

FRANÇOIS TOUGAS*

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François Tougas is a leading expert in the transportation, forest products and mining industries. He advises shippers and other stakeholders in connection with their commercial dealings and disputes with railways, and advises on competition / antitrust matters in the transportation, forestry and mining sectors.

Recognized by domestic and international directories as one of the leading transportation and competition lawyers in Canada, François has been repeatedly listed in *Chambers Canada*, *Who's Who Legal*, *Legal 500*, the *Canadian Legal Lexpert Directory* and *Best Lawyers*. He is ranked Band 1 in *Chambers Canada* (2021) in the Transportation, Rail and Road category, and Leading Individual in *Legal 500* in the Transportation category.

Admired for his work in competition matters in the railway industry, François has been instrumental in seeking statutory reform in the rail transportation sector. François teaches competition law at Allard Hall School of Law at the University of British Columbia (UBC) and has lectured in transportation regulatory economics in the MBA program at UBC's Sauder School of Business. He writes and speaks extensively on a variety of related legal matters. François leads the firm's Transportation Group nationally.

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Expertise: Competition, Antitrust & Foreign Investment, Forest Products, Mining, Rail, Transportation

Language Spoken: English, French

Location: Vancouver

Phone: 604.691.7425

Position/Title: Partner, Competition, Antitrust & Foreign Investment | Transportation

Directorships & Affiliations:

- Arbitrator, appointed to the roster of the Canadian Transportation Agency
- Canadian Bar Association (Competition Law Section)
- American Bar Association (Antitrust Section)

- Canadian Transportation Research Forum
- Canadian Association of Law Teachers

Publications:

- "[Railway Line Capacity Metrics](#)," Planning in Times of Unprecedented Change and Uncertainty, Proceedings of the 55th Annual Conference of the Canadian Transportation Research Forum (June 2020)
- "[Operating Ratio as a Measure of Railway Operating Efficiency](#)," 54th Annual Proceedings of the Canadian Transportation Research Forum (May 2019)
- "[House of Commons Debates](#)," House of Commons Chambre Des Communes Canada (May 2018)
- "[Rail Level of Service Decisions and Shipper Service Requirements](#)," 51st Annual Proceedings of the Canadian Transportation Research Forum (May 2016)
- "[Risk Shifting as use of Market Power: Transportation of Dangerous Goods](#)," 50th Annual Proceedings of the Canadian Transportation Research Forum (May 2015)
- "[Canadian Regulation of Cross-Border Mergers and Acquisitions in the Transportation Sector](#)," Transportation and Energy Industries Committee of the Section of Antitrust Law, American Bar Association (Spring 2015)
- "[The Disclosure of Rail Carrier Costing Information](#)," 48th Annual Proceedings of the Canadian Transportation Research Forum (June 2013)
- "[Apportioning Potential Liability for the Rail Transportation of Hazardous Commodities](#)," 47th Annual Proceedings of the Canadian Transportation Research Forum (June 2012)
- "[Shipper Incentives To Invest In Infrastructure And Operations](#)," 46th Annual Proceedings of the Canadian Transportation Research Forum (May 2011)
- "[Investment in Canada's Asia-Pacific Gateway Infrastructure for Bulk v. Container Traffic](#)," 46th Annual Proceedings of the Canadian Transportation Research Forum (May 2011)

Education & Admissions:

Degree: Called to the British Columbia bar

Year: 1989

Degree: LLB

University: University of British Columbia

Year: 1988

Degree: International Relations (Department of Political Science)

University: Brigham Young University, Provo, Utah

Year: 1985

University: Utah Technical College, Orem, Utah, (now Utah Valley University)

Year: 1983

Media Mentions:

