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ASSOCIATION OF REGIONAL RAILWAYS OF CANADA
ASSOCIATION DES CHEMINS DE FER REGIONAUX DU CANADA

**Submission to Transport Canada
for the Blueprint Initiative**

Ottawa, Ontario / February 1, 2002

**A SUBMISSION TO TRANSPORT CANADA
FOR THE BLUEPRINT INITIATIVE
FROM
THE ASSOCIATION OF REGIONAL RAILWAYS OF CANADA**

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1.0 Background	1
2.0 The Association of Regional Railways of Canada	2
2.1 ARRC's Observations on <i>Vision & Balance</i>	3
3.0 Comments and Recommendations	4
3.1 Viability of Short Line and Regional Railways	4
3.1.1 Recommendations	6
3.2 Infrastructure Improvements	7
3.2.1 Recommendations	7
3.3 Public Interest Issues	8
3.3.1 Recommendations	9
3.4 Safety and Security	10
3.4.1 Recommendations	12
3.5 Environment	13
3.5.1 Recommendations	15
3.6 Transportation Policy	15
3.6.1 Recommendations	17
4.0 Concluding Remarks	17

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1.0 BACKGROUND

On April 11, 2001, the Minister of Transport announced the Transportation Blueprint Initiative (the Blueprint), to guide the development of transportation policy over the next decade and beyond.

The Minister has stated that the Blueprint will build on the work of the Canada Transportation Act Review Panel, the Transportation Climate Change Table and on the 2000 Millennium Transportation Conference.

Transport Canada (TC) has noted nine major areas of challenge facing Canadian transportation. These are:

- ! Globalization and Marketplace Frameworks
- ! Integration
- ! Urbanization
- ! Rural and Remote Areas
- ! Environment
- ! Safety and Security
- ! Accessibility
- ! Innovation
- ! Skills

The challenges identified in these nine areas affect all carriers and all modes of transport to some extent.

They are all relevant to the future health of Canada's short line and regional railways (SL/RRs) and this submission will consider these challenges as they relate to the future viability of SL/RRs and their ability to contribute to Canadian competitiveness.

In addition, it is the view of the Association of Regional Railways of Canada that there is a tenth and overriding challenge that must be considered which is to develop a multi-modal transportation policy for Canada that will be supported by federal, provincial, and territorial governments. Despite the difficulty of this challenge, the Canadian economy will suffer in a highly competitive world if such a policy framework is not addressed and successfully achieved. ARRC will offer some comments on this matter as well.

2.0 THE ASSOCIATION OF REGIONAL RAILWAYS OF CANADA

The Association of Regional Railways of Canada (ARRC) is pleased to have the opportunity to present its views to Transport Canada as it develops a Blueprint for the future of Canadian transportation.

ARRC was formed in September 2001 to represent the views and opinions of Canada's SL/RRs without the compromises required when in association with the Class I railways.

The founding members of ARRC are BC Rail, the Hudson Bay Railway, the Carlton Trail Railway and Ferroequus Railway Company Limited. In 2000, ARRC members produced over 5 billion revenue-ton-miles, had revenues of approximately \$450 million, operated 4,067 route-km of track, and employed approximately 2,000 people.

ARRC is currently in discussion with other short line and regional railways and expects growth in its membership during 2002.

ARRC's mission and objectives as approved in its by-laws state:

It is the mission of the Corporation to represent the common interests of members before all levels of government, the public and other bodies, and to provide services to members as may be required.

The objectives of the Corporation are to:

- *Promote and further the interests of Canada's regional railways,*
- *Communicate to the public and government, the importance of regional and short line railways to the Canadian economy,*
- *Make representations to various levels of government on policy, taxation, regulation, and legislation that could have an impact on the activities of member businesses,*
- *Liaise and work with other associations where it is in the interest of ARRC members to do so,*
- *Liaise with trade unions, media, and other stakeholders,*
- *Provide advisory, training, and support services to member businesses, and,*
- *Carry out such other tasks as the members may direct from time to time.*

As the SL/RR industry grew and matured, it became evident to a number of SL/RRs that their interests and those of the Class I railways had diverged to the point where an Association whose membership consists exclusively of SL/RRs was necessary to effectively represent this segment of the railway industry.

