

**Submission to the Conciliation Board**  
**May 29 - June 2, 2002**

**Introduction**

The following observations are in response to the Employer's claims regarding:

1. The post-September 11<sup>th</sup> impact on the economy in general and aviation in particular.
2. Recruitment and Retention
3. Article 46, Professional Currency
4. Article 47, Job Security

**Economic Impact - Post Sept. 11, 2001**

The employer states in their brief:

*"In the Employer's opinion, the current state of the economy is one of many factors that must be considered by this Board. Factors such as fiscal realities, the robustness of private business, the financial health of the taxpayers and the unemployment rate all have an influence on decisions regarding public sector compensation and eventually, on the perception of the public as to whether the remuneration for public servants is reasonable."*

While the employer would like to portray the current economic situation as bleak the following recent news clippings demonstrate otherwise:

GLOBE AND MAIL, April 18, 2002:

*"Just months after Finance Minister Paul Martin was pleading poverty as he handed down his recession-fighting budget in December, the Federal Government is facing an embarrassment of riches."*

GLOBE AND MAIL, April 17, 2002:

*"Dodge may brake rip-roaring economy". "The Bank of Canada is poised to push interest rates higher as soon as tomorrow to start braking the economy as Canadian companies gear up production and hire more workers."*

*"The economy is rip-roaring along," said Sal Guatieri, senior economist at Bank of Montreal. In March alone, employment rose by 88,000 jobs, about 10 times the number forecasters had predicted. "It's a question about whether this growth can be sustained," he said.*

GLOBE AND MAIL, April 19, 2002:

*"Canada seen outpacing G7 economies for two years". "The IMF also concluded that the global slowdown has bottomed out and the impact of Sept. 11 has dissipated."*

GLOBE AND MAIL, May 11, 2002:

*"Strongest employment surge in five years reinforces predictions of interest-rate hike." " Canada's booming employment market showed no signs of cooling in April, adding another 37,000 jobs and propelling the dollar to its highest close since September....The 207,000 jobs created since December represent an increase in total employment of 1.4 per cent, the biggest four-month gain since mid-1997, which stands in stark contrast to the 0.1-per-cent decline in the United States during the same period. The April job increase brought "this year's tally to a level that would be respectable for a whole year, let alone a short four-month period," economist Marc Lévesque of Toronto-Dominion Bank said."*

### **Fiscal Responsibility And Ability To Pay**

*"For the government, in its role as the employer, financial capacity and ability to pay are requisite considerations. The economic health of an employer determines what it is able to pay." - Employer brief page 27*

The Employer uses "ability to pay" to cover many sins. Any notion of a budget deficit vaporized with the Finance Minister's announcement of a further 15 billion dollar surplus and 10 billion dollar payment on the national debt. More importantly, "ability to pay" in our opinion is not an economic justification available to the Government of Canada in setting wage rates for its employees. "Desire to pay, intent to pay, etc., may be more accurate. We view this as an attempt to confuse the issue. Desire to, intent to, even ability to pay what? More than comparable rates in industry? No. Pay based on industrial strength. No. No group of employees is equal to, or stronger than, the government. We believe that the government is obligated to deal fairly with its employees.

The Treasury Board Manual on collective bargaining states:

*"The Treasury Board undertakes to fulfill its statutory obligations as the Employer in collective bargaining by negotiating in good faith and with appropriate dispatch collective agreements for public employees that will provide terms and conditions of employment that compare fairly with those prevailing outside the public service for similar work."*

The idea that the economy is sluggish or that minimal growth will continue for the foreseeable future is inconsistent with current economic facts. The Employer claim (page 35 in their brief) that "passenger traffic is expected to remain weak throughout most of 2002 as a result of weak economic growth and a persisting fear factor" is apparently not operative at this time.

## **Industry Outlook**

Under the title "Outlook of the Airline Industry" the Employer states: "Reduced air traffic and flights has resulted in a number of airlines going bankrupt."

To our knowledge Canada 3000 has been the only bankruptcy.

They continue by stating: "Air Canada reduced employment when they merged with Canadian Airlines and had more job losses as a result of Sept 11 for a total of 12,500 by Sept. 26, 2001 with 1050 of these being pilots."

To our knowledge, Air Canada did not lay off any pilots as a result of the merger with Canadian Airlines. There have been no layoffs of pilots at Air Canada as a result of Sept. 11. In fact, Air Canada recently announced the hiring of 20 pilots as part of a plan to hire 100 pilots this year in order to maintain current schedules. Air Canada regional airlines, recently dubbed Jazz, employs 1500 pilots. There have been no pilot layoffs.