- "Allard Law Students win Canadian Competition Law Moot", Peter A. Allard School of Law, April 16, 2019
- "[Senate changes rail-ownership law to focus on farmers, shippers and airline passengers](#)", by Josh Wingrove and Frederic Tomesco, Toronto Star, April 13, 2018
- "[Proposed Canadian law opening CN Rail to Bill Gates faces delay](#)", by Josh Wingrove and Frederic Tomesco, BNN, April 13, 2018
- "['Captive' shippers call for more data to address 'rail service failures'](#)", by Jesse Snyder, Financial Post, Sept 15th, 2017
- "[Legislation to require tougher insurance for oil shipments by rail](#)", by Stephen Karmazyn, Financial Post, May 13, 2015
- "[De-railed](#)", by Angela Stelmakowich, Canadian Underwriter, March 1, 2015
- "[FERC wades into generators' coal delivery woes](#)", Argus Rail Business, Issue 20-50, December 22, 2014
- "Peter Rozee named Western Canada GC of the Year", by Jennifer Brown, Canadian Lawyer, November 14, 2011
- "Abolish The Monopoly: Make Rail Services More Like Other Network Industries", National Post, June 2008

Rankings & Recognition:

- Recognized by Chambers Canada (2022) as a leading lawyer in the area of Transportation: Rail & Road
- Recognized by *Best Lawyers* in Canada (2022) as a leading lawyer in the area of Competition / Antitrust Law
- Recognized in the 2021 Canadian Legal Lexpert Directory as a Consistently Recommended Lawyer in the areas of Competition Law and Transportation (Rail & Road)
- Recognized by the Best Lawyers in Canada (2021) as a leading lawyer in the area of Competition / Antitrust Law
- Recognized by Chambers Canada (2021) as a leading lawyer in the area of Transportation: Rail & Road
- Recognized in the 2020 Canadian Legal Lexpert Directory as a Repeatedly Recommended lawyer in the areas of Competition Law and Transportation (Rail & Road)

- Listed in Who's Who Legal: Canada 2020 as a leader in Competition Competition Law and Transportation (Rail & Road)
- Listed in the Legal500 Canada 2020 as a "Leading Lawyer" – Transport
- Recognized by Chambers Canada (2020) as a leading lawyer in the area of Transportation: Rail and Road
- Leader in Competition/Antitrust Law in Best Lawyers in Canada 2011 to 2020
- Listed in Who's Who Legal: Canada 2019 as a leader in Competition
- Recognized in the 2019 Canadian Legal Lexpert Directory as a Repeatedly Recommended lawyer in the areas Competition Law and Transportation (Road & Rail)
- Leader in Competition Law in Who's Who Legal Canada: 2019
- Recognized in the 2018 Canadian Legal Lexpert Directory as a Repeatedly Recommended lawyer in the areas Competition Law and Transportation (Road & Rail)
- Leader in Transportation - Canada in Chambers Canada 2016 to 2019
- Leader in Transportation Law: Rail & Road in Chambers Global 2014 to 2017
- Leader in Competition Law, The Canadian Legal LEXPERT Directory 2011 to 2017
- Leader in Transportation (Road & Rail) Law, The Canadian Legal LEXPERT Directory 2011 to 2017
- "AV Preeminent" Peer Review Ranking, Martindale-Hubbell 1996 to 2019

Speaking Engagements:

- Competition Policy Roundtable with the Commissioner of Competition Matthew Boswell, Vancouver, Host
- January 26, 2021

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- Data Solutions for Enhancing Transportation Performance Railway Line Capacity Metrics CTRF 2020 Annual Conference
 - June 5, 2020

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- Proceedings of the Standing Senate Committee on Transport and Communications Senate of Canada, Ottawa, Ontario
 - February 18, 2018
 - <https://sencanada.ca/en/Content/Sen/Committee/421/TRCM/30ev-53805-e>

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- Standing Committee on Transport, Infrastructure and Communities
 - September 13, 2017
 - <https://www.ourcommons.ca/DocumentViewer/en/42-1/TRAN/meeting-69/evidence>
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- Conspiracy & Bid-Rigging, Presentation to the Association of Consulting Engineering Companies-BC, Annual General Meeting, Vancouver, BC
- June 4, 2015