In 2001, BC Rail, the third largest railway in Canada, and a charter member of the Railway Association of Canada (RAC), withdrew its membership in the RAC after 84 years. BC Rail concluded that that Association was no longer representing its interests. The OmniTRAX properties, Hudson Bay and Carlton Trail Railways, elected not to join the RAC, but have become charter members of ARRC. Ferroequus Railway Company Limited (FE) is a member of both Associations.

2.1 **ARRC's Observations on *Vision & Balance***

"Vision and Balance", the final report of the Canada Transportation Act Review Panel, clearly demonstrated that the concerns and positions of the SL/RRs were subsumed to those of the Class I railways. The fact that the SL/RRs' specific positions and concerns were not communicated effectively by the industry during the Review process played a large part in the Panel's inability to properly consider and assess SL/RR issues.

There are many examples of this throughout *"Vision and Balance"*. For instance, on page 57, under the heading "Railway profits and financial returns", the report states,

"With improved financial results of recent years, railways rank among Canada's more profitable businesses."

This may be true of the Class I freight railways. It is not entirely the case for the SL/RRs. The conditions under which the SL/RR's operate make it difficult for them to control significant elements of both pricing and service thus limiting their ability to grow traffic and increase revenues.

The non-Class I railways now originate approximately one-third of rail traffic and yet this important segment of the Canadian transportation industry was largely ignored in the Review panel's report. Exporters and other industries, including many outside the major urban areas, depend on SL/RRs for efficient, effective transportation.

It is the role of ARRC to promote the interests of the SL/RRs and to ensure that their concerns and positions on important issues are articulated and

communicated to the public and other stakeholders. In the following sections of this submission, ARRC offers its comments to TC as it develops the Blueprint.

The Directors and management of ARRC have extensive and wide-ranging experience in the railway industry with broad knowledge of railway economics, marketing, operations, and the legislative and regulatory environment. They understand the need for change to improve the competitiveness of their customers and the financial health of the railway industry. They are uniquely placed to provide input solely from the perspective of SL/RRs.

The ARRC team has studied and analysed “*Vision and Balance*” and the recommendations of the Review Panel will provide background to the ARRC recommendations, but the recommendations of “*Vision and Balance*” will not be specifically addressed in this submission.

The President of ARRC was the sole railway industry representative on the Transportation Climate Change Table. His knowledge and insights into the environmental issues addressed by the Table also provided invaluable insights in developing ARRC’s positions and recommendations.

3.0 **COMMENTS AND RECOMMENDATIONS**

ARRC commends the Government for undertaking the Blueprint initiative. While Canada’s transportation system is among the best in the world, changes and improvements are needed.

ARRC’s comments and recommendations will focus on the specific concerns of the SL/RRs, but within the context of Blueprint objectives.

The specific recommendations that follow will be addressed under the headings of:

- Viability of Short Line and Regional Railways
- Infrastructure Improvements
- Public Interest Issues
- Safety and Security
- Environment
- Transportation Policy

3.1 **Viability of Short Line and Regional Railways**

Commercial success for SL/RRs is important for the carriers, for the Canadian economy and for maintaining rail service and infrastructure to communities and industries located outside of the major metropolitan areas. The viability of SL/RRs depends on the general state of the Canadian economy, the success of industries served by SL/RRs, their relations with connecting Class I railways, and the legislative and regulatory framework within which they operate.

This section of the ARRC submission will address the last two issues:

- i. relations with connecting Class I railways; and,
- ii. the legislative and regulatory framework.

The **Canada Transportation Act** and “*Vision and Balance*” speak to these issues, but generally as they relate to relations between “the railways” (meaning the Class I railways) and shippers.