As of May 10, 2002, Air Canada management confirmed that, as a result of September 11, the Air Canada pilots agreed to a temporary measure in order to accommodate reduced flying while avoiding lay-offs. This temporary arrangement was extremely short-lived and a return to full flight schedules has been in effect for some time. No lay-offs were ever implemented and no pay reductions were ever contemplated.

In our opinion, snapshot economic forecasts are inappropriate in defense of, or in contradiction of, long term analysis. A short-term blip, in long term trends, especially due to a catastrophic one-time event proves or disproves very little.

The only purpose of this approach by the Employer appears to be to down grade the value of the comparators, which are the product of a previous agreement between the parties.

To paraphrase the employer "we did not agree to the value of the comparators or, if we did it was a meaningless agreement. On the other hand, without prejudice to our position, the comparators are no longer valid."

## **Recruitment and Retention**

On page 37 of the Employer's brief they state that: "There is currently no evidence of a recruitment and retention problem with the Aircraft Operations group", and "in 2000-2001 only 12 employees or less than 3% of the indeterminate population departed from the public service for outside employment or personal reasons." Further they state: "the major sources of recruits for the aircraft operations group are the private sector, military and NavCan."

The facts are:

- The private sector is at full employment,
- military recruitment has dried up [it is under staffed, pay is improving], and,
- NavCan has about 37 pilots on the payroll.

Some observations regarding the above statements:

1. The Joint Committee, based on numbers provided by Transport Canada, concluded "turnover rates in the last 3 years have averaged 8.6% annually: 2000 =7%; 1999= 10.7%; 1998= 8.9%."
2. "These percentages are calculated, based on authorized allocation, rather than on actual strength. Calculations using operational strength versus allocation would produce larger percentage turnover rates", based on Joint Committee report.

A review of the Employers recruitment and retention information on pages 38 and 40 of the Employer's brief produces the following results:

From 1990 through 2001 the employer group population decreased by 21.7% from 534 employees to 418. During that period, 250 new employees were hired and 44.4% or 111 quit.

Although more than twice as many were hired as quit, the work force shrank by 116 people. In fact, of the 111 that quit, 70% or 78 of those had less than 10 years of service.

As of September 2000 there were 198 employees with less than 10 years of service which is 46% of the total of 426 as of September 30, 2000. The employer's numbers as far as we can determine do not include regular, early, or medical retirements.

### **Transport Canada Safety and Security Human Resource Plan**

As will be shown in the following discussion, according to Transport Canada's March 2002 Safety and Security Human Resource plan, 43% of TC employees are eligible to retire in the next 10 years.

On March 20, 2002 the Safety and Security Management Committee (SSMC) in conjunction with Transport Canada Human Resources produced a document "Safety & Security Human Resource Plan 2002-2005" which outlines a strategy for dealing with the recruitment and retention difficulties existing and prospective in Transport Canada.

The following quotes from the document are pertinent to issues raised in the current collective bargaining process.

“Year One- Safety & Security  
HR Priorities

1) Recruitment/Retention

*SSMC recognized that although the Safety and Security organization was quite large and complex in terms of its various business lines, its relationship with the regions, it was time for the organization to move from analysis to action in the areas of recruitment and retention. The focus would begin in the NCR with a view to enlarging its scope over time. Data confirmed that the organization was in a state of vulnerability and that initiatives must be undertaken to address some of the issues around recruitment and retention.” [page 8]*

*“Note: the demographics indicate that over 45% of employees in safety and security meet the “eligible to retire” criteria in the next 10 years. This information is being validated with employees in order to be better position to plan for the future. TC percentage of indeterminate employees eligible to retire in the next 10 years is 43%.” [page 8]*

*“Recruitment in the public service is an issue that has been of concern to government officials across federal departments for some time now. The aging workforce, coupled with the diminishing interest from our youth to join the public service, have been and continue to be cause for concern. Transport Canada and Safety and Security are not immune to this situation, in fact our demographics clearly show that we are facing a high volume of potential retirements in the next few years at all levels of the organization. Economic tides also impact our ability to recruit and retain talent and are sporadically in competition with industry for knowledge workers. It is essential that we position ourselves to get our fair share of talent, particularly in areas requiring specialized knowledge and expertise requiring major investment of training and experience on the part of Safety and Security.” (underlining added) [page 12]*

*“Depleting and aging workforce, expected wave of retirements in next few years, shrinking ready-made talent pool, shortage of trained and experienced successors, competitive market with industry for key resources, gap between knowledge worker and trainee increasing, corporate memory is vulnerable, “right fit” competency profiles in transition- gap between today and tomorrow’s needs, training issues stemming from technological, legislative and mandate changes, available time for inspection function decreasing, external pressure on current*

*workforce make-up-EE-OL, labour relations issues, compensation issues, workload issues, **pressure mounting for time to take action on results of previous studies-Price Waterhouse-Rl community results etc...**, workload issues, increasing demand for recruitment, numerous unproductive staffing efforts for certain groups, traditional recruitment methods will not sustain long term workforce needs, HR system needs fixing." (underlining added) [Appendix D- sample HR strategic plan "overview - current environment]*

The following description of Subject Matter Expert (SME) could very well be the job description of most CAI positions. We suggest that 43% of these SMEs are eligible to retire over the next decade.

