CURRENT ISSUES SERIES

A Change Strategy for Industrial Relations: When the Old Meets the Future at CP Rail

Bryan Downie and Mary Lou Coates

Queen's University Industrial Relations Centre (IRC)

School of Policy Studies
Queen's University
Kingston, ON K7L 3N6
Tel: 613-533-6628

Email: irc@queensu.ca

Visit us at: irc.queensu.ca

This document was digitized in 2013 as part of the Queen's IRC Archive Revitalization Project. Originally published by the IRC Press in 1996.

ISBN: 0-88886-440-x

Printed and bound in Canada

Industrial Relations Centre
Queen's University
Kingston, Ontario
Canada K7L 3N6

Canadian Cataloguing in Publication Data

Downie, Bryan M., 1938-
A change strategy for industrial relations: when the old meets the future at CP Rail

(Current issues series)
ISBN 0-88886-440-x

1. CP Rail — Management. I. Coates, Mary Lou. II. Queen's University (Kingston, Ont.). Industrial Relations Centre. III. Title. IV. Series: Current issues series (Kingston, Ont.).

HD6976.R12C34 1996 385'.06'571 C96-931124-9

Contents

Acknowledgement 1

Executive Summary 2

1. Introduction 4
   The Strategic Choice Approach to IR 6
   The Strategic Negotiations Approach to IR 9

2. Environmental and Organizational Pressures 11
   Developments in the Railway Industry and CP Rail's Financial Performance 11
   Union Structures and Approaches 20
   Collective Bargaining and Labour Relations 21

3. Corporate Responses to Change 26
   Industrial Relations Responses to Change 28

4. New Approaches and Recent Bargaining 32
   Outstanding Issues 33
   Government Policy 38
   Outcomes of the Mediation-Arbitration Commissions at CP Rail 39

5. Synopsis and Overview 43

References 49

Acknowledgement

The material used here is adapted from a chapter prepared for a book on Firm-Level HR/IR edited by Richard Chaykowski and Anil Verma (forthcoming) and published by IRC Press.

The authors gratefully acknowledge the help provided by the various company and union officials that we interviewed for this study. At CP Rail, George Smith, Vice-President Industrial Relations and Don Brazier, Assistant Vice-President, Industrial Relations provided valuable input. As part of a previous study, we also talked with Andrew Shields, Vice-President, Human Resources, Ed MacIsaac, Manager Research-Industrial Relations and Robert Colosimo, former Vice-President Industrial Relations (retired). Special thanks go to Gary Fane, Director of Organizing, Canadian Auto Workers, George Hucker, International Vice-President & National Legislative Representative, Brotherhood of Locomotive Engineers, and Dennis Deveau, Executive Vice-President, Transportation Communications International Union for sharing the unions' perspective. Our thanks too to Wayne Laroque, Bureau of Labour Information, and Mediation and Conciliation Services, Human Resources Development Canada for providing useful information that otherwise was not available and to Andrew Shea, MIR 1995 for sharing his research with us.

Executive Summary

CP Rail has been confronted with tremendous pressures for change. Environmental forces, government policy and the responses of management and labour to their environment have had a significant impact on industrial relations policies and practices at CP Rail. Traditional old-style industrial relations are being transformed. The story at CP Rail represents a classic case of an old system of industrial relations finally yielding to overwhelming forces for change.

- CP Rail also introduced a distinct set of industrial relations strategies including structural changes to better capture the advantages of line-driven IR and accountability for corporate industrial relations; strengthening of central authority but decentralized to serve and involve the line/business interests; a delayering of management levels; reduced corporate staff; and participation of IR in a senior management committee with input into the executive decision-making committee.

- Management style at CP Rail moved away from a more authoritarian and bureaucratic style to one which put more emphasis on the people side of the business and took a more collaborative and strategic approach by attempting to link IR activities to the corporate business plan.

- In the period leading up to the most recent set of negotiations, union and management officials indicated that there was a new and positive labour-management relationship. There was a greater willingness to discuss problems of mutual concern, increased access of union officials to senior executives within the company, more information sharing particularly on the railway as a business, more face-to-face meetings, better communications, and more union involvement in issues such as training, health and safety, and a new employee and family assistance program.

- Over the years, the number of unions at CP Rail shrank and membership levels declined. CP Rail initiated the consolidation of its shopcraft bargaining units and amalgamation of its running trades bargaining units.

- The negotiations represented a marked departure from past history. Railway management came to the table with a more comprehensive bargaining agenda and a resolve to engage in more strategic bargaining (ie, linking business strategies to compensation, productivity). There was more line involvement and participation by senior operating management at the bargaining table. Mutual gains bargaining was introduced although the approach proved extremely difficult to implement and sustain and the parties reverted to positional bargaining. Pattern bargaining was broken and replaced with more individual and broader-based bargaining. There were separate union bargaining tables and a new union approach with the CAW bargaining on behalf of shopcraft workers. Management were prepared to continue operating during a work stoppage using management personnel.

- Among the key collective bargaining outcomes were modified employment security provisions, relaxed restrictions on some workplace practices, establishment of a factfinding/mediation/arbitration commission process to settle the dual pay issue; and modest wage increases and changes to employee benefits.

- CP Rail is in the formative and transitory stages of a new approach. Although the final outlines of a new system are not well defined at this point, it is clear that change has been driven by the strategies of rail management and government policy. It is unclear how the company will choose to implement the changes emanating from the recent set of negotiations and build industrial relations in the future.

1. Introduction

In June 1995, mediation-arbitration commissions released arbitration awards affecting Canada's three major railways (CP Rail, CN, and Via Rail), nine unions, and about 27,000 workers. Established under back-to-work legislation enacted by Parliament in March 1995 to end national work stoppages in the rail industry, the mediation-arbitration commissions settled the terms of collective agreements for two bargaining units at CP Rail, four at CN, and five at VIA Rail. Settlements were reached by mediation for five other bargaining units. Prior to the appointment of mediation-arbitration commissions, agreements were concluded with four other bargaining units in the railways (see Figure 1). In a marked departure from the past, a guiding principle for the commissions was inserted into back-to-work legislation stating

> the need for terms and conditions of employment that are consistent with the economic viability and competitiveness of a coast-to-coast rail system in both the short and the long term, taking into account the importance of good labour-management relations. (Bill C-77, *Maintenance of Railway Operations Act,* March 26, 1995, s. 12)

The series of events that unfolded represented a watershed in the transformation of industrial relations in the railroad industry. This paper tells the story of the path that has been taken by one company, CP Rail, an organization which has faced tremendous pressures for change. This is a story shaped mainly by economic forces, corporate strategy, and government policy. Significant changes have also taken place in union membership, structures, and approaches. Old-line, conservative unions have struggled to adapt and adjust to both corporate and government forces of change. Fundamentally, this is a story of old-style, traditional labour relations being confronted with a drastically changing environment and of a company trying to be proactive and control its industrial relations (IR) future in a system plagued with a cumbersome and complex bargaining structure, antiquated work rules, and longstanding rigidities. Overshadowing this has been a long history of government involvement and intervention in negotiations and settlements in the rail industry and a tendency for labour and management to defer to this practice of intervention. This is also a story with lessons for all the parties and, because of the scope and shape of the changes, IR practitioners outside CP Rail.

Labour relations are changing in company after company. We are seeing various examples of changing relationships and shifts in power (Chaykowski and Verma 1992). The case of CP Rail epitomizes the changes in industrial relations taking place in our society. One important question is whether, and to what degree, there is any choice involved in how organizations respond to environmental pressures or whether environmental pressures simply force organizations to follow a particular path. At CP Rail, the company made a deliberate choice to follow a particular strategy in the industrial relations area. It will be useful to examine two theoretical approaches in the literature that will help us understand the changes in IR that have taken place. One approach is the strategic choice perspective; the other, the theory of strategic negotiations.

Figure 1 1995 Railway Negotiations by Method of Settlement

Settled at Mediation Stage of Commission Proceedings		
CP Rail	Canadian Council of Railway Operating Unions (UTU, BLE)	3,300 conductors, trainmen, and yardmen, 1,520 engineers
	Canadian Auto Workers	4,800 shopcraft employees
CN	Brotherhood of Maintenance of Way Employees	4,900 maintenance-of-way employees
	Canadian Auto Workers	5,000 clerical employees
	Canadian Auto Workers	5,200 shopcraft employees
	Canadian National Railways Police Association	150 security employees
Via Rail	Brotherhood of Locomotive Engineers (BLE)	290 engineers
	United Transportations Union (UTU)	400 conductors, trainmen, and yardmen
	Canadian Auto Workers	1,380 off-train employees
	Canadian Auto Workers	740 on-train employees
	Canadian Auto Workers	1,070 shopcraft employees
Settled at Mediation Stage of Commission Proceedings		
CP Rail	Brotherhood of Maintenance of Way Employees	3,450 maintenance-of-way employees
	Canadian Pacific Police Association	90 security personnel
CN	Canadian Council of Railway Operating Unions (UTU, BLE)	4,200 conductors, trainmen, and yardmen; 2,200 engineers
	International Brotherhood of Electrical Workers	950 signallers
	Union of Rail Traffic Controllers	480 traffic controllers
Settled by Direct Bargaining*		
CP Rail	International Brotherhood of Electrical Workers	560 signalmen
	Transportation-Communications International Union	2,500 clerical employees
	Union of Rail Canada Traffic Controllers	370 traffic controllers
Via Rail	Brotherhood of Maintenance of Way Employees	10 maintenance-of-way employees

*Source: Human Resources Development Canada. 1995. News Release (June 14). * Prior to the establishment of the mediation-arbitration commissions.*

The purpose of this paper is to examine the nature and extent of changes taking place at CP Rail on the industrial relations side, the company's and unions' response to change, and the impact that these changes are having on IR management and the labour relations environment.[1] We have analyzed the economics of the industry and financial performance of CP Rail and interviewed major participants on both the company and union side in order to understand the evolution taking place. In terms of corporate policy, CP Rail's predominant response to change has been a strong push for labour cost reductions and workplace flexibility, the introduction of new technology, and denominator management (extensive restructuring accompanied by massive downsizing). At the same time, the company has also attempted to fashion new approaches in IR.

To put these changes in context, the following sections of this chapter discuss the strategic choice perspective on IR and the theory of strategic negotiations. Chapter 2 provides a profile of the environmental and organizational pressures on CP Rail, including an overview of developments taking place in the rail industry, the operating and financial performance of CP Rail, union structures and approaches, and its collective bargaining and labour relations history. The third chapter examines CP Rail's corporate responses to change and specific IR strategies. Chapter 4 discusses recent bargaining at CP Rail, and chapter 5 provides a synopsis and overview.

The Strategic Choice Approach to IR

The strategic choice perspective on IR[2] holds that, given the external environment within which they operate, employers, unions and government policymakers make choices that affect the outcomes at three major levels of IR activity—the strategic (policymaking) level, the collective bargaining level, and the workplace level. The three levels are interrelated and developments at one level affect those at other levels. For example, throughout the 1980s changes in organizations at the top or strategic level and at the workplace level had a significant impact on the collective bargaining level.

