

May 2017

Bill C-49: Government of Canada Proposes to Amend the *Canada Transportation Act*

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.

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[a cautionary note](#)

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