ARRC members believe that market forces should govern the freight market place, but it is necessary that there be some balance in strength between buyers and sellers. The position of the two Class I railways is so dominant that both the **National Transportation Act, 1987** and the **Canada Transportation Act of 1996** provided some safeguards and recourse to shippers who are subject to the monopoly power of the Class I carriers. The growing SL/RR industry finds that it is also subject to potential monopolistic practices by the Class I railways and needs protection in law.

The CTA, 1996 currently provides some protection for SL/RRs in its provisions dealing with running rights, interswitching limits, and some of the dispute resolution mechanisms. “*Vision and Balance*” generally recommends that these provisions be retained, but with some changes.

It is the view of ARRC members that changes to the CTA, 1996 should explicitly address those issues dealing with SL/RR-Class I relations that put the commercial viability of SL/RRs at risk. Specifically, ARRC members need assistance in establishing equitable pricing and division of revenues with their Class I connections. Revisions to the CTA, 1996 should provide a framework to allow and encourage SL/RRs to grow traffic to their account and therefore enhance viability.

Remedies to redress hardships caused by Class I dominance and to effectively resolve disputes between Class I railways and shippers, and between Class I railways and designated commuter rail authorities are important features of CTA, 1996. SL/RRs do not currently have any comparable means of resolving disputes with the Class I railways. Access to final offer arbitration, similar to that granted to designated commuter rail authorities, would provide an effective mechanism to resolve disputes that may arise between SL/RRs and the Class I railways.

There are issues arising from the Class I’s interpretation of contractual conditions that impose onerous and restrictive requirements on the SL/RRs related to pricing, division of revenue, and service obligations. While these are contractual issues between private parties, there may need to be government support in

establishing guidelines for a “SL/RR Bill of Rights” governing the non-regulated aspects of Class I-SL/RR relationships.

Class I carrier control over car supply is sometimes a problem for SL/RRs and their customers and is an example of where government supported guidelines would be beneficial.

Taxation also has a major impact on the viability of all railways, especially SL/RRs. The imposition of fuel taxes, and property tax on rail rights-of-way is particularly onerous.

Two years ago, the Finance Department raised the Capital Cost Allowance (CCA) for railway rolling stock from 10% to 15%. However, the CCA is still not completely reflective of the true economic life of these assets and also is not competitive with rates in the U.S. and those that apply to the Canadian trucking industry. Such a change would allow the railway industry to renew assets at a more rapid rate improving the productivity, safety, and environmental performance of the industry.

3.1.1 **Recommendations**

1. Final Offer Arbitration should be available to all SL/RRs in commercial disputes with the Class I carriers.
2. Running rights, pursuant to Section 138 of the ***Canada Transportation Act***, should be explicitly confirmed as a tool for enhancing competition within the railway industry.
3. The legislative amendments related to the above recommendations should be carefully crafted to ensure that, while protecting Class I rights, the provisions do not impose undue delay in the Agency’s decision process or onerous provisions on SL/RR applicants.
4. The federal government should state its support for industry efforts to negotiate a set of “guidelines” or a “SL/RR Bill of Rights” broadly governing the relations between Class I and SL/RRs.
5. The federal government should remove the federal excise tax on locomotive fuel for all railways and work with the provinces to reduce or eliminate property taxes on railway rights-of-way.
6. The Federal Government should modify the Capital Cost Allowance for railway rolling stock to more accurately reflect the true economic life of these assets.

3.2 **Infrastructure Improvements**

All railways are capital intensive and they must be able to generate enough capital to renew and upgrade their fixed plant or infrastructure.

The SL/RRs are currently faced with the need to upgrade track structure and bridges to handle a new North American standard for four-axle freight cars weighing 286,000 lbs. The North American Class I railways drove this increase of 9% over the old standard of 263,000 lbs. in response to market pressures to improve productivity and pricing. This is an extraordinary upgrading of plant that is beyond the financial capability of some SL/RRs and it is also an upgrading of the transportation infrastructure that is of value to communities and industries served by the SL/RRs.

