

# TRANSPORTATION NOTES

Legal Decisions and Developments Affecting the Transportation Industry in Canada

Issue 2015-02 (May 19, 2015)

## CTA Approves Air Cargo Tariff Filings through IATA TACT Manual

On April 10, 2015, the Canadian Transportation Agency (the “Agency”) issued an Order that will significantly change the way in which scheduled international cargo carriers file their tariffs in Canada.

As the *Air Transportation Regulations*, SOR/88-58 (the “ATRs”) currently stand (and subject to any provisions to the contrary contained in bilaterals), international cargo carriers operating to/from Canada must:

- file a terms and conditions tariff as well as a rates tariff with the Agency<sup>1</sup>;
- where the tariff is in paper form, file their tariffs together with a filing advice in duplicate;
- prepare the tariff in a prescribed form;
- file their tariffs at least 45 days before they are to take effect; and
- ensure that their tariffs are maintained in a uniform and consistent manner, numbered with the prefix “CTA(A)”.

Historically, scheduled international tariff filings for cargo operations have occurred in one of two ways, either:

- via the Airline Tariff Publishing Company (“ATPCo”); or
- via manually filings submitted by each carrier on its own behalf.

Effective December 31, 2012, ATPCo discontinued its filing service for cargo

operators in Canada, leaving as the only method for cargo tariff filings the cumbersome manual method. Many carriers have continued to rely on the filings that were made prior to ATPCo’s discontinuance of the filing service.

Recognizing an opportunity to be of assistance to the industry, the International Air Transport Association (“IATA”) applied to the Agency for an exemption to the tariff filing rules. IATA sought Agency approval of reliance, by cargo operators, on The Air Cargo Tariff manual (the “TACT manual”), which IATA has been publishing for over 40 years.

The TACT manual (which does not conform to the Agency’s prescribed form for tariff filings) is updated quarterly. It reflects the industry’s rates and rules for cargo operations by air carriers. The TACT manual includes<sup>2</sup>, for example:

- industry, country and carrier rules;
- IATA rules on the acceptance of goods and Air Waybill completion; and
- country rules, regulations and charges on import, transit and export prefixes.

In addition, the TACT manual provides specific information on:

- industry and carrier specific rates;
- 4.5 million rates for 350,000 city pairs;
- industry, country and carrier specific charges for charges collect, class rates and dangerous goods; and

- calculation of charges and cargo claims.

In proposing this solution, IATA clarified that the TACT manual is simply a means to reflect the appropriate rates and rules for the movement of cargo and that IATA does not create the content of the manual — rather, carriers do this on their own. Further, IATA indicated that if any ruling by the Agency required a change to a particular carrier’s rules in the TACT manual, IATA could only commit to using its best reasonable efforts to make the required modifications, but that these efforts would be subject to “logistical and time constraints”.

In considering IATA’s application, the Agency began its analysis by citing section 80(1)(c) of the *Canada Transportation Act*, S.C. 1996, c. 10, which allows the Agency to exempt an air carrier from certain provisions of the ATRs where the Agency is of the opinion that compliance is “unnecessary, undesirable or impractical”.

When considering the various exemptions requested by IATA<sup>3</sup>, and given the paucity of efficient alternatives available to cargo carriers for nearly 2½ years after ATPCo stopped offering a cargo tariff filing service in Canada, the Agency granted the requested relief, noting that the exemptions apply only to the **paper version** of the TACT manual.

The Agency also noted that, if the format of the TACT manual was to change or if

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# CTA Approves Air Cargo Filings through IATA TACT Manual (cont'd)

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the medium were to differ (e.g. if there was an intention to rely on an electronic TACT manual), IATA may be required to apply for a further exemption.

The Agency ordered IATA to place the following notice at the beginning of the TACT manual before the exemptions can take effect:

The aeronautical authority for Canada, the Canadian Transportation Agency, pursuant to Order No. 2015-A-60, granted exemptions to the International Air Transport Association. The exemptions allow for the filing of TACT paper manuals to meet the filing requirements of the ATR.

The Agency ordered that carriers currently relying on cargo tariffs which had been filed by ATPCo must, in lieu of these tariffs, advise the Agency of:

- their intent to participate in the newly recognized TACT manual which will be filed with the Agency by virtue of carriers making arrangements with IATA (by way of powers of attorney and general concurrence filed with the Agency) for it to be a filing agent on their behalf; or,
- their intent to file an in-house cargo tariff directly with the Agency; or,
- the fact that they do not offer cargo services to/from Canada.

Carriers are required to comply with this order by July 13, 2015, failing which the Agency has indicated that it may take further action.

*Canadian Transportation Agency,  
Order No. 2015-A-60 (April 10, 2015)*

## **Footnotes:**

<sup>1</sup>It is important to understand that, even as relates to jurisdictions with open skies arrangements with Canada, carriers with cargo operations to/from Canada must file a terms and conditions tariff, even if they are not required to file rates tariffs. This is the case, for example, with carriers based in the United States.

<sup>2</sup>Details on the IATA TACT manual can be found online at [www.iata.org/publications/pages/air-cargo-tariff.aspx](http://www.iata.org/publications/pages/air-cargo-tariff.aspx)

<sup>3</sup>In particular, exemptions were requested for sections 110(1), 114(5), 114(6), 115(1) and 120(2) of the ATRs.

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### **Gerard Chouest**

(416) 982-3804  
chouest@lexcanada.com

### **James P. Thomson**

(416) 982-3805  
jthomson@lexcanada.com

### **Carlos Martins, Editor**

(416) 982-3808  
cmartins@lexcanada.com

### **Tae Mee Park**

(416) 982-3813  
tpark@lexcanada.com

### **Andrew MacDonald**

(416) 982-3830  
amacdonald@lexcanada.com

### **Julia Lefebvre**

(416) 982-3810  
jlefebvre@lexcanada.com

### **Elliot P. Saccucci**

(416) 982-3812  
esaccucci@lexcanada.com



33 Yonge Street Suite 201,  
Toronto, Ontario, CANADA  
Phone: 416 982-3800  
Fax: 416 982-3801

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