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- Crude-by-Rail: Regulatory Developments in Canada, Presentation to Energy Bar Association, in panel presentation with Roger Nober, General Counsel, BNSF Railway, and Dr. Madgy El-Sibaie, US Dept of Transportation, chaired by Gordon Kaiser, Energy Arbitration Chambers, Washington, DC
 - November 4, 2014

Representative Matters: Competition Matters (Publicly disclosed matters only)

- Aurizon Mines (precious metals) in hostile takeover bid by Northgate Minerals (approx. \$400 million)
- Aurora Cannabis in acquisition of MedReleaf (\$3.2 billion)
- Aurora Cannabis in acquisition of CanniMed (\$1.2 billion)
- Aurora Cannabis in acquisition of Alcanna/Liquor Stores (\$103 million)
- Ballard Power Systems (fuel cells) in strategic alliance with Daimler Benz AG (approx. \$600 million)
- Ballard Power Systems (fuel cells) in formation of strategic alliance with DaimlerChrysler AG and Ford Motor Company (\$861 million)
- Ballard Power Systems (fuel cells) in acquisition of XCELLSIS GmbH and Ecostar Electric Drive Systems from DaimlerChrysler AG and Ford Motor Company
- Burcon International in acquisition of certain assets of Concord Pacific (former Expo lands)
- Canfor Corporation, Slocan Forest Products, Weldwood of Canada and West Fraser Timber in dealings with the Competition Bureau in sale of operations of British Columbia Railway to Canadian National Railway Company (\$1.02 billion)
- Crestbrook Forest Industries, MC Forest Investment and Kanzaki Paper in disposition of respective interests in Alberta Pacific pulp mill (amount not disclosed)
- Crown Packaging (paper packaging) in sale of Canadian divisions to Norampac, Paperboard Industries and Allpak Holdings (\$174 million)
- FreshPoint in merger of food service business (Pacific Produce) with Sysco Corporation (amount not disclosed)
- Glamis Gold in hostile take-over bid for Goldcorp (\$4.3 billion)
- Glamis Gold in the acquisition of Western Silver (\$1.2 billion)
- Glamis Gold in plan of arrangement with Goldcorp (US\$21.3 billion combination)
- Great Canadian Gaming (TSX:GC) in its acquisition by Apollo Global Management (NYSE:APO) (C\$3.3 billion)

- Great Canadian Gaming and Brookfield Business Partners in acquisition of Ontario Lottery & Gaming GTA Bundle (\$170 million)
- Great Canadian Gaming and Clairvest Equity Partners in acquisition of Ontario Lottery & Gaming West GTA Bundle (\$134 million)
- Great Canadian Gaming in acquisition of Ontario Lottery & Gaming East Bundle (\$51.3 million)
- Great Canadian Gaming in acquisition of Flamboro Downs from Magna Entertainment (C\$50 million, plus US\$23.6 million, plus debt)
- Great Canadian Gaming in acquisition of Casino Nova Scotia from Caesars Entertainment (US\$70 million)
- IGI Resources (natural gas distribution) in sale to Amoco Energy (amount not disclosed)
- Leavitt Machinery in acquisition of Interior Lift Truck from Finning (\$63 million)
- [Paper Excellence in the acquisition of Domtar \(NYSE/LSE/TSX:UFS\)](#) (US\$3 billion)
- [Paper Excellence \(pulp mills\) in acquisition of Catalyst Paper Corporation](#) (amount undisclosed)
- Primary Metals Inc. (tungsten) in sale to Sojitz Corporation of Japan (C\$49 million)
- Revelstoke Home Centres (retail home improvement) in acquisition of Lumberland Building Materials (amount not disclosed)
- Revy Home Centres (retail home improvement) in acquisition of Lansing Buildall (amount not disclosed)
- Revy Home Centres (retail home improvement) in sale of certain assets to RONA Inc. (\$221 million)
- Sierra Systems Group Inc. (information technology) sale to Golden Gate Capital (\$93 million)
- Teck Cominco (diversified mining) in unsolicited takeover bid for Inco Limited (nickel) (C\$16.8 billion)
- Teck Cominco (diversified mining) in acquisition of Aur Resources Inc. (precious metals) (C\$4.1 billion)
- VersaCold Corporation (public refrigerated warehousing) in acquisition of QF Distribution (amount not disclosed)
- VersaCold Corporation (public refrigerated warehousing) in acquisition of Trans-Canada Freezers (\$110 million)
- Waterous Energy Fund (oil & gas) in acquisition of Northern Blizzard Resources Inc. (\$244 million)
- [West Fraser Mills \(NYSE/TSX:WFG\) acquisition of Norbord Inc.](#) (C\$4 billion)
- [West Fraser Mills and Canfor \(integrated forest products\) timber tenure exchange with Canfor](#) (amount undisclosed)
- West Fraser Mills (integrated forest products) in acquisition of Chasm Division of Ainsworth Lumber (\$22 million)
- West Fraser Mills (integrated forest products) in acquisition of interest of Daishowa Paper interest in Quesnel River Pulp Company (amount undisclosed)
- West Fraser Mills (integrated forest products) in acquisition of certain assets of Zeidler Forest Products (Alberta Plywood)