In addition, all SL/RRs must build and maintain grade crossing warning systems, but only federally-regulated railways have access to the federal grade crossing fund. SL/RRs are sometimes required to participate financially in road/rail grade separations. Railways are also burdened with the costs of regular maintenance, weed and brush control, and they also pay property taxes on their rights-of-way.

Several provinces, and in particular Quebec, have recognized the burdens that railways assume in maintaining their infrastructure and have offered both tax relief and financial assistance.

The challenges faced by SL/RRs are:

- i. accumulating sufficient capital to invest in plant;
- ii. accommodating the increased axle loads related to the 286,000 lb. cars;
- iii. no access by provincially-regulated railways to the federal grade crossing fund for warning system installations;
- iv. imposition of property tax on rights-of-way when competing truckers operate on tax-consuming rights-of-way; and,
- v. general lack of access by railways to infrastructure funding programs of various levels of government.

3.2.1 **Recommendations**

1. Funds from federal and provincial infrastructure programs should be available on an equitable basis to rail and marine modes as well as to road and highway programs.
2. The grade crossing fund should be extended to all railways in Canada, regardless of which level of government is the regulator.
3. Property taxes associated with railway rights-of-way should be

harmonized across jurisdictions and should take into account that railways acquire, own, build and maintain their rights-of-way and all infrastructure, unlike commercial highway transport.

4. Federal and provincial authorities should provide special one-time assistance to SL/RRs to upgrade track and bridge structures to handle four-axle freight cars weighing 286,000 lbs.

3.3 **Public Interest Issues**

Public interest issues can result in policies that will have an impact, not only on the public interest, but also on the commercial viability of SL/RR and their customers. There is no inherent contradiction in this as the public interest is served by promoting the commercial success of railways and their customers.

ARRC members are in favour of a vigorous legislative overview of rail mergers, since its members are extremely vulnerable to a restructuring of the industry by the Class I railways. Any such restructuring is, by definition, geared to promote the interests of the Class I railways, but can have a devastating effect on connecting railways and shippers. ARRC supports the appointment of a Public Interest Evaluator, but sees the need to provide that person with greater authority. For instance, the appointment of the Public Interest Evaluator should be mandatory in the case of all rail mergers, and his or her report should be binding. There should also be no time limit on the investigation conducted by the Public Interest Evaluator.

The railway industry in general, and SL/RRs in particular, have lost market share over the past half century. This was the result of major public investment in roads and highways throughout the settled part of Canada and the consequential growth of the trucking industry. The continuing support for the trucking industry by all levels of government continues to be of concern. Canada needs a healthy trucking industry and an adequate road and highway system. It also needs a healthy railway industry. The Canadian economy will be better served with a more equitable balance in public investment in transportation infrastructure between the various modes. Recommendation #1 in Section 3.2.1 addresses this issue.

The Canadian railway industry, including the SL/RRs, operates in an integrated North American economy and Canadian railways are in competition with U.S. railroads as well as with North American truckers. It is necessary for the sustainability of SL/RRs that the legislative and regulatory framework governing the commercial aspects of railways strengthens the SL/RR competitive position within this continental market place.

Concern has been expressed by many authorities both in government and the

railway industry about the unclear jurisdictional issues that exist where federally and provincially regulated railways meet. For example, there are situations where provincially-regulated railways run on the tracks of federally-regulated railways and vice-versa. The **Canada Transportation Act** is silent on jurisdiction over the commercial aspects of these situations. This situation has created a regulatory vacuum that has caused difficulties for the carriers, shippers and the public.

Technical training and continuous skills upgrading is of paramount importance to the SL/RR's both in terms of safety and public interest. The technological advances introduced by the industry over the past decade have contributed greatly to safety, security and productivity improvements. The cost of ensuring that employees are kept up to date on these emerging technologies is very large. In most cases, SL/RR's lack the infrastructure to provide internal training and must rely on outside contractors.

