

BILL C-49: GOVERNMENT OF CANADA PROPOSES TO AMEND THE CANADA TRANSPORTATION ACT

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As we recently projected, the Government of Canada is introducing legislation that will make significant amendments to the *Canada Transportation Act* in relation to the rail and aviation modes of transport. On May 16, 2017, the federal Liberal government introduced [Bill C-49](#), known as the “*Transportation Modernization Act*”, after a short, period of stakeholder consultation, following a [statutory review](#) of the Act initiated by the former Conservative government that concluded in December 2015. Minister of Transport Marc Garneau has reportedly indicated that he hopes Bill C-49 will be adopted in early 2018.

Among other things, Bill C-49 would amend the Act to:

Rail

- allow a shipper that has access to the lines of only one railway company at the point of origin or destination to apply to the Agency for a “long haul interswitching rate” comparable to other traffic that would be issued within 30 days and apply for up to one year
- require the Agency to consider certain factors in adjudicating level of service complaints and shorten the statutory time frame for Agency adjudication from 120 days to 90 days
- increase the term of an award under final offer arbitration from one year to any period requested by a shipper up to two years
- allow shippers to seek reciprocal financial penalties and dispute resolution mechanisms in service level agreements and service level arbitrations
- require railway companies to publish their tariffs on their websites
- require the Agency to set the regulated interswitching rate annually
- require class I rail carriers to report certain information to the Minister of Transport for the purposes of determining long-haul interswitching rates and communicating service and performance indicators to the public
- amend the railway line discontinuance provisions
- eliminate railway company exposure to administrative monetary penalties for contraventions of service level arbitration awards

Aviation

- require the Agency to make regulations establishing a new air passenger rights regime
- raise the threshold of voting interests in an air carrier that may be owned and controlled by non-Canadians while maintaining Canadian status

Marine

- make certain minor amendments in respect of coastal trading licenses and port authorities

We will be issuing further analyses of the primary effects of Bill C-49 shortly.

In the meantime, please do not hesitate to contact us if you wish to set up a private briefing to discuss Bill C-49.

by François Tougas, Lucia Stuhldreier, Ryan Gallagher

Strategy, Negotiations, Resolution



(from left to right: Louis Zivot, [Lucia Stuhldreier](#), [Ryan Gallagher](#), [François Tougas – Co-Chair](#))

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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