In the past, external forces in the environment exerted a strong influence on IR. However, decisions at the strategic or top level were often viewed as exogenous to both IR practice and theory. This deterministic approach to IR argues that the parties are severely constrained by environmental factors and there is little or no choice open to management. This approach

[1] At CP Rail, almost 80 percent of the workforce is unionized and the broader industrial relations/human resource management function has traditionally been IR-driven. Nevertheless, significant changes have also taken place in the human resource management area. Prior to 1992, Personnel, as it was called, was a separate and primarily administrative function. Since 1992, a Human Resource management function emerged. A variety of personnel or HR functions and activities (eg, management development, pension administration, training) were brought together and consolidated with existing responsibilities into a corporate HR function. CP Rail also embraced the notion of value-added activities by the organizational development/organizational effectiveness function. Core HR systems and their linkages were redesigned. Currently, the IR and HR functions at CP Rail are separate with IR responsible for the unionized workforce and HR dealing with matters affecting nonunionized employees. This paper examines only the nature and extent of change in industrial relations at CP Rail.

[2] The strategic choice model of industrial relations is described in Kochan, Katz and McKersie (1986, 1991, 1994), Burton (1988), Chelius and Dworkin (1990), Chaykowski and Verma (1992), and Purcell and Ahlstrand (1994). This discussion is drawn largely from this literature.

worked reasonably well when the external environment and policies and practices were stable, but in light of the dynamic changes taking place in the 1980s, proponents of the strategic choice approach felt that a new framework was needed.

The strategic choice framework (see Figure 2) builds on traditional theories of industrial relations and broadens the spheres of IR activity to include the strategic and workplace level as well as what has been the more traditional and exclusive focus on the collective bargaining level. In the strategic choice perspective, management strategies and values play an important role.

The strategic choice approach contends that consideration of both environmental factors and responses by the parties to their environment are needed to explain and understand IR policies. Industrial relations outcomes and policies are not an inevitable result of environmental factors such as economic conditions or technological change. Instead, with a strategic choice approach, the IR system can be shaped by management choices or business strategies, union and worker decisions, and public policy, all of which have a direct and indirect impact on IR policies and practices.

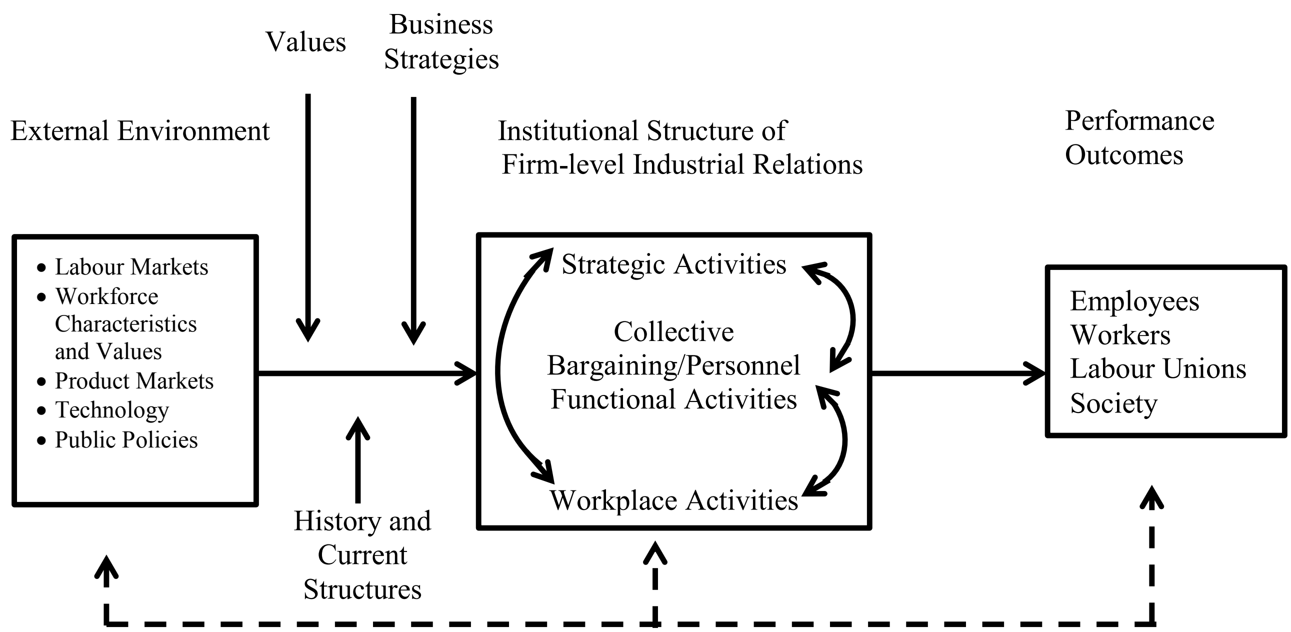
Within the strategic choice framework, IR policies and practices are not isolated activities but a set of reinforcing or interdependent parts of a system. The dilemma facing management is not to choose one particular IR or business strategy but to choose a combination of IR and business strategies that fit with one another. Incremental changes may occur in one area without altering other interdependent policies, which explains why a firm may follow a cooperative/participatory approach at one level of IR within the firm and a more traditional arm's-length approach at another level. It is argued, however, that, over time, if certain policies or practices are introduced at one level without changing policies at another level, the new policies are not likely to be successful or sustained. Moreover, organizations that are able to match business and IR strategies are likely to perform better than firms which do not.

There are those who question the strategic choice perspective on IR. It has been argued that labour and management, in responding to major environmental pressures, have not necessarily been 'distinctively strategic' (Lewin 1987, 11). Instead, the parties have basically been reacting to external forces of change in the environment and attempting to match business and IR strategies to marketplace demands. Critics of the strategic choice approach view industrial relations as an important variable in the operations and performance of firms, but not necessarily a strategic variable.

The central thesis of the strategic choice approach is that choices by management, unions, and government, and not only environmental pressures, affect IR outcomes.[3] Forces in the external environment are important. But, the strategic choice perspective suggests that organizations respond differently to environmental pressures when business strategy is

[3] History, institutional structures, and values also play a role in influencing strategic choices and IR outcomes.

Figure 2 Strategic Choice Framework



Source: Kochan, Katz, and McKersie (1986).

formulated. For example, firms can choose to adopt a low-cost strategy or a differentiation, high-quality/innovation strategy, each of which may result in very different IR policies and practices. In the former, more traditional approach, union-management relations are at arm's-length, with little or no consultation or shared decision making. In organizations pursuing a differentiation strategy, on the other hand, there is more emphasis on the importance of labour-management relationships and investment in human resources.

Kochan, Katz, and McKersie (1986, 1991, 1994), proponents of the strategic choice framework, describe many of the changes that took place in American industrial relations in the 1980s. They point out that management strategies were the driving force behind these changes and that unions and governments were much slower in adapting to external pressures for change.

Unions and governments can make strategic decisions that affect IR and, conversely, the strength of corporate responses can alter labour's influence over IR outcomes. For example, in the United States during the 1980s, management strategy became more aggressive, and unions were often relegated to a defensive position with little influence over IR outcomes. In Canada, on the other hand, while many of the strategies and initiatives in collective bargaining were management-led, unions took a somewhat stronger and more proactive stance against the management agenda and, therefore, tended to have relatively more influence over IR outcomes (Chaykowski and Verma 1992; Kumar 1993).

The government, too, can also be a strategic player and influence IR outcomes through public policymaking, including macroeconomic policies, and as an employer. As will be seen later, this appears particularly true in the Canadian railway industry, given the nature and scope of the regulatory framework and the history of government intervention in labour relations.

According to Kochan, Katz, and McKersie (1986, 1994), the American IR system has undergone a transformation. New management strategies have focused on labour-cost reductions, increased workplace flexibility, and union avoidance. These strategies represent a marked departure from job control unionism, which characterized the traditional collective bargaining system, with its formal contracts, strict job classifications, specific seniority, job security, work rules and an arm's-length labour-management or adversarial relationship.

In Canada, the strategic choice framework has been used to trace out an evolution of industrial relations. Based on an in-depth analysis of developments in several major Canadian industries in the 1980s, Chaykowski and Verma (1992) concluded that industrial relations was at various stages of evolution due to differences in the pressures for change across the industries. Significant changes had taken place, but the Canadian system had not yet transformed to the same stage as the U.S. system. A recent study of firm-level IR may shed new light on this evolution (Chaykowski and Verma forthcoming).

The Strategic Negotiations Approach to IR

In addition to the strategic choice framework, the literature provides another insightful way to look at how strategies are being used to change labour-management relations. Recent research (Walton, Cutcher-Gershenfeld, and McKersie 1994), based on thirteen case studies of how labour-management relationships were changing in three industries in the United States, has presented a new theory of change in industrial relations.

Traditionally, labour-management relations were at arm's-length and based on compliance and rule-based contract administration, which took place between recurrent formal collective bargaining sessions. Management and labour both understood the 'rules of the game,' and contracts represented quid pro quos between the parties, who acted to maintain labour peace and rising standards of living. However, by the 1980s, against a background of severe competitive pressures, technological change, and changes in the economy, labour market, and public-policy arena, management and labour priorities shifted. Employers pushed for reduced labour costs, workplace flexibility, and improved quality and productivity. Unions focused attention on job security and came under increased pressures to make concessions. Changes in labour-management relationships began to emerge, directed at either labour-management cooperation or union avoidance, as opposed to the traditional arm's-length relationship. Faced with unprecedented changes in the external environment, management adopted one or a combination of three approaches. According to the theory of strategic negotiations, the three negotiating strategies for responding to change are 'forcing,' fostering/ and 'escaping' (see Figure 3).

Forcing change reflects the more traditional labour relations approach and entails management attempts to gain economic concessions and significant changes in work rules. Forcing change usually takes place during bargaining, but may take place outside bargaining in the form of unilateral changes imposed by management in the workplace. This strategy represents a more polarized form of hard bargaining and can run the risk of jeopardizing relationships between labour and management.

In contrast, *fostering* involves negotiating a new and more cooperative relationship with unions and employees based on mutual commitment rather than compliance. It generally occurs between contract negotiations and involves joint union-management activities and programs. The risk with this strategy is that difficult problems may not be dealt with for fear of stressing the relationship.

Finally, *escaping* the labour-management relationship involves management strategies such as relocation of operations, closure, contracting-out, removing work from the bargaining unit, or investing in nonunion operations or opening greenfield sites. Management can also seek to escape the union by creating conditions in which workers pursue union decertification. Escaping the relationship is typically not a negotiated change strategy.

With this strategic choice and strategic negotiations framework of change in place, we now turn to what has been happening at CP Rail. We will see how environmental pressures, along with corporate strategies have shaped and influenced IR processes and outcomes. We will also see what path of negotiated change in labour relations CP Rail is following and what the implications have been for the unions at CP Rail.