There are currently a number of initiatives underway that are addressing the technical training requirements. For example, ARRC supports the Human Resources Development Canada (HRDC) study currently underway that focuses on the industry's current and future human resource challenges and needs, including technical training. ARRC also supports the concept of the RAC's Institute of Railway Technology that will effectively transfer the delivery of technical training programs for new-hires from the railway companies to accredited community colleges across Canada. Both these programs will help to ensure a well-qualified and trained workforce for the SL/RRs and will shift some portion of the training costs to the public sector.

3.3.1 **Recommendations**

1. The Public Interest Evaluator should be mandatory in the case of all rail mergers, and his or her report should be binding. There should also be no time limit on the investigation conducted by the Public Interest Evaluator.
2. Any amendments to the **Canada Transportation Act** should be developed to enhance the competitiveness and viability of the SL/RRs, especially with regard to the potential for monopoly powers to be unduly exercised by the North American Class I's over the SL/RRs.
3. Amendments to the **Canada Transportation Act** should address the issue of jurisdiction in situations where federally and provincially regulated railways come in contact with one another, particularly as regards to issues such as competitive line rates, and dispute resolution mechanisms.
4. All Canadian railways should have the opportunity to participate directly in all government-sponsored human resource initiatives, e.g., the HRDC Human Resource Sector Study.

3.4 **Safety and Security**

Effectively managing safety and security is fundamental to the success of any SL/RR. ARRC members work closely with their Class I partners and with the regulatory authorities to promote safe railway operations throughout the network.

The ***Railway Safety Act*** (RSA) is world-leading legislation. It protects the public interest, gives TC inspectors' strong powers and ensures that labour unions have a role in the safety process. At the same time, it recognizes that managing safety is an inherent part of managing a railway and places the responsibility for safe railway operations with railway management.

Recent amendments to the RSA that require federally-regulated railways to develop a formal Safety Management System, will continue to improve the management of safety and allow the Railway Safety Directorate of TC to focus its efforts on auditing safety performance within each company's safety plan.

ARRC and its members have some concerns that the safety regime for federally and provincially regulated railways is not identical. Some provinces, such as Ontario, have incorporated the RSA into their legislation and contract with TC to inspect and oversee safety management of provincially-regulated railways. Other provinces maintain a separate establishment to oversee railways that they regulate.

While most provinces have adopted the federal rules, it is ARRC's view that regulation of safety of all railways in Canada should be consistent.

A key element of the RSA is the rule-making process, which is the responsibility of the railway companies, as defined in Sections 7 (for technical standards) and Sections 19 and 20 (for all maintenance and operating safety rules).

The industry has organized itself through the RAC to manage the rule-making process. ARRC has had discussions with the Railway Safety Directorate concerning the rule-making process and is prepared to work with the Railway Safety Directorate and the RAC in this process.

ARRC has concerns about the regulatory "gap" that exists in safety legislation where the operation of federally and provincially regulated railways come together. For example, VIA Rail Canada Inc., a federally-regulated railway, runs trains on the New Brunswick East Coast Railway, a provincially-regulated railway. In this case, it is unclear whether federal or provincial regulation governs safety. There are also many places in Canada where freight cars are interchanged between federally and provincially regulated railways and where crews of both railways operate in yards and over short distances on each other's trackage. While there is close cooperation by companies in managing safety at interchange

points, federal and provincial legislation should be clear on jurisdiction wherever possible.

This submission makes the case for harmonization of the safety regimes between federal and provincial jurisdictions. ARRC is also in favour of harmonization with the U.S. railroad safety regime, but believes that this should be approached with caution.

The RSA provides the best railway safety regime in North America, and probably the best in the world. The ideal situation would be for the U.S. to adopt the Canadian ***Railway Safety Act***. The area where harmonization is most required relates to the safety appliances, standards, and maintenance practices for freight cars and locomotives that move internationally.