***"Identify Critical Jobs/Employees (CJ/SME) – (if you answer YES to more than 3 of the following questions, then your position is likely critical in terms of "continuity planning")***

- *do others consistently go to them in a crisis?*
- *do they have long term corporate memory?*
- *are they performing one-of-a-kind jobs?*
- *do they have a unique set of skills/knowledge/experience in which much training has been invested?*
- *do they consistently carry the ball on major projects?*
- *are they recognized as **subject-matter experts in their field (SME)?**" [Page 28 - STEP 2 (b)]*

***"Identify Recruitment Challenges (RC)***

- *When staffing or recruiting does this position(s) consistently present it's own unique set of challenges, either due to the economic climate, industry competition or skill shortage area?" [Page 28 - STEP 2 (c)]*

### **Article 46 - Professional Currency Program**

Pursuant to an agreement reached before the Conciliation Board during the April meetings, a joint committee comprised of Merlin Preuss, Steve Buckles, Daniel Verrault, Greg Holbrook, Dave Granger, and Bob Grant, met on May 7, 2002 in Ottawa to address the unions concerns. We hope that an exchange of language which is currently underway will if not resolve the issues, at least narrow the differences. The documentation will be made available to the board upon resumption of negotiations.

## **Article 47 Job - Security**

During the May 7, 2002 meeting the issue relating to Article 47 - Job Security was also discussed. While a considerable amount of new background information was provided to management representatives no substantive agreement was achieved.

In our view, the Employer has abandoned a position that was restated at our last meetings in April. In other words, that the Union's proposal is outside the scope of collective bargaining for public service employees. We refer the Board to the Minutes of Settlement [tab. 17, paras 1 and 2].

- 1. Transport Canada agrees to suspend immediately its use of the multi-group process, for the staffing of any indeterminate or term positions that are currently classified as positions in the AO Group. The suspension shall remain in effect until the signing of the new Collective Agreement. This suspension does not include acting appointments for periods of less than four months, and Selection Process 01MOTCCEDM006855 and 01MOTCCEDM008104.*
- 2. The Article 47 proposals that are presently the subject of negotiations between the parties shall continue to be addressed through the negotiation and/or conciliation processes. The parties hereby acknowledge that the use of multi group recruitment is part of the CFPAs proposal on Article 47.*

The Employer's agreement to address the Union's proposal "through the negotiation and/or the conciliation processes" surely invalidates the Employer's attempt to disclaim jurisdiction over the subject matter for the purpose of collective bargaining.

In reading the AOGA/CFPA certificate of representation in conjunction with Canada Gazette March 27, 1999, it is apparent that duties exclusively allocated to the Aircraft Operations Group cannot be shared with other employees with "an acceptable combination of training and experience", unless this combination of training and experience qualifies the individual for a pilot license.

The Canada Gazette Part I, lists the Aircraft Operations Group Definition as:

*"The Aircraft Operations Group comprises positions that are primarily involved in inspecting, licensing and regulating aircraft, aviation personnel, air carriers, aircraft operators, airports and supporting facilities; determining certification; developing aviation legislation, standards and information and ensuring compliance with them; and piloting aircraft."*

Under *Inclusions* the Gazette further states:

*"Notwithstanding the generality of the foregoing, for greater certainty, it includes positions that have, as their primary purpose, responsibility for one or more of the following activities:*

*...1(c) the investigation of aviation occurrences, the conduct of safety studies, and the identification of and the communication of information relating to safety deficiencies;*

*...1(d) the enforcement of aviation legislation to ensure an adequate level of safety for the national civil air transportation system;*

*...6. the leadership of any of the above activities."*

One of the positions in question, Superintendent, Investigations, Aviation Enforcement, Transport Canada, clearly falls under the exclusive jurisdiction of the Aircraft Operations Group. Attempts to multi-staff these positions with a non-pilot are designed to alleviate recruitment and retention problems without involving the Union in a problem which the employer now states has been resolved. Go figure.

## **Conclusion**

The foregoing analysis is not intended to represent a comprehensive review of all outstanding issues. It is more a limited evaluation of various Employer positions which, if taken at face value, serves as a barrier to any "interest based" approach to resolving our differences. That being said, the Canadian Federal Pilots Association remains committed to putting forth a maximum effort in our forthcoming meetings.