- West Fraser Mills (integrated forest products) in sale of Babine and Decker Lake sawmills to Hampton Lumber (amount undisclosed)
- West Fraser Mills (integrated forest products) in the acquisition of timber tenures from Weyerhaeuser Company Limited (amount undisclosed)
- West Fraser Timber in connection with swap of timber tenures with Canfor Corporation (amount undisclosed)
- West Fraser Timber (integrated forest products) in acquisition of Weldwood of Canada from International Paper Company (integrated forest products) (\$1.26 billion)
- West Fraser Timber (integrated forest products) in acquisition of the forest products division of Alberta Energy (amount undisclosed)
- West Fraser Timber (integrated forest products) in acquisition of Eagle Hardware (retail home improvement)
- West Fraser Timber (integrated forest products) in acquisition of interest of Enso-Gutzeit Oy in Eurocan Pulp and Paper (amount undisclosed)

Transportation Matters (publicly disclosed)

- Canfor Corporation, Slocan Forest Products, Weldwood of Canada and West Fraser Timber (sale of the operations of British Columbia Railway to Canadian National Railway Company, 2003-2004)
- Canadian National Railway Company and Burlington Northern Santa Fe Railway Company v. Normerica Inc. (Federal Court, demurrage claims and service counterclaims, 2006)
- Canadian National Railway Company v. Western Canadian Coal Corp. (Final offer arbitration and application for judicial review, contesting operability of final offer arbitration provisions of Canada Transportation Act, 2004-2005)
- Canadian Pacific Railway Company v. Teck Coal Limited (defence of CP's application for leave to appeal decision of Canadian Transportation Agency to refer matter to final offer arbitration; application denied, 2009)
- Canpotex Limited and related entities in rail transportation services with Canadian National Railway Company
- Canpotex Limited and related entities in rail transportation services with Canadian Pacific Railway Company
- Canpotex Limited and related entities in rail transportation services with Union Pacific Railroad
- Elk Valley Coal Partnership et al. v. Canadian Pacific Railway Company (final offer arbitration and related proceedings, 2004)
- Elk Valley Coal Corporation (before the Competition Policy Review Panel, 2008)