While it is unlikely that the U.S. would pass legislation mirroring the Canadian ***Railway Safety Act***, it is ARRC's view that TC officials should continue to promote the philosophy and principles of the RSA when meeting with officials of the U.S. Department of Transport (DOT).

Harmonization can take many forms from identical legislation and regulation to agreement that different approaches achieve equivalent results. It is ARRC's view that care should be taken in harmonizing the railway safety regime with the United States and that the benefits of the RSA should not be lost in any harmonization efforts.

In this section, we would also comment on the important work done by the Transportation Safety Board of Canada (TSB). Both the public and the transportation industry are well served by an accident investigation agency that is independent, and seen to be independent. The TSB has made a significant contribution to improving the safety of all modes of transport in Canada, except for commercial highway transport.

There are more truck-related fatalities and injuries each year than in all other modes combined. The TSB does not investigate inter-provincial highway carrier accidents, which are a federal responsibility, but that responsibility has been delegated to the provinces. It is ARRC's view that the TSB should be given the mandate and resources to investigate inter-provincial truck and bus accidents.

The TSB does not currently have a mandate to investigate accidents on provincially-regulated railways. There have been cases where provinces have contracted with the TSB to investigate railway accidents. ARRC would encourage TC and the TSB to promote the services of the TSB to all provinces to investigate accidents on provincially-regulated railways.

With regard to the transportation of dangerous goods, the current legislation

covers all railways in Canada. It is our understanding that for purposes of the **Transportation of Dangerous Goods Act** (TDG) all railways are treated as if under federal jurisdiction. The recent rewrite of regulations known as the “Clear Language Regulations” have achieved the opposite of the intended purpose and are of some concern.

It is a challenge for SL/RRs to keep their operating employees up-to-date on the legal and regulatory requirements of the safety and accident investigation regimes. Safety training is an important and continuous activity. Because SL/RRs are small companies with limited support staff, they have generally relied on the Class I railways for assistance in training and maintaining the safety knowledge of their employees.

As the Class I railways have downsized, it has become more difficult for them to accommodate training of SL/RR employees. ARRC members will need to find innovative new ways to maintain their current safety training and would be interested in exploring funding and other assistance through government programs such as those directed by Human Resources Development Canada.

3.4.1 **Recommendations**

1. Transport Canada should intensify its efforts with the provinces to harmonize the rail safety regulatory regime. Transport Canada should promote the Transport Canada/Ontario agreement as the model to be used in all provinces.
2. Transport Canada should continue to work with the provinces and the railway industry to ensure that there is no ambiguity or gaps in the safety regulatory regime in those instances where federally-regulated railways operate on the track of provincially-regulated railways, and vice-versa.
3. The issue of freight car safety should be particularly addressed to clarify if federal freight car maintenance rules apply to maintenance practices on provincially-regulated railways for freight cars that move in interchange service.
4. Transport Canada should continue to influence the U.S. DOT to adopt railway safety legislation that is harmonized with the **Railway Safety Act**.
5. The Transportation Safety Board legislation should be amended to empower the Board to investigate accidents occurring with inter-provincial commercial highway carriers (trucks and buses). The Board should be provided with the necessary resources to fulfill this mandate.
6. Transport Canada and the TSB should work together to encourage the

provinces to contract with the TSB to investigate accidents on provincially-regulated railways.

7. Transport Canada should work with the SL/RRs and Human Resource Development Canada to develop and fund training programs that will ensure SL/RR operating employees obtain and retain the necessary knowledge and skills to maintain the highest levels of safe railway practice.

3.5 **Environment**

The major environmental problems associated with land transportation are air emissions, primarily greenhouse and ozone-causing gases, as well as land use. For both of these issues, railways are part of the solution, not part of the problem.

Dealing first with land use, there is continued pressure to devote more land to expand existing roads and to build new ones. Railway rights-of-way that now exist can handle greater volumes of traffic. Rail capacity on single track routes can be more than doubled by adding a second track to existing rights-of-way.

SL/RRs generally operate light-density branch lines, but, even in these cases, SL/RRs take traffic that would otherwise be handled on rural roads, thus reducing traffic and damage to the environment.