Figure 3 Elements of Escaping, Forcing and Fostering Strategies

Escaping
- relocation of operations or closure of operations and opening up a greenfield site in areas where unions are weak or abroad
- creating conditions under which workers seek to decertify the union
- hiring permanent replacement workers for employees on strike
- removing work from the bargaining unit by contracting out maintenance, construction, and other support functions
- investment in nonunion operations
- usually not accompanied by negotiations

Forcing
- economic concessions and changes in work rules forced by management
- takes place primarily during negotiations but can occur unilaterally during the contract
- relies on mutual compliance, containment and 'hard bargaining'
- focus is on achieving specific substantive changes in the terms of employment
- potential for acrimonious labour-management relations

Fostering
- reduced payroll costs agreed to by management and labour
- most initiatives take place between negotiations
- relies on mutual commitment, promoting voluntary change and problem-solving
- focus is on developing high employee commitment to enhance worker motivation, participative problem-solving, quality and 'working smarter'
- emphasizes cooperative labour-management relations

Source: Based on Walton, Cutcher-Gershenfeld and McKersie (1994).

2. Environmental and Organizational Pressures

CP Rail has played a prominent role in the development of Canada. Created in February 1881 by Special Charter, Canadian Pacific Railway began with the construction of a transcontinental railway that was intended to unite the country economically and politically. Over its 114-year history, the organization has evolved from a largely transportation-based company into a diversified management company operating internationally and in six business sectors in Canada, including transportation (railways and ships), energy (oil, gas, and coal), real estate and hotels, communications, and environmental services (Canadian Pacific Limited 1995). In 1994, Canadian Pacific Limited ranked sixteenth in terms of revenue among the top companies in Canada (Globe and Mail Report on Business Magazine, July 1995).

CP Rail System is a division of CP Limited and in recent years has been the parent company's top priority as CP Limited refocused attention on its core transportation business (Canadian Pacific Limited 1995, 1994). The seventh largest railway in North America, providing rail and intermodal freight transportation over a 30,040-kilometre network,[4] CP Rail currently serves most of the major centres in Canada as well as nineteen states in the midwestern and northeastern United States and reaches a population base of over 150 million people (Canadian Pacific Limited 1995; CP Rail System 1995).

Like countless other organizations, CP Rail has been undergoing rapid and significant changes in recent years as the result of both market changes and internal reorganizations. Figure 4 presents some of the pressures for change and the forces resistant to change that will be discussed. For a company with as long a history as CP Rail's, the need to respond to external and internal pressures is not new. However, what is different from the past is the intensity of competitive forces. Competitive pressures for CP Rail emanate from a number of sources, including the deregulation of the transportation sector in 1987, alternate modes of transportation, particularly trucking; U.S. railroads; globalization and free trade, and unfavourable economic conditions throughout the 1980s.

At the same time, profound changes are occurring in technology, government policy, the labour market, union organizations and membership levels, and collective bargaining structures and processes. Therefore, not only have competitive pressures been many and varied, but they are occurring at more or less the same time as other forces of change, reinforcing their impact and compounding the difficulties of adjustment and adaptation.

Developments in the Railway Industry and CP Rail's Financial Performance

According to recent data, the railway industry in Canada generates revenues of $7 billion and employs 56,000 people. The value of its economic production represents 27 percent of the transportation sector's contribution to real domestic product.

---

[4] Intermodal transport is defined as the movement of freight by more than one mode of transport, either in highway trailers or freight containers which are transferred between a rail car and other vehicles, usually trucks or ships (Statistics Canada 1994).

Figure 4 Pressures for Change at CP Rail

Pressures for Change

- Competition
  - Domestic railways
  - U.S. railways
  - Shortline railways
  - Trucking
- Deregulation
- Global Expansion of Markets
  - (eg. Canada-US Free Trade Agreement)
- Economic Environment

Forces Resistant to Change

- Legislative and Regulatory Framework
- High Degree of Government Involvement
- Multiple Unions
  - Traditional
  - Craft-oriented
  - Narrow Jurisdictions
- Complex and Difficult Bargaining Issues
  - Dual pay systems
  - "Restrictive" work rules
  - Employment Security
- Unwieldy Bargaining Process
  - Centralized negotiations
  - Pattern bargaining
- Old-Style Labour Relations Approach
  - Authoritative / paternalistic

Canada's rail system transports 239 million tonnes of freight over 85,000 kilometres of track (Statistics Canada 1994). A brief overview of the operation and performance of the railway industry in Canada provides a backdrop to the fortunes and misfortunes of CP Rail over the past decade (see Table 1).

Competitive pressures in the railway industry are unrelenting. In 1987, deregulation of the transportation industry increased the railway's susceptibility to the competitive forces of market supply and demand (see Table 2). In the new environment that has emerged, rail carriers have to be much more sensitive to shippers' needs in setting rates and negotiating conditions for the transportation of goods. Surveys indicate that the shippers have used provisions of the *National Transportation Act (NTA), 1987* to obtain competitive terms in rail transportation and as leverage in negotiating shipping contracts (National Transportation Agency 1992b). The legislation abolished collective rate-making and the exchange of cost information between railways (National Transportation Act Review Commission 1993) and in this way heightened competition between rail carriers in Canada. It has been stated that deregulation effectively ended the 'friendly duopoly' that existed between CP Rail and CN (Fisher 1991).

Table 1 Profile of Change in Canada's Railway Industry and CP Rail, Selected Years, 1980-1993

	Railway Industry						CP Rail					
Indicator	1980	1985	1990	1991	1992	1993	1980	1985	1990	1991	1992	1993
Traffic volumes (billions of tonnes/km)	235.0	242.1	248.4	260.5	250.7	256.3	85.2	92.3	96.9	101.8	77.5	98.6
Operating revenues ($'000)	5,333.8	7,668.8	7,068.4	7,156.7	6,909.5	6,992.8	1,757.7	2,513.7	2,487.6	2,549.4	2,338.2	2,447.0
Operating expenses ($'000)	5,003.0	6,841.1	7,716.9	6,849.5	7,786.0	6,604.9	1,619.3	2,159.7	2,241.6	2,500.7	2,592.7	2,242.3
Capital expenditures ($ million)	2,199.3	3,802.0	2,803.4	2,418.8	2,537.1	2,702.3	242.7	609.3	265.4	299.9	212.5	220.7
Operating ratio	0.94	0.89	0.95	0.96	1.13	0.94	0.92	0.86	0.90	, 0.98	1.11	0.90
Length of track operated (km)	93.361	95.670	86,880	85,563	85,191	84,648	34,385	34,016	30,016	30,367	29,939	28,949
Rail line abandoned (mi)	495*	427	823	282	433	306	105*	9	590	118	232	612
Employment	110,994**	91,330	69,119	64,849	62,316	59,247	34,171	27,688	22,177	21,988	20,882	19,678
General	14,051	12,678	11.332	10,975	10,518	10,058	4,492	4,170	3,721	3,729	3,604	3,540
Road Maintenance	22,985	21,660	15,712	14,693	14,195	13,288	6,631	6,407	4,856	4,874	4,728	4,372
Equipment Maintenance	30,814	26,461	18,477	16,886	16,058	15,522	10,475	7,540	5,935	5,704	5,215	4,857
Transportation	43,154	30,531	23,598	22,295	21,545	20,379	12.573	9,571	7,665	7,681	7,335	6,909
Average Annual Compensation/year ($)	21,340	32,221	41,251	43.199	46,079	47,082	21,004	32,774	41,328	43,662	44,925	44,019

Source: All data except capital expenditures and rail line abandoned are from Statistics Canada (1994) and previous annual publications. Capital expenditures: Statistics Canada (1995) and previous annual publications; data for CP Rail from company annual reports. Rail line abandoned: Sheikh (1994b) and National Transportation Agency (1994).
* Data refers to 1983.
** Another 5,725 employees were in express, highway transport (rail), telecommunications, and outside-operations occupations.

Deregulation also intensified the level of competition between the railways and trucking. In the 1980s, traffic was lost to the trucking industry. Between 1981 and 1988, rail's share of the rail-truck domestic market fell from 48.1 percent to 39.1 percent (IBI Group 1992 and 1994). Over the range of commodities where rail and truck are competitive, rail tends to be the stronger mode for long distance shipments and trucking for shorter hauls. However, rail transports predominantly primary commodities at freight rates much lower than those on high-valued manufactured products, which are transported primarily by truck. As a result, highway operating revenues have been much higher than railway operating revenues (National Transportation Act Review Commission 1993).

Traditionally, rail traffic has moved in an east-west direction. In the East, commodities transported are of high value and transported in low volume. Average haul is relatively short and just-in-time delivery is important. Railways are in direct competition with trucking. In the West, commodities are of low value and transported in high volumes. Average hauls are longer and trucking is less threatening, particularly for bulk commodities such as grain, coal, sulphur, or potash (National Transportation Agency 1994). Fifty-six percent of the originating traffic of CP Rail and CN is in the West and 36 percent in the East.

Table 2 Chronology of Deregulation in the Rail Industry, 1978-1992

Year Legislation/Event	Description
1980 U.S. *Staggers Rail*	Deregulation of U.S. railways allows them to use confidential contracts, route closures, and surcharges to capture transborder market traffic.
1983 *Western Grain Transportation Act.*	New statutory rates established for rail movement of grain.
1985 Minister of Transport issues 'Freedom to Move' paper—a framework for transportation reform.	Government paper outlines proposals for economic regulatory reform of all federally regulated transportation.
1986 *Competition Act* passed.	Competition tribunal established to prevent firms from abusing dominant position in a way that substantially lessens competition.
Central Western Railway acquires CN's Stettler division.	Central Western Railway becomes the first short-line railway in Canada conveyed from Class I railways.
1988 *National Transportation Act, 1987* comes into force; *Transport Act* repealed.	Deregulation of rail mode through competitive access, confidential contracts, and streamlined abandonment.
Railways haul record volumes of traffic.	Increased traffic reflects strong demand for non-grain bulk exports, especially coal shipments to Japan and Korea.
1989 *Canada-U.S. Free Trade Agreement.*	North-south traffic flows expected to expand greatly; more competition anticipated with U.S. carriers
Railway traffic drops; net incomes of CP Rail, and CN decline; CP Rail and CN abandon 1,300 miles of low-density track.	Wheat traffic slumps by 40 percent as a result of the 1988 drought; abandonments represent 3.5 percent of CP Rail's network, four percent of CN's (the only year in which either railway reached the four percent abandonment limit).
1990 CP Rail purchases outstanding shares of Soo Line in U.S.; CP Rail and CN acquire new equipment, construct intermodal terminals, and raise clearances for double-stack container services.	CP Rail's acquisition secures its north-south links; Canadian railways invest heavily in intermodal operations.
1991 CP Rail purchases D & H railway in U.S. and integrates its Canadian and U.S. operations to form CP Rail System; CN consolidates its Canadian and U.S. operations into CN North America.	Canadian railways integrate their operations on both sides of the border; D & H purchase provides CP Rail access to New York and Philadelphia as railways continue to adapt their networks to a continental orientation.
Central Western buys CP Rail's Coronation and Lacombe subdivisions; CN sells lines to Ontario Northland Transportation Commission and Goderich-Exeter Railway Company.	Short-line and regional railways aid CN and CP Rail in rationalizing their network.
CP Rail closes Angus Shops	Operational cutbacks involve large write-downs, contributing to financial loss for Canadian Pacific Limited in 1991.