- Fortress Investment Group (NYSE:FIG) in connection with the formation of Central Maine & Québec Railway and purchase of the assets of bankrupt Montreal, Maine & Atlantic railway, following derailment at Lac-Mégantic, Québec (July 6, 2013)
- [Fortress Transportation and Infrastructure Investors LLC \(NYSE:FTAI\) in connection with the sale of Central Maine & Québec Railway to Canadian Pacific Railway Company](#) (November 21, 2019; terms not disclosed)
- [Teck Coal Limited \(NYSE: TECK; TSX: TECK.B\) in connection with a five year rail agreement for shipping of steelmaking coal from Teck's four B.C. operations from Kamloops to Neptune Terminals and other west coast ports](#) (December 4, 2019; terms not disclosed)
- Teck Resources Limited, agreement with Westshore Terminals Limited (2010) and extension (2012)
- Teck Resources Limited, 10-year handling agreement with Ridley Terminals Inc. (2011)
- Teck Resources Limited, 10-year agreement with Canadian Pacific Railway Company (2010)
- Teck Coal Limited v Canadian Pacific Railway Company, final offer arbitrations (2009)
- Teck Resources Limited, supported by the Western Grain Elevator Association and the Canadian Canola Growers Association, before the Canadian Transportation Agency in connection with its Consultation on Cost of Capital (2020) and General Purpose Debt (2021)
- Teck Resources Limited, supported by the Western Grain Elevator Association, the Canadian Canola Growers Association, the Mining Association of Canada and the Western Canadian Shippers Coalition before the Canadian Transportation Agency in connection with its Consultation on the Regulatory Modernization Initiative (2018)
- Teck Resources Limited, supported by the Western Grain Elevator Association, the Canadian Canola Growers Association and the Western Canadian Shippers Coalition, before the Canadian Transportation Agency in connection with its Consultation on the Agency Regulatory Costing Model (2017)
- Teck Resources Limited, supported by the Western Grain Elevator Association and the Canadian Canola Growers Association, before the Canadian Transportation Agency in connection with its Consultation on Capital Structure and Cost of Capital Methodology (2016)
- Teck Resources Limited, before the Canadian Transportation Agency in connection with its Consultation on Amendments to the Uniform Classification of Accounts (2013) and its Cost of Capital Review (2010)
- Teck Resources Limited, before the Federal Rail Freight Service Review, Transport Canada (2008-2013)
- Teck Corporation, Weldwood of Canada, West Fraser Timber (before the Canada Transportation Act Review Panel, Transport Canada, 2000)
- [Gibraltar Mines \(NYSE/LSE/TSX:TKO\) 2018 final offer arbitration v Canadian National Railway and 2019 judicial review](#) (Federal Court of Canada (amount undisclosed))
- [Gibraltar Mines \(NYSE/LSE/TSX:TKO\) 2020 final offer arbitration v Canadian National Railway and 2021](#)

judicial review (Federal Court of Canada (amount undisclosed))

- Mining Association of Canada, before the Standing Committee on Transport, Infrastructure and Communities in connection with Bill C-52 (Service Level Agreements) (2013)
- Normerica Inc. v. Canadian National Railway Company and The Burlington Northern Santa Fe Railway Company (Canadian Transportation Agency, level of service complaint, 2006)
- Seaspan International v. The Burlington Northern Santa Fe Railway Company (Canadian Transportation Agency, abandonment opposition, 2005)
- TransLink (Greater Vancouver Transportation Authority) re application in support of City of Port Coquitlam's Coast Mountain Overpass over Canadian Pacific Railway Company's Coquitlam Yard (2006)
- Weldwood of Canada, West Fraser Timber and Weyerhaeuser (legislative reviews of the Canada Transportation Act, 1999)
- West Coast Express re negotiations with Canadian Pacific Railway Company (2005) Canfor Corporation, Slocan Forest Products, Weldwood of Canada and West Fraser Timber (sale of the operations of British Columbia Railway to Canadian National Railway Company)
- Numerous submissions to federal legislative review panels and parliamentary committees in connection with the Canada Transportation Act
- (Not Publicly Disclosed) Numerous negotiations and final offer arbitrations on behalf of bulk shippers (forest, mining, mineral and agricultural products) and passenger/commuter rail operations with Canadian National Railway, Canadian Pacific Railway, The Burlington Northern Santa Fe Railway and Union Pacific Railroad; numerous negotiations with export, domestic and international cargo terminals

Teaching Engagements:

- Adjunct Professor, University of British Columbia, Faculty of Law, "Competition Law & Policy" (2006 – 2016) and "Topics in International Law: International Business Transactions" (1994/98)

Industries: Forest Products, Mining, Rail, Transportation

Practices: Competition, Antitrust & Foreign Investment