Because railways provide part of a community's infrastructure on an environmentally-friendly basis, federal and provincial taxation and infrastructure funding programs should be administered to consider the advantages that railways in general, and SL/RRs in particular, provide.

The major environmental concern associated with land transportation is the impact of engine exhaust emissions on air quality. The greenhouse gas emissions (GHG) vary directly with the consumption of fuel in all modes. Rolling resistance of the steel wheel on steel rail is one-sixth to one-tenth that of rubber tires on pavement. As a result, railways are able to move one tonne of freight one kilometre using about one-sixth of the fuel that it would take to move the same tonne over the same kilometre by truck.

The Transportation Climate Change Table (Kyoto Table) of TC noted in its research that railways produce slightly more than half of all intercity freight ton-miles (tonne-kilometres) while generating a small fraction of the GHG's produced by trucks. The Kyoto Table research also reported that transportation is the single largest contributor of GHG of all industrial sectors. Automobiles are the largest producer of GHG emissions. In freight transportation, trucks are the largest producer of GHG and rail is the lowest. This is particularly significant given that rail is the largest producer of intercity freight ton-miles.

While it is the Class I railways that generate most of the rail benefit, the SL/RRs are also contributors.

Government policies over the last 75 years have encouraged the growth of highway transport and, while rail traffic has increased in absolute terms, rail's share of traffic has declined. Some of the shift from rail to truck is appropriate, but public policies and taxation have promoted this modal shift beyond what is economically and environmentally in the best interests of Canada. We have made recommendations in Section 3.1.1 that, if accepted, would encourage a shift back to rail.

Currently locomotive emissions are controlled under the terms of a Memorandum of Understanding (MOU) between Environment Canada and the RAC. We note in passing that the current President of ARRC led the RAC in negotiations related to that MOU. Under this MOU, the railway industry agreed to cap GHG emissions, primarily CO₂, at 115 kilotonnes per year even with traffic growth of approximately 1% per year.

The targets of the MOU have generally been met since its inception in 1995.

It has been suggested that Canada should adopt similar locomotive emission regulations to those in the United States. While the U.S. regulations exempt the locomotives of American SL/RRs, ARRC does not recommend this approach in Canada for the following reasons:

- a. The total Canadian fleet of locomotives is only about 3,500 units.
- b. The air quality problems in Canada are not as severe as in the United States. In Canada, there are three geographical areas of concern, Saint John, NB, Quebec-Windsor corridor, and the lower British Columbia mainland. In all these cases, most of the pollution originates in the United States.
- c. Most railway locomotive use, especially by SL/RRs, is outside the three problem areas in Canada.
- d. The MOU approach is consistent with the basic principles of the **Railway Safety Act**, making railway managers responsible for managing safe rail operations.

There are two other recent developments related to the control of GHG emissions. Recent amendments to the **Railway Safety Act** give TC the responsibility for regulating railway emissions of federally-regulated railways and the report of the Kyoto Transportation Table that identified options for the

transportation industry to meet its share of Canada's Kyoto commitment. It is noteworthy that only two of the more than 100 options were directed at railways. Most were focussed on road transportation. This is another indication that rail is part of the solution, not part of the problem.

The two options directed at the railway industry were to increase the Capital Cost Allowance for both freight cars and locomotives, which would result in accelerated write-off of older assets and promote early investment in new, more energy-efficient equipment.

3.5.1 **Recommendations**

1. Recommendations on taxation are made elsewhere in this paper, but a general recommendation is that all levels of government should consider the environmental benefits of railways when setting tax policies.
2. Road pricing policies should ensure that commercial highway transport (trucks and buses) should pay their full share of the costs for their use of roads. Such a policy would lead to more realistic road transport pricing and result in some modal shift from road to rail.
3. Transport Canada, Environment Canada and the railway industry should enter into a new MOU controlling GHG from railway locomotives based on the existing MOU, but updated to reflect the current composition of the locomotive fleet, the duty cycle, and conversion factors used to estimate emissions from fuel consumption.
4. The options identified by the Kyoto Transportation Table for increased Capital Cost Allowance for the purchase of locomotives and freight cars should be implemented to promote investment in new, more energy-efficient rail equipment.

