manitoba Pool Elevators	52	May 11, 1993
New Brunswick Department of Transportation	55	June 1, 1993
Novacor Chemicals Ltd.	51	May 11, 1993
OCEANEX Inc.	–	May 31, 1993

Organizations	Issue	Date
Ontario Midwestern Railway Company Limited	–	May 31, 1993
Prince Edward Island Department of Transportation and Public Works	–	June 17, 1993
Rail Ways to the Future Committee	–	April 19, 1993
Railtex (USA)	47	April 28, 1993
Railway Association of Canada	53	May 25, 1993
Saint John Board of Trade (NB)	55	June 1, 1993
Saint John Port Corporation (NB)	55	June 1, 1993
Saskatchewan Department of Highways and Transportation	54	May 25, 1993
St. Lawrence Seaway Authority	–	May 18, 1993
Sundstron, Susan	–	May 28, 1993
Thunder Bay Harbour Commission	52	May 11, 1993
Transport Canada	40	April 1, 1993
Transport 2000	44	April 22, 1993
United Grain Growers	52	May 11, 1993
United Transportation Union — Canada	54	May 25, 1993
VIA Rail	45	April 27, 1993
Vancouver Port Corporation	51	May 10, 1993
Western Canadian Shippers' Coalition	51	May 10, 1993
Yukon Department of Community and Transportation Services	–	May 7, 1993

Request for Government Response

Your Committee requests that the Government respond to this report in accordance with Standing Order 109.

A copy of the relevant Minutes of Proceedings and Evidence (*Issue No. 57 of the Standing Committee on Transport, which includes this report*) is tabled.

Respectfully submitted,

ROBERT A. CORBETT, M.P.
Chairman

Minutes of Proceedings

TUESDAY, JUNE 15, 1993
(78)

[*Text*]

The Standing Committee on Transport met *in camera* at 3:35 o'clock p.m. this day, in Room 269, West Block, the Chairman, Robert A. Corbett, presiding.

Members of the Committee present: Iain Angus, Ken Atkinson, Robert A. Corbett, John Manley, and Geoff Wilson.

Acting Members present: Ross Belsher for Lee Richardson; Felix Holtmann for Gilbert Chartrand.

In attendance: From the Research Branch of the Library of Parliament: John Christopher, Research Officer; David Cuthbertson, Consultant.

In accordance with its mandate under Standing Orders 32(5) and 108(2), the Committee resumed its consideration of the N.T.A. Review Commission's Report entitled "Competition in Transportation — Policy and Legislation in Review".

The Committee proceeded to discuss a draft report.

At 5:00 o'clock p.m., the sitting was suspended.

At 5:35 o'clock p.m., the sitting resumed.

At 6:00 o'clock p.m., the Committee adjourned to the call of the Chair.

WEDNESDAY, JUNE 16, 1993
(79)

The Standing Committee on Transport met *in camera* at 4:10 o'clock p.m. this day, in Room 269, West Block, the Chairman, Robert A. Corbett, presiding.

Members of the Committee present: Iain Angus, Ken Atkinson, Robert A. Corbett, John Manley, and Geoff Wilson.

Acting Member present: Bill Attewell for Gilbert Chartrand.

In attendance: From the Research Branch of the Library of Parliament: David Cuthbertson, Consultant.

In accordance with its mandate under Standing Orders 32(5) and 108(2), the Committee resumed its consideration of the N.T.A. Review Commission's Report entitled "Competition in Transportation — Policy and Legislation in Review".

The Committee proceeded to discuss a draft report.

It was agreed,—That today's report, as amended, be adopted by the Committee and that the Chairman table it with the Clerk of the House as soon as possible.

It was agreed,—That the Committee print up to 2,000 copies of the report, with an initial printing of 500 copies.

It was agreed,—That the report be entitled "Report on the Recommendations of the National Transportation Act Review Commission".

It was agreed,—That, pursuant to Standing Order 109, the Committee request that the Government table a comprehensive response to this report within one hundred and fifty (150) days.

It was agreed,—That the Chairman be authorized to make such typographical and editorial changes as may be deemed necessary without changing the substance of the report.

It was agreed,—That the Committee hire a Text Editor to review the Committee's report on the NTARC's recommendations and that he/she be paid up to $1,000.00 to perform his/her duties.

It was unanimously agreed,—That the Chairman be authorized to reveal the appropriate elements of this report when he appears before the National Transportation Agency in Saint John, New Brunswick, on June 19, 1993

It was agreed,—That the Committee not consider the notice of appointment of Richard Cashin to the National Transportation Agency.

It was agreed,—That the Committee pay for the working lunches on May 25, 1993 and June 1, 1993.

Marc Toupin
Clerk of the Committee