Table 2 (continued)

Year Legislation/Event	Description
1992 CP Rail completes $15 million tunnel expansion project in Rockies, tests new Montreal-Chicago double-stack service. CN joins first Canada-U.S.-Mexico intermodal service, and announces plans for Sarnia Tunnel.	Railways continue with heavy investment in infrastructure and development of north-south links to compete for growing intermodal traffic.
CP Rail applies to abandon all lines east of Sherbrooke; CP Rail and CN agree to share Ottawa Valley rail line. CN announces cutback of 10,000 jobs and reports losses of $1 billion.	Canadian railways implement large-scale cutbacks and absorb huge charges for work-force adjustment in their efforts to achieve competitive cost levels; Ottawa Valley agreement raises potential for joint utilization of rail infrastructure.
Annual four percent limit on branch line abandonment expires after 1992.	*National Transportation Act, 1987* abandonment criteria and National Transportation Agency procedures remain in effect.
1994 CP Rail completes the enlargement of the Detroit River tunnel. CP Rail discontinues operations on the Quebec Central Railway. Discussions between CP Rail and CN to merge their eastern freight operations break down. CP Rail offers $1.4 billion to purchase CN's eastern rail operations.	The federal government rejects CP Rail's offer to purchase CN's eastern operations.
1995 The Minister of Finance announces in the budget speech that the federal government's 'Crow' subsidy for the movement of grain under the *Western Grain Transportation Act* will be discontinued, as well as other proposed legislative and regulatory changes affecting the movement of grain traffic.	CP Rail anticipates that grain revenues will be affected and that there will be opportunities to introduce greater savings and efficiencies.

Source: National Transportation Agency (1994); Canadian Pacific Limited (1995), and additional information.

Table 3 Comparison of Canada and U.S. Class I Railways, Selected Years 1985-1993*

	Canada					United States				
Indicator	1985	1990	1991	1992	1993	1985	1990	1991	1992	1993
Freight revenues ($ billion)	5,579	5,443	5,604	5,361	5,425	36,434	32,053	30,878	33,238	36,103
Tonnes (millions)	188	185	190	182	185	1,197	1,292	1,254	1,269	1,266
Track operated (km)	85,761	76,572	75,761	74,969	74,152	259,164	214,347	208,956	203,159	199,137
Employees	77,960	56,590	53,936	51,738	48,855	301,879	216,424	206,386	197,421	192,526
Average compensation ($)	33,022	41,689	43,896	46,679	48,181	47,769	46,656	48,272	53,572	58,499

Source: Sheik (1994a).
* Freight revenues, tons, miles, and compensation for American railways have been converted to Canadian dollars, metric tonnes, and kilometres.

The *Canada-U.S. Free Trade Agreement,* global expansion of markets, and changing patterns of domestic and international trade introduced a new sense of competitiveness in rail markets—for transborder traffic. The railways are under growing pressure to expand markets in a north-south direction. Both CP Rail and CN have extended their operations into the United States. The flow of traffic between Canada and the United States has increased with the tonnage transported by rail from Canada to the United States, so that it is now more than three times the volume moving from the United States to Canada (Sheikh 1994b). Eight percent of the rail movement of CP Rail and CN is transborder traffic. As a result, railways in Canada also face strong competitive pressures from U.S. railways. Table 3 provides a comparison of Canada and U.S. Class I railways. A recent study indicates that the U.S. carriers outperformed Canadian railways for most of the 1988-93 period, due in part to their success in controlling operating expenses, which enabled U.S. railways to offer lower shipping rates and capture more transborder traffic (Sheikh 1994a).[5]

Despite massive reductions in employment levels, labour costs remain an important component of railways' cost structure. In 1993, labour expenses for both CP Rail and CN represented over 50 percent of total operating expenses (IBI Group 1994). Within transportation, the railway sector is the highest paid and well above the national average of all sectors in the economy[6] Labour costs have had an impact on productivity and cost competitiveness. Over the last ten

[5] During the 1984-86 period, Canadian rail carriers actually had lower unit costs than their U.S. counterparts. However, measured in Canadian dollars, unit costs for U.S. railways dropped rapidly between 1986 and 1990 reaching a low of 1.9 cents per tonne-kilometre in 1990. While more stable, Canadian unit costs remained at between 2.3 and 2.6 cents per tonne-kilometre for the period.

[6] Based on average weekly earnings (National Transportation Agency 1994). In absolute terms, rail has had the highest average weekly earnings of the four modes of transport-air, truck, water, and rail.

years, the Canadian and U.S. railways have been reducing the number of employees at a comparable pace. However, the U.S. railways have been able to reduce their total compensation costs more than Canadian railways.[7] A recent study stated that 'Canadian railways have fallen behind their U.S. counterparts so that average costs are now more than 50 percent higher on the Canadian system in terms of labour costs per revenue ton-mile' (IBI Group 1994, S.4).

In terms of labour productivity, CP Rail and CN achieved a 45 percent increase in tonne-kilometre revenue per employee between 1985 and 1993 (National Transportation Agency 1994). U.S. railways, however, were able to increase their productivity by 59 percent, clearly outperforming their Canadian counterparts.[8]

Despite deregulation on the competitive side, rail carriers are still subject to various statutory provisions (e.g., concerning branchline abandonment, conveyance of lines). According to one rail executive, the 1987 legislative move should be more appropriately termed 'reregulation' of the industry. In February 1995, the federal government announced plans to introduce legislative and regulatory changes affecting the movement of grain traffic, including discontinuing its subsidy for the movement of grain under the *Western Grain Transportation Act.* These reforms are intended to improve the efficiency of the country's grain handling and transportation system and to enable the railway industry to become more 'self-reliant and market-oriented' (National Transportation Agency 1994, 17).

The railway companies have viewed the competitive forces unleashed by deregulation as a threat to the viability of the railway industry and have long lamented that there are a number of key issues which stand in the way of a level playing field between the railways and trucking and between the Canadian and U.S. rail industries:

- Trucking does not pay its full share of the cost of public highways;
- Trucking benefits from diesel taxes paid by the railways;
- The competitive access provisions of the National Transportation Act have resulted in a significant drop in railway rates compared to inflation and in a loss of traffic to U.S. railroads;
- An 'onerous taxation regime' is imposed on Canadian railways compared to U.S. railways, particularly in the areas of income, property and fuel expenses, and depreciation rates; and
- The Canadian industry operates under a complex process to abandon or sell part of a railway line (National Transportation Agency 1992b).

Economic conditions, particularly the prolonged recessions of 1981-82 and 1990-91 and slow recovery, compound the difficulties railways have to overcome in adjusting to the

---

[7] Total compensation in Canadian railways declined by an average annual rate of 1.1 percent between 1984 and 1993 compared to 2.6 percent for U.S. railways (Sheikh 1994a).
[8] Labour productivity is only a partial measure of efficiency and performance, since it does not take into account shifts in the input mix. Using a 'total factor productivity' measure, one report on productivity and financial performance for CP Rail and CN stated that 'the Canadian railways are close to but below the U.S. rail industry average productivity growth, and the gap may be increasing' (Tretheway, Watyers, and Fok 1994, xiv).

more competitive environment. Demand for railway transportation services is significantly affected by the markets they serve. Declines in or weak market demand in much of the manufacturing and resource-based industries during the 1980s and 1990s, together with overcapacity, depressed commodity selling prices in world markets, and a high Canadian dollar did not make for a healthy railway industry.

In terms of performance, rail traffic volumes have been relatively constant over the past decade. Despite an improvement in the last two years, after five years of dismal performance, the railways remain cautious. In the railway industry, there are essentially two market segments. The market for bulk commodities traffic has been stable or declining, with no strong growth prospects; nevertheless, this market segment is the backbone of the rail industry. At the same time, the future for intermodal and containerized traffic is favourable, and there has been strong growth in this area for CP Rail and CN. Between 1984 and 1991, the tonnage of intermodal traffic moved by the two railways increased by 22 percent (National Transportation Act Review Commission 1993). Still, both companies have been struggling to position themselves in this market, which is very truck-competitive. While traffic volumes reached a plateau, competitive pressures held down the rates charged to shippers for the transportation of products. Railway operating revenues fell. Although railway operating expenses have also declined, the rate of decrease has not kept pace. As a result, there were sharp declines in the rate of return on capital, particularly between 1988 and 1992.

The railways argue that an operating ratio of no higher than 80 percent is necessary to leave an adequate margin to provide sufficient return on capital employed (National Transportation Act Review Commission 1993).[9] Between 1986 and 1992, the operating ratio of Canadian railways deteriorated from 0.90 to a peak of 1.13. Since 1988, U.S. rail carriers have had better operating ratios, thereby outperforming their Canadian counterparts (Sheikh 1994a).[10]

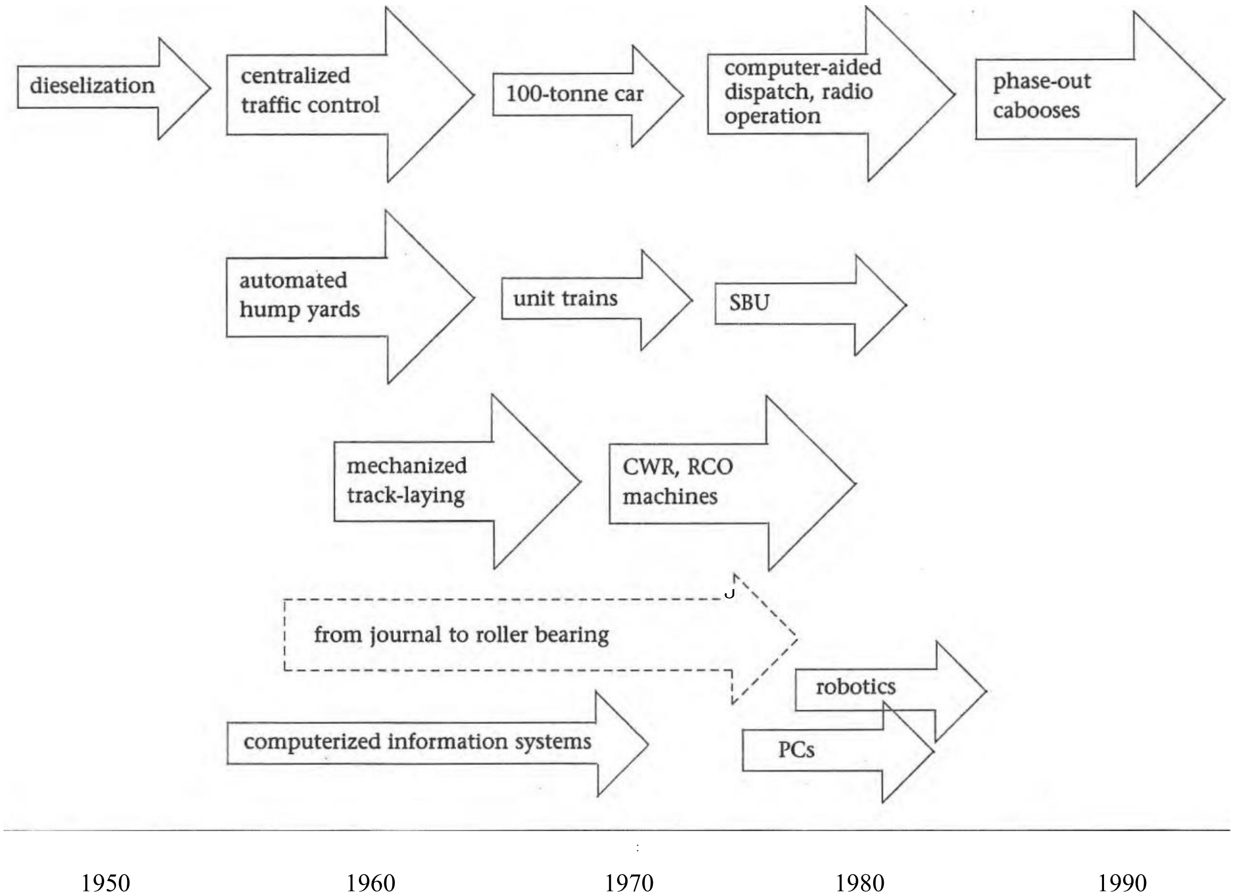
Turning to CP Rail, over the period 1988-91, the company experienced an erosion in freight traffic volumes, revenues, and financial performance. Profitability and market share were also severely constrained by the economic environment. CP Rail's operating ratio in the 1980s was between 82 and 86 percent, but it worsened in the 1989-92 period, rising to 110.8 percent in 1992. The years 1993 and 1994 signaled a turnaround in performance in the Canadian railway industry and at CP Rail. Unfortunately, operating ratios remain less than adequate. CP Rail's operating ratio improved to 92.4 percent in 1994 and the company is aiming to achieve an 85 percent operating ratio by 1996 (Canadian Pacific Limited 1995).

---

[9] Operating ratios are defined as the proportion of operating revenues absorbed by operating expenses. Higher operating ratios make it more difficult for a company to reduce debt, raise capital for investment, or show a profit.

[10] The year 1991 was an exception: U.S. railways were involved in special changes related to work force reductions and other rationalization initiatives.

Figure 5 Technological Changes in the Railway Industry, 1950-1990



SBU = sense & braking CWR = continuous welded rail RCO = rail change

Source: Jones et al (1989) with revisions.

In addition to competitive pressures, technological change has a tremendous impact on the railways. The key technological changes affecting the railways are summarized in Figure *5.* The pressure for railway companies to invest in new technology is driven by a need to improve productivity, service levels, and the efficiency of operations; to expand the capacity and durability of equipment; to increase performance and communications; to enhance safety; and to reduce maintenance and labour costs. While it is not easy to discern the precise effects of the introduction and development of new technology, there is no doubt that it has a significant impact on employment levels.

There were employment losses in several occupational classifications (e.g., maintenance workers, train crews, rail traffic controllers, clerical workers), and there was a virtual elimination of some occupations such as firemen (Andrews 1993; Fisher 1991; Jones et al. 1989; Peitchinis 1971). Over the past forty years, the debates on the impact of technological changes in the railways have become issues of major significance and have included an industrial inquiry commission in the early 1960s, legislative reforms, collective agreement provisions, and work stoppages. Technological change provisions covering federally regulated employees in the railway industry have been in the *Canada Labour Code* since

1973. Technological, operational, and organizational change provisions in collective agreements, first negotiated in 1967, have improved upon and now exceed the requirements in federal and provincial legislation (Andrews 1993).

Union Structures and Approaches

In addition to fierce competitive pressures and technological change, union structures and approaches play an important role. Unions have a long history in the railway industry and at CP Rail, originating as early as the 1860s. Union membership continued to grow since then, and by World War II trade unionism had become firmly established on the Canadian railways and consisted mainly of international, craft-oriented, conservative, business unions (Speirs 1973).

Over the past thirty years, a number of changes have taken place in union structures and membership. Railway employees continue to be represented by multiple unions, some of which are international unions. The Canadian Auto Workers, a relative newcomer to the railway scene, comprises former international craft-based labour organizations.[11] The various unions represent three distinct employee groups: the running trades, which consist of employees who operate the trains and include locomotive engineers, conductors, trainmen, and yardmen; the shopcrafts, which consist of employees primarily engaged in the repair and maintenance of locomotives and railcars and include machinists, electrical workers, plumbers and pipefitters, sheet metal workers, and so on; and nonoperating employees, including employees involved with the maintenance of the track, equipment, signal and communication equipment, scheduling and dispatching, customer service centres, and yard offices.

There has been a significant decline in the number of unions representing rail employees. In 1966, there were 22 unions in the railway industry. By 1992, the number had dropped to 15, and by 1994, as a result of a consolidation of bargaining units, there were even fewer. For example, seven railway bargaining agents represent the 14,789 employees at CP Rail, or 76 percent of the company's total work force (see Table 4).

One of the most significant developments in union structure occurred in 1992 when the Canada Labour Relations Board (CLRB), on applications by CP Rail and CN, ordered the consolidation of several shopcraft unions into one bargaining unit.

Subsequently, the rail companies also requested the amalgamation of the running trades unions, that is, the Brotherhood of Locomotive Engineers (BLE) and United Transportation Union (UTU), which the CLRB ordered. In a separate application, the BLE and UTU applied for certification as a council of trade unions (Canadian Council of Railway Operating Unions). In August 1993, the single bargaining unit was found appropriate for collective bargaining, and the CLRB granted the certification. This will be discussed in more detail later.

[11] In 1990, the Canadian division of the Brotherhood of Railway Carmen merged with the CAW to form the CAW Rail Division. The Canadian Brotherhood of Railway, Transport and General Workers (CBRT) merged with the CAW in 1994.

Table 4 Unions at CP Rail, 1984 and 1993

Union	Membership 1984	1993
Running Trades		
Canadian Council of Railway Operating Unions (CCROU)*	6,071	4,520
Shopcrafts		
Canadian Auto Workers (CLC)**	7,009	4,097
Nonoperating		
Brotherhood of Maintenance of Way Employees (AFL-CIO/CLC)	5,068	3,123
Transportation Communications International Union (AFL-CIO/CLC)	3,571	2,160
Signal and Communications Systems Council No. 11 of the International Brotherhood of Electrical Workers (AFL-CIO/CFL)	643	529
Rail Canada Traffic Controllers Union (CCU)	662	270
Canadian Pacific Police Association (Ind.)	174	90

Source: Information provided by CP Rail.
* Formerly, the Brotherhood of Locomotive Engineers (AFL-CIO/CLC) and the United Transportation Union (AFL-CIO/CLC). In 1993, the Canada Labour Relations Board certified the two unions as a council of trade unions.
** After the Brotherhood of Railway Carmen of Canada merged with the Canadian Auto Workers to form the CAW Rail Division in 1990, the Canada Labour Relations Board ordered the consolidation of the shopcraft unions into one bargaining unit in 1992. In 1994, the CAW won the right to represent shopcraft employees in the consolidated union.

Traditionally, the picture that has emerged of unions in the railways is one of fragmentation, craft-orientation with strong ties to the old AFL-CIO, differing vested interests, and a desire to protect existing independence. The consolidation of union structures, broader-based bargaining, and the stronger presence of the CAW, whose traditional jurisdiction is not the railways and which has a different approach than most railway unions, indicates that this, too, is changing.

Collective Bargaining and Labour Relations

Historically, CP Rail has been extensively unionized, and the first collective agreements between the company and the unions date back prior to the turn of the century. Union and collective bargaining structures are unique and complicated. This is largely due to the long history of collective bargaining, the size of the work force, the types of jobs performed, and the extent of government involvement over the years, including the subsidies grant systems, regulatory controls, third-party assistance (e.g., conciliation, mediation, arbitration), back-to-work legislation, and issues arising from the interpretation and application of legislation by the courts, labour boards, and arbitrators. Bargaining has involved the three distinct groups of employees: the running trades, shopcrafts, and nonoperating employees, each with its own union structure and bargaining agenda.

Management style has also played an important role in collective bargaining and labour relations. CP Rail is an operating division of Canadian Pacific (CP) Limited. In the past, CP has been characterized as paternalistic and authoritarian in approach, with the company run on a formal, almost military basis (Goldenberg 1983). As recently stated,

> WI or too long, railways remained stuck in old-fashioned attitudes about power and responsibility. Because they were created at a time when business management practices emphasized command and control, railways were run like a military hierarchy, with everyone following orders that came down the line of command. (Tellier 1995, 32)

Senior positions within the company were often held by individuals who were 'railway men' and who had come from a long line of family members who had worked for the railway (Cruise and Griffiths 1988; Goldenberg 1983). On balance, the level of adversarialism between management and labour was muted by such industry practices as promotion through the ranks, the extent to which people moved around and the extremely low turnover in the railways. Careers of union and management officials often overlapped. Also, because there were large bargaining tables and multiple bargaining units, processes tended to institutionalize this less adversarial relationship. Both parties became very comfortable with the status quo and there was little or no impetus to change.

At CP Rail, there have been centralized negotiations and a long-standing history of pattern bargaining whereby the first settlement reached among the railway companies became the settlement for the entire rail industry. The company and its unions became used to a highly regulated bargaining regime. However, the dynamics of the collective bargaining process has been unwieldy. At times, on both the employer and union sides, voluntary associations have been formed for collective bargaining and centralized negotiations. Up until 1981, the railway companies often came together to bargain as an employer association. The Railway Association of Canada (RAC) was the certified bargaining agent of the employer for the shoperafts with mandatory multiemployer bargaining. The RAC negotiated with the BMWE but on a voluntary multiemployer basis. With the other nonoperating unions, there was no RAC but CP Rail and CN came together to negotiate. Since that time, there has been little joint bargaining among the companies.

The unions, too, have formed associations known as Associated Railway Unions (ARUs). Depending on the bargaining goals of the individual unions, the make-up of these ARUs has varied. The associations occasionally formed a common front. For example, early in the 1984 negotiations, the nonoperating and shoperaft unions joined together to push their demands for employment security, and the two groups came together again in the last stages of 1992 bargaining.

Not only has the bargaining process been complicated, collective bargaining issues in the railway industry have been complex and contentious for the parties. Some of the more difficult issues that have confronted management and labour over the years have been work jurisdictions, crew sizes, employment security, and dual basis of pay for running trades employees.

The propensity for government involvement has been strong. Most of the major strikes in the recent past have been settled by government intervention through back-to-work legislation, and arbitrated settlements. Although these methods of settlement can be a politically preferable alternative to bargaining for both the company and the unions, they have resulted in situations where wages, benefits, and other conditions of work have been formulated by third parties. It was recently stated that

> the general experience of the parties has been that when they are divided with respect to hard issues, they have not been able to resolve them short of intervention by Parliament. (Hope 1995, 34)

Key issues, therefore, have rarely been resolved during negotiations by the parties themselves. Negotiated collective bargaining outcomes (without mandatory imposition by arbitration) have been oriented towards maintaining the status quo. This, coupled with a complicated, multi-union bargaining structure, a bureaucratic and traditional management style, and complex and difficult bargaining issues, has meant that the collective bargaining response to change has been slow.

In terms of wage outcomes, the basic pattern in bargaining, first set by an arbitrator, Justice Emmett Hall, was cost-of-living plus 2 percent, then cost-of-living plus 1 percent; and by the late 1980s wage settlements were closer to the cost-of-living. Still, there were wage increases in every bargaining round. Unlike the bargaining experience in other industries during the 1980s, at CP Rail there was little evidence of any tack-loading' (higher wage increases in the final years compared to tl first year of the contract); there were no lump-sum payments and no wage cuts or freezes. In the 1987-88 settlements, CP Rail and its unions did negotiate a variation of a two-tier wage provision, which one union official referred to, more appropriately, as a 'new entry' wage. The provision called for new employees at the entry level to be paid 85 percent of the job rate but receive a 5 percent wage increase every seven months until they progressed to the full rate. There have been no gainsharing, profit-sharing, or employee stock-ownership plans for unionized employees at CP Rail. CP Rail agreements also contained cost-of-living allowance (COLA) provisions from the mid-1970s until 1982, when they were made inoperative under the *Public Sector Compensation Restraint Act* (PSSRA).

Several reasons have been given to explain this 'resilience of rail wages' (Jones et al. 1989; IBI Group 1994):

- The industry is unionized and remains politically sensitive, and therefore governments have intervened and imposed mediated settlements rather than permit lengthy strikes;
- Well-organized unions exist in the railways, giving rise to greater stability in wage
- settlements than in trucking, for example, where wages are relatively responsive to changes in the business cycle;[12]
- Seniority has had significant effects in an industry where employment is shrinking;

[12] Trucking wages are more responsive to fluctuations in the business cycle, especially for brokers (drivers who own or lease their trucks and are paid on a piece-rate basis), so if business declines, so do wages (Cubukgil and Lovisek in Jones et al. 1989).

- The major rail carriers have been unwilling to pursue the major issues in certain labour negotiations and to present and maintain a united front;
- There has been a history of regulated duopoly, over many decades, behind which 'strong and entrenched labour unions' have captured a major share of economic rent;
- There has been restructuring and rationalization in trucking and the airlines which forced management in these industries to demand, and labour to accept, stringent compensation terms.

The demarcation of unions and types of jobs performed along craft lines gives rise to a number of work rule provisions which, over the years, have been negotiated separately from the main table of negotiations. This has made it difficult for the company and unions to grapple with the specifics of work-rule issues to the same degree that they have been able to address wages, benefits, job security, pensions, and so forth at the master table, particularly since multiple unions were involved. Nevertheless, in 1988, an arbitrated settlement between CP Rail and its shopcraft unions introduced the incidental work-rule provision under which work pertaining to one craft can be carried out by another craft for up to 30 minutes only and no employees will be laid off as a direct result of the application of the provision.

Job security provisions, first negotiated into railway collective agreements covering shopcraft and nonoperating employees in the early 1960s, established a Job Security Fund for laid-off workers which called for an income maintenance program through the payment of one cent per hour worked (or paid for). The railways and its unions also negotiated provisions related to technological, operational, and organizational change.

Over the years, changes were made to the job security provisions, culminating in the employment security clause negotiated in 1985. The provision was first negotiated at CN and, in the tradition of pattern bargaining in the industry, was also accepted at CP Rail. The provision provided, with certain eligibility requirements and restrictions, protection against layoff as the result of the introduction of technological, organizational, or operational changes and included severance payments, training, early retirement lump-sum payments and relocation allowances for employees affected by such changes.[13] Generally, employees eligible for employment security received full wages and benefits until they were able to find a position or until retirement.

In the area of operating flexibility, CP Rail negotiated reduced crews in the late 1970s, and through attrition the railways were able to reduce the basic freight crew size from four to three persons. In 1992, CP Rail reached an agreement with its unions to phase in a reduction in the train crew size from three to two persons. With technological improvements, CP Rail has also been able to reduce the size of its yard crews from four to three persons and further reductions to two persons have taken place. Cabooseless trains were also an important issue. Following

[13] One union official explained that 'there [was] no protection from layoff for any CP employee, regardless of length of service, when the layoff [was] caused by circumstances beyond the company's control, including a business decline, loss of a customer, strikes in other industries, etc. The "guarantee" operate[d] as a case-by-case protection where management deliberately effect[ed] a type of change aimed at improving productivity and profitability. Any employee protected in the event of such a change [was] still subject to being laid off, perhaps a week later, when business [fell] off.'

protracted regulatory hearings and a nationwide strike in 1987, the railways gained the right to eliminate cabooses from the trains in 1989.

In summary, collective bargaining and labour relations at CP Rail have been steeped in tradition and fairly stable, and they have remained at arm's-length, that is, they have been neither acrimonious nor especially cooperative. The nature of such relationships is discussed in Walton, Cutcher-Gershenfeld, and McKersie (1994, 16-17). If work stoppages can be considered a barometer of labour relations, the record for CP Rail has been relatively good, especially considering the potential for widespread disruptions that centralized negotiations and industry-wide settlements presented. There have been only six national strikes over the past four decades, largely related to wages, crew sizes, and job security. On the other hand, settlements have not come easily and have often not been reached without extensive third-party involvement and government intervention.

3. Corporate Responses to Change

CP Rail has been experiencing turbulent times and an accelerating pace of change. The responses to change have been many and varied and need to be seen in the light of decisions made by the parent company, CP Limited.[14] In the 1960s and 1970s, CP Limited's performance was guided by strategies of expansion and diversification. During the 1980s, the company embarked on a course of consolidation, rationalization, and restructuring. In the 1990s, corporate strategy shifted from consolidation and restructuring to strengthening its businesses, improving their competitiveness in terms of market position, productivity improvement, and cost control, and taking advantage of opportunities for selective expansion (Canadian Pacific Limited 1990). However, restructuring initiatives have continued in order to down-size the work force and rationalize the business. CP Rail has abandoned railway lines, explored merger and buy-out possibilities, reduced employment, invested in new technology, pursued strategic alliances with other railways and modes of transportation, and consolidated operations.

Deregulation and the numerous competitive challenges and pressures it unleashed during the 1980s and 1990s served as a wake-up call for the company and galvanized its corporate leadership to push for changes that would move the company from being a railway to being a business. In 1987, CP Rail began an intensive restructuring program in an effort to become less operations-focused and more market- and profit-oriented. It reorganized its marketing and operating functions into two largely autonomous, profit-driven business units—one based in Eastern Canada to develop intermodal freight systems (Intermodal Freight Systems, or IRS) and one in Western Canada to focus on heavy-haul freight (Heavy Haul System, or HHS). The realignment was to 'allow more flexible response to market opportunities and competitive pressures resulting from regulatory reforms and changing business patterns in Canada and internationally' (Canadian Pacific Limited 1987, 9). The two business units were 'loosely coordinated' from corporate headquarters in Montreal, whereas previously the company was 'centrally directed' from Montreal. This had a direct impact on the IR function in terms of its role, structure, and responsibilities. This will be discussed in more detail in the next section.

CP Rail intensified its efforts to lower or control costs, improve service and efficiency, and achieve greater flexibility and productivity. In terms of network rationalization, it sold or abandoned low-density lines, primarily in the East, in order to cut costs. In 1993, Canadian railways carried 90 percent of their freight on only 40 percent of their lines (Sheikh 1994a). The average density of traffic on CP Rail and CN together was reported to be only 60 percent of the traffic density achieved by the seven largest U.S. railroads (National Transportation Act Review Commission 1993). There has been a steady decrease in the length of track operated since 1980. Although to date rail rationalization in Canada has not been as significant or as extensive as in the United States, it has been considered strategically important in terms of reducing the costs of owning, operating, and maintaining separate lines. In an attempt to deal with its overcapacity problems, CP Rail discussed the possibilities of merging eastern freight operations with CN, but these discussions broke down in July 1994. A proposed buyout of CN's eastern rail operations by CP Rail was rejected by the federal government in December 1994.

---

[14] Much of the information on corporate responses to change, including those in the industrial relations area, is based on annual reports of Canadian Pacific Limited and CP Rail, annual reviews by the National Transportation Agency, as well interviews with senior IR executives at CP Rail.

As part of its corporate strategy to reduce costs and gain productivity improvements, there has been a drastic decline in employment at CP Rail. Historically, employment has been on a downward trend in the railway industry since the 1950s, but the decline has accelerated in recent years. Between 1980 and 1993, the size of the work force at CP Rail fell at an average annual rate of 4.2 percent. The declines have been widespread and pervasive. All major occupational groups experienced job losses with the greatest declines among equipment maintenance and transportation employees. According to employment figures provided by the company, between 1984 and 1993 there was a 36 percent decline in the number of unionized employees at CP Rail. The nonunionized work force decreased by 22 percent. Employment among the managerial and professional groups also fell, but not to the same extent as among the unionized work force. On the management side, however, CP Rail has ‘delayered’ many of its operations (i.e., taken out layers of management) and significantly reduced corporate staff.

In addition to eliminating low-density lines and reducing its work force, CP Rail has concentrated efforts on improving 'customer' quality in terms of on-time performance, efficiency, reliability, and quality of shipments. Among the initiatives that CP Rail has used to enhance service levels are the upgrading of track, equipment, and facilities. Although stringent cost-cutting measures meant capital expenditures were not as substantial as they were prior to the mid-1980s, CP Rail recently stepped up its capital investment program in order to improve customer service, take advantage of increased traffic volumes, and compete aggressively for market share (Canadian Pacific Limited 1995).

Other initiatives aimed at improving service include tunnel clearance projects, reducing the length of trains, the use of double-stack container trains, and investment in new technology, including high-performance train technology and equipment design, computerized planning and monitoring systems, and computerized data and information services. In order to improve service and communication with customers and the handling of goods in transit, CP Rail introduced Customer Action Teams, which are cross-functional teams possessing a variety of railway skills. In 1991, a total quality management process was introduced. In 1993, CP Rail consolidated nine regional customer service centres in one centre in Winnipeg. Recent surveys indicate that 'service reliability' replaced lower prices as the single most important factor for rail shippers to maintain their competitive position (National Transportation Agency 1994, 227).

As well as posing a challenge for the railways, technological change has also been a corporate response to change. The introduction and improvement of labour-saving equipment has helped CP Rail reduce costs and use resources more efficiently. CP Rail recently joined forces with a major U.S. railway company to test market the 'Iron Highway,' a system which uses new technologies to provide fast, flexible loading and unloading of highway trailers from almost any trackside location (Canadian Pacific Limited 1995). The company also consolidated its crew-calling operations and established a central office in Montreal, replacing about thirty offices across the country.

In other reorganizations aimed at reducing administrative costs, increasing efficiency, and providing better customer service, CP Rail consolidated its railway divisions across the system, and overhauled its mechanical, engineering, and transportation functions. The redesign of these core operating functions entailed an examination of work processes, structures, systems, and other organizational elements across the railway, and included benchmarking against other

North American rail carriers. In 1992, CP Rail closed the Angus Shops, its major maintenance facility in Montreal.

Other responses to competitive pressures included expansion of CP Rail's operations into U.S. markets with the acquisition of the Soo Line and Delaware & Hudson (D&H) railway in the early 1990s. Strategic alliances have also been formed with other major U.S. railways (e.g., Conrail, Guilford Transportation, Burlington Northern Railroad, Norfolk Southern) in order to broaden market opportunities, expand intermodal services, cut costs, and improve service.

Industrial Relations Responses to Change

As noted above, one of the most significant corporate responses to change occurred in 1987, when CP Rail reorganized its operations and marketing functions into two business units. There was also a devolvement of IR and a once very strong corporate headquarters was weakened. The business units took on more responsibility for labour relations issues and the concentration of power and authority for IR matters was diffused.

However, the process has continued to evolve. Problems with consistency and coordination in company policy and practices and a lack of collaboration between the two business units developed. Company and union officials indicated that at times there were differences between what was happening in their Eastern and Western operations and how particular issues were handled. In recent years there has been a move to strengthen central authority.

Beginning in 1992, CP Rail changed its IR structure in order to better capture the advantages of line-driven IR and accountability for corporate industrial relations, and to gain consistency and common understanding across the country. Labour relations staff in the business units and in the U.S. operations resumed a direct reporting relationship to corporate IR in Montreal, although day-to-day decision making still rests with the business units and the clear mission of the labour relations staff is to serve line management in the business units. The role of corporate IR is to provide experience and expertise in a collaborative way. Policy development is the responsibility of corporate IR, but greater attempts are being made to consult and collaborate with line management in the business units even in collective bargaining matters. A Senior Steering Committee for Labour Strategy (SSCLS) was established to handle ongoing issues of policy and practice in industrial relations. The committee included senior industrial relations and business unit executives. A new industrial relations policy for the company was developed and implemented in 1993. This will be outlined in the next section.

Management style has also changed. Executives once came up through the ranks and their entire careers were in the railway. This is changing. Currently, it is the nontraditional railroader that is in high places. Three years ago the position of Vice President of Industrial Relations at CP Rail was assumed by an individual from outside the railway industry as were the positions of Vice President Human Resources and Vice President Information Services. There are also indications that CP Rail is putting more emphasis on the 'human,' or people, side of the business than it has in the past, with a move away from the more authoritarian and paternalistic style of management. Senior IR executives indicate that the company is thinking more strategically, that is, attempting to tie IR activities into the corporate business plan. The company has stated that it has begun to 'link its business strategies with the performance, compensation, and training of managers and their work units' (CP Rail 1994, 7).

However, CP Rail is in the formative and transitional stages of this new approach, and it could very easily be reversed. In addition to the competitive pressures and the sudden need to become much more adroit in its ability to accommodate and execute change, the history and culture of the organization remain an important influence on industrial relations policies and practices. Nowhere is the case of the old meeting the new more evident than in the collective bargaining and labour relations area.

As noted earlier, collective bargaining and labour relations at CP Rail are steeped in tradition. The collective bargaining response to change has been slow. In a regulated environment, the costs of high wages and restrictive work rules could be passed on to shippers through rate-making. By the late 1980s and early 1990s, however, deregulation ushered in a highly competitive market environment and railways were no longer able to pass on increased costs. Flexibility in operations, increased efficiency, and controlling labour costs became key strategic concerns for management at CP Rail. At the same time, there was a growing need to take collective bargaining in a more strategic direction, that is, to align IR activities with the corporate business plan, become more bottom line oriented, and make a concerted effort to gain greater savings from the collective agreement. Incremental changes and maintenance of the status quo in collective bargaining were no longer feasible. CP Rail came under increasing pressure to simplify and streamline its collective agreements.

From management's perspective, contracts reflect an operating world that is sorely out of date, and bargaining processes and outcomes have not kept pace with the kinds of changes that the business environment is demanding. As one rail official stated,

> [R]eflecting [a] long history are the railway plant, labor practices, regulation and public perception of railways, and the industry continues to carry much of the baggage of a bygone era. (Ballantyne 1994, 9)

As part of its corporate strategy, CP Rail applied to the Canada Labour Relations Board (CLRB) in 1990 for consolidation of its shopcraft bargaining units and amalgamation of its running trades bargaining units. In the case of the shopcraft unions, CP Rail argued that a single bargaining unit was needed in order to gain more flexibility in assigning work and to prevent work-jurisdiction disputes and 'whipsawing' by the unions. The unions opposed the consolidations, arguing that it would be difficult to represent the vested interests of the various groups and that there was potential for intra-union conflict.

In 1992, the CLRB ordered the consolidation of seven shopcraft unions at CP Rail.[15] In its decision, the Board did not find that there had been a significant number of work jurisdiction disputes between the unions, nor had the fear of 'whipsawing' been justified historically. However, it did find that a blurring of demarcation lines across traditional craft lines on the railways meant that the organization of employees along craft lines for collective bargaining

[15] The seven shopcraft unions included the International Association of Machinists and Aerospace Workers; the International Brotherhood of Electrical Workers; the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada; the Sheet Metal Workers International Union; the International Brotherhood of Firemen and Oilers; and the Canadian Auto Workers (the Carmen had merged with the CAW in 1990).

was no longer appropriate. The Board also stated that there was overlap in the functions performed by the different crafts.

The CLRB stated that the consolidation of seven unions into one bargaining unit would result in more effective and consistent collective agreement negotiation and administration and would increase lateral mobility for employees and long-term job security. During the hearings, the shopcraft unions, with the exception of the CAW, requested that two bargaining units be established, one representing the Carmen/CAW members and the other representing the other crafts. However, the CLRB rejected this request, arguing that such a move would not give employees the broad resource base needed in collective bargaining and would underscore rivalry. Moreover, it was stated that

The only real justification for the establishment of two units among employees would appear to be the accommodation of vested interests of existing organizations, not the long-term interests of employees nor the achievement of sound collective bargaining and efficient collective agreement administration. *(Canadian Pacific Limited* (1993), as yet unreported decision no. 944, 17)

Following a vote among the members of the seven amalgamated bargaining units, the CAW won the right to represent shopcraft workers in the consolidated unit.

With respect to CP Rail's application for the consolidation of the running trades bargaining units, the two unions involved were the Brotherhood of Locomotive Engineers (BLE) and the United Transportation Union (UTU). The unions opposed the amalgamation, which they considered to be a 'forced merger' aimed at 'pitting one union against the other in a bitter representation battle' (United Transportation Union 1991, 3). It was also felt that the consolidation did not accommodate craft autonomy and was solely for the benefit of the railways (United Transportation Union 1990/91). On August 6, 1993 the CLRB ruled that a bargaining unit of all running trades employees was appropriate for collective bargaining given the strong community of interest between the units in terms both of negotiations and of collective agreement administration *(Canadian Council of Railway Operating Unions* (1993), as yet unreported decision no. 1025). In order to avoid a representation vote, the BLE and UTU applied to the CLRB for certification as a council of trade unions (Canadian Council of Railway Operating Unions), which the Board certified as a single bargaining unit on August 11, 1993 (Mediation-Arbitration Commission 1995a).

Accompanying these changes in the role and structure of IR, management style, and union and collective bargaining structure at CP Rail has been a growing recognition that the labour-management relationship is an important part of the company's total competitive strategy. The considerable pressures from a fiercely competitive economic environment outlined earlier in this paper, prompted CP Rail to take a new approach to labour relations. In 1993, the company developed and implemented an industrial relations policy that acknowledged the importance of the strategic management of industrial relations and constructive relationships between the company and its unions and employees. It also recognized the need to complement traditional bargaining with ongoing negotiation and consultation and called for a new *alliance* between management and the unions:

CP Rail wishes to conduct its Industrial Relations in a manner which will develop a strategic alliance between the Company, union representatives and the employees they represent to assist in the achievement of the CPRS Vision. The strategic alliance will be based on open communication and trust; such that issues of mutual interest can be recognized and a process developed to resolve them in a non-confrontational manner. This on-going negotiation and consultation process will complement traditional bargaining.

The mission statement was initiated by the IR function, went through several drafts internally with the Executive Committee of CP Rail and with input from operations' management. It was accompanied by policy and principles which formally recognized on paper the legal and legitimate role of unions and the purpose of collective agreements in the workplace. The company also committed itself to

- Training management in the application of the agreements;
- Collaboration between management in the business units, CP Rail System management and Industrial Relations in formulating and initiating business strategies that could impact the negotiation or application of the collective agreement;
- Prompt grievance resolution; and
- More effective information sharing with union leaders.

Management philosophy and attitudes are changing at CP Rail. There is a growing awareness that the labour-management relationship has an impact on outcomes, that the relationship and outcomes cannot be separated anymore, a factor that may not have been considered in the past. Management acknowledges that how the relationship is managed in the short term will impact on the long term. New approaches have been taken in the past two or three years. In the period leading up to the 1993-95 bargaining sessions, there was a greater willingness at CP Rail to discuss problems of mutual concern, increased access of union officials to senior executives within the company, more information sharing, more face-to-face meetings, better communications, and more union involvement in issues such as training, health and safety, and a new employee and family assistance program.

Something as far-reaching as a strategic alliance between management and labour at CP Rail is definitely in an early, formative stage. Union and management officials indicated that going into bargaining, there was a new and a positive labour-management relationship at CP Rail. It appears that at the corporate level, there was a consensus in problem solving taking place between management and the unions. However, it is less clear how much of this was filtering down to the local level or shop floor.

At CP Rail, there have been seven different sets of relationships that needed to be managed on various levels, from the corporate level to the front line. At the same time that management was attempting to take a more collaborative, less authoritarian approach and move the labour-management relationship in new directions, it was also aiming to make significant changes in collective bargaining structures, processes, and collective agreements. Not surprisingly, despite attempts to modify traditional approaches, adversarial relations still existed. The recent bargaining round has served as a test of the new approaches in labour relations at CP Rail and reflects how new beginnings are being shaped by long-standing structures and complex industrial relations issues.

4. New Approaches and Recent Bargaining

Negotiations between CP Rail and most of its unions began in the fall of 1993. From the outset, bargaining represented a marked departure from past history. For the first time, all of the shoperafts were together in one bargaining unit, represented by the Canadian Auto Workers, a relatively new union in the railway industry and one which has a different approach to doing business than most railway unions.[16] While the Brotherhood of Locomotive Engineers (BLE) and United Transportation Union (UTU) had negotiated together in previous bargaining, they were separate bargaining units. In 1993, as we have seen, the Canada Labour Relations Board certified the two unions as a council of trade unions- the Canadian Council of Railway Operating Unions (CCROU).

CP Rail abandoned pattern bargaining in recent negotiations, arguing that it could no longer afford to continue with an industry-wide approach to negotiating collective agreements. Specifically, it pointed to the employment-security provision, which was first negotiated at CN. The company claimed that it had not originally been and was not now in CP Rail's best interest, but it had been forced to follow the pattern. Similarly, it was felt that restrictive work rules affecting CP Rail had been neglected because of pattern bargaining. As a result, the company was encountering serious operating difficulties and changes in work rules were needed to improve efficiency and reduce costs. CP Rail also announced its intention to refrain from joint bargaining with its unions and instead chose to negotiate at seven separate bargaining tables.

In the most recent round of bargaining, CP Rail initiated a move away from the more traditional bargaining strategy to an interest-based or mutual gains approach, 'in the hope of fundamentally eliminating the more traditional adversarial approach to negotiations.' Most of the unions participated in a training program on this process. There were indications that the new approach in bargaining provided more opportunity for both management and labour to lay out the issues that needed to be on the table and to have them fully developed and discussed. On the management side, there was also more line involvement in collective bargaining than had taken place in the past. This involvement took two forms. First, specific meetings were held in order to get input from line managers in a variety of different locations to form the corporate agenda. Secondly, there was a greater presence of senior operating management at the bargaining table which, in the case of the running trades, had historically not been the case in previous rounds.

Management at CP Rail came to the table with a more comprehensive bargaining agenda. The railway's main objectives were to obtain modifications to employment security and work rules (Canadian Pacific Limited 1995). Underscoring their arguments was the notion of 'ability to pay,' that is, the notion that significant changes were required in the collective agreements if the company was to remain financially viable:

---

[16] Some of the factors in this different approach include electing the bargaining team, selecting one employer in an industry to bargain with and then using that settlement as a basis for negotiations with other employers in the industry, attempting to negotiate without third-party intervention, trying to reach agreement short of arbitration, bargaining with a strike deadline, and the CAW's 'culture of resistance' in negotiations (Gindin 1995, 219).

> In bargaining the Railways made it clear that their goal is to achieve *concessions* they consider essential to viability in the industry. (Hope 1995, 50, emphasis added)

The conciliation commissioner appointed when negotiations became deadlocked noted in his report that management remained steadfast in their demands, to the point of leaving the unions with little room to bargain:

> [U]nion demands were made at all bargaining tables, but bargaining became focused on the Railways' demands. Little or no bargaining has taken place with respect to the Unions' demands. . . . [T]he controversy engendered by the Railways' demands caused the focus to remain on the Railways' agendas throughout most of the bargaining that took place. . . . [T]he Railways' far-reaching and aggressive programs appear to have reversed the usual bargaining dynamics and the parties have had obvious difficulty in adjusting to that change. (Hope 1995, 4, 10, 16)

Moreover, CP Rail was prepared to continue operating in the event of a strike by using trained nonunionized management personnel. This was in contrast to the approach at CN. At CN, no preparations were made to continue operating, and the CEO of the company, Paul Tellier, was calling for immediate back-to-work legislation and arbitration if a work stoppage at the company ensued (Bertin 1995).

Outstanding Issues

While there were a number of issues on the bargaining table at CP Rail, the two foremost and contentious were employment security (ES) and workplace flexibility.[17] The employment security provision was introduced in 1985 and provides for protection from layoff due to technological, organizational, or operational change of a permanent nature. Employees affected by such changes are eligible for full wages and benefits until they are able to find an alternate position or until normal retirement at age 65. To qualify for ES, employees must have completed eight years of cumulative compensated service and hold a permanent position (the eight-year qualifying provision was changed to fourteen years for newly hired employees in the 1991 collective agreement).

In order to qualify and maintain eligibility for ES, some unionized employees were required to exercise their full seniority within their region and ultimately accept vacancies within another seniority group and the same collective agreement, or within another collective agreement and the same union, or within certain other unions, or accept vacancies not covered by the collective agreement.[18] However, BMWE and CAW employees were not required to accept vacancies in the region within the running trades or certain other vacancies within specific bargaining groups covered by ES. The BMWE and CAW were not even required to take running trades vacancies at their home location. CP Rail felt that these ES provisions placed limitations on their ability to fill vacancies across the system.

---

[17] The discussion of major issues in the recent set of negotiations is based on the conciliation commissioner's report (Hope 1995) and submissions made by CP Rail and two of its unions affected by the report, the Brotherhood of Maintenance of Way Employees (BMWE) and the Canadian Auto Workers (CAW).

[18] It should be noted that the running trades were never covered by these employment security provisions.

Acceptance of the ES provision in 1985 was based on the assumption that with normal attrition or displacement of employees with less than eight years of service, the benefit was manageable. However, massive reductions in employment levels virtually depleted the number of employees with less than eight years' service leaving CP Rail with a greater liability than it anticipated. BMWE and CAW employees were *not* required to accept vacancies in the region within the running trades or certain other vacancies within specific bargaining groups covered by ES. The BMWE and CAW were not even required to take running trades vacancies at their home location. CP Rail felt that these ES provisions placed limitations on their ability to fill vacancies across the system.

Acceptance of the ES provision in 1985 was based on the assumption that with normal attrition or displacement of employees with less than eight years of service, the benefit was manageable. However, massive reductions in employment levels virtually depleted the number of employees with less than eight years' service leaving CP Rail with a greater liability than it anticipated.

In negotiations, CP Rail seemed to take a different approach than CN to the issue of employment security. In contrast to CN and VIA Rail, who proposed abolishing ES, CP Rail did *not* seek to eliminate employment security but, instead, wanted to revise the provision to make ES a 'benefit of last resort,' that is, a benefit that would apply when there was absolutely no work available anywhere, not a benefit of choice (Hope 1995). The company stated that it had had to hire 867 new employees since January 1993, even though it had 346 employees on ES who were qualified to do the jobs or could be qualified in a short period of time but who were not required to relocate under the current provisions. The total ES costs to date for CP Rail were reported to be over $45 million and the company argued that current ES provisions were preventing it from utilizing unproductive employees and, therefore, inhibiting its ability to operate efficiently. The company proposed that the provision be amended to require employees who would be eligible for ES to exercise one of the following options: accept work in another bargaining unit, in another region, or possibly on a system-wide basis—or even outside the railway industry if necessary. CP Rail proposed to improve relocation, severance, retirement, and bridging packages and establish provisions for retraining and paid education leave.

The unions countered that they had foregone wage increases for ES protection and, in their view, ES was a benefit which they had won in previous collective bargaining. The unions claimed that the company had paid over 38,000 hours in overtime at one facility over an eleven-month period in 1994 while employees were put onto ES. The CAW expressed concern with company proposals regarding the following ES concepts: cross-trade bumping within bargaining units; system-wide bumping; finality in the application of ES; and changes in the existing ES provisions negotiated in a special agreement affecting employees in the Angus shop closure in 1992. In the conciliation report, it was felt that the issue of forced relocation was the major stumbling block between the parties on the ES issue.

Conciliation Commissioner Hope noted that one of the factors complicating bargaining on this issue was outside perceptions of ES as simply a benefit that allows employees to stay at home on full pay. This, he stated, was an oversimplification of what is an extremely complex benefit and a portrayal which he felt was 'particularly destructive in terms of collective bargaining' (Hope 1995, 17).

Another thorny issue involved company proposals on workplace flexibility.[19]

CP Rail held that they were still being constrained by 'long-dated work rules, practices, and employee classifications which date back to the glory days of steam locomotion.' In the company's view, these work jurisdiction rules were having an adverse effect on productivity and the efficient deployment of the work force. The issue was discussed at considerable length during the negotiation stage and in the mediation process, the company proposed the following changes affecting its shopcraft employees:

- Expanding the current incidental work rule provision to provide that the craft employee doing the majority of work be permitted to do the entire integrated work assignment, if qualified;

- Implementing a 'simple tasks' provision whereby work that requires neither special training nor special tools could be assigned to any employee capable of performing it;

- Permitting the company to utilize employees in the work of other crafts where shortages exist and the only alternative is hiring new employees;

- Reducing the current six crafts to four—carmen, machinists, electricians, and metal fabricators;

- Eliminating the classification of helper, with such work to be performed by labourers.

In response, the CAW expressed the fear that these proposals would jeopardize seniority rights, potentially result in a deskilling of the trades, and ultimately lead to a reduction in wages. The union was concerned with protecting existing classifications and lines of demarcation between classifications and opposed to any form of incidental work rule. The CAW did propose 'trade modernization' through the CAW Skilled Trades Program.

In a related issue on operational flexibility with the BMWE, CP Rail proposed that the collective agreement be revised to provide the company with the ability to utilize employees who could respond most quickly to after-hours emergency calls, regardless of seniority. The company felt that it needed greater flexibility in scheduling hours of service in order to maximize the productivity of the work force and minimize train delays.

The railways were considering wage increases, but only if commensurate with productivity improvements achieved through changes to the collective agreements that they were seeking. In submissions to the conciliation commission, CP Rail pointed out that total compensation costs for unionized employees were $774.9 million per year, accounting for 43.7 percent of the company's total operating costs. From the viewpoint of CP Rail, its employees were extremely well paid, with wage rates among the highest in the country and well above the Canadian average.

[19] Under contract provisions, employees from one craft are restricted to thirty minutes in performing the work of another craft.

The unions, on the other hand, argued that unionized employees had not received their fair share of the productivity gains realized by the company in recent years and pointed to the significant turnaround in traffic volumes and operating income in 1994. The BMWE proposed a wage catch-up, indicating that BMWE members were among the lowest paid in the industry and that wages had lagged behind inflation since 1985. The CAW compared wage rates with rates in the marine, rail, and auto industries and examined wage trends over the previous ten years. While rail shopcraft wages were comparable to the long-term trends of the wages of workers in related occupations, their absolute wage rates lagged behind others. Therefore, the CAW was seeking wage increases of 3 percent for lead hands in each year of a three-year agreement and equivalent dollar amounts for all other classifications. In addition, both these unions proposed the introduction of a cost-of-living allowance (COLA) clause. According to the CAW, a COLA provision would be a 'show of faith that the company will protect the value of wage improvements should inflation grow in the future.'

Bargaining at CP Rail over these and many more issues continued through 1994. Negotiations with the CAW and BMWE reached an impasse in November 1994. At that time, in accordance with the requirements of the *Canada Labour Code (Part I - Industrial Relations