3.6 **Transportation Policy**

Canada's National Transportation Policy is currently set out in section 5 of the Canada Transportation Act, but it has been an essential feature of Canada's transportation legislation for the past 35 years. The policy statement has guided all stakeholders in understanding the principles that are fundamental to the interpretation of our transportation law.

A significant jurisprudence has developed in connection with our national transportation policy which is unique to Canada and which has been a significant factor in achieving finality and acceptance of transportation principles among stakeholders. ARRC believes that any change that denigrates this policy is

extremely unwise.

Unfortunately, The Canada Transportation Act Review Panel Report recommends changes to the current policy statement that would, if implemented, cause substantial harm to the policy and the jurisprudence that has developed around it.

By way of example, the policy currently requires that each carrier, as far as is practicable, carries traffic to or from any point in Canada under fares, rates and conditions that do not constitute (i) an unfair disadvantage in respect of any such traffic beyond the disadvantage inherent in the location or volume of the traffic, the scale of operation connected with the traffic or the type of traffic or service involved, (ii) an undue obstacle to the mobility of persons, including persons with disabilities, (iii) an undue obstacle to the interchange of commodities between points in Canada, or (iv) an unreasonable discouragement to the development of primary or secondary industries, to export trade in or from any region of Canada or to the movement of commodities through Canadian ports ...”.

The Panel’s replacement to that policy would be a simple statement that “Fares, rates and conditions do not impose undue obstacles to the mobility of persons with disabilities”.

What has been left aside in the Panel’s recommended change to the policy are factors which (among other things) would permit SL/RRs to rely upon policy in support of expanded running rights, and other applications that would promote the interchange of commodities between points in Canada; that would promote the development of primary or secondary industries (such as the forest products industry or the grain industry in western Canada); that would promote the movement of commodities through Canadian ports (such as Prince Rupert or Vancouver), etc.

Other fundamental principles omitted from the Panel’s approach to national transportation policy include the current requirement that transportation is recognized as a key to regional economic development and that commercial viability of transportation links be balanced with regional economic development objectives so that the potential economic strengths of each region may be realized. Again, this concept of the current law supports the importance of creating and maintaining a strong competitive presence of SL/RRs to promote the objectives that are stated.

Deletion of these policy factors would cause great harm to the viability and effectiveness of SL/RRs and would make the achievement of their goals and their ability to provide competitive services substantially more difficult - perhaps even impossible.

3.6.1 **Recommendations**

1. Existing principles in National Transportation Policy should be retained.
2. Revision to the policy should be minimal; revisions should build upon the principles that already comprise the policy.
3. Consistent with the emphasis in National Transportation Policy on the viability and effectiveness of transportation services, a strong statement on the importance of SL/RRs and the need for SL/RRs to be viable and competitive should be added to reinforce and enhance the current policy.
4. Transport Canada should engage the provinces in dialogue with a view to developing an integrated multi-modal policy for Canada that would be reflected in both federal and provincial legislation.

4.0 **CONCLUDING REMARKS**

In summary, ARRC commends the Minister of Transport and the Transport Canada staff for undertaking this major review of Transport Policy to reflect the current and future conditions faced by the Canadian transportation sector and the industries that depend on a healthy transportation system for their success.

ARRC is of the view that this process should be very broad in scope and this submission has been designed with that in mind. The SL/RRs are an important part of Canadian transportation with a unique set of challenges. The recommendations in this document reflect the views of this constituency and their needs in order to grow, prosper and support important segments of the Canadian economy.

ARRC appreciates the opportunity to make its views known to Transport Canada on this important initiative and will continue to be available for consultation as the Blueprint moves forward.

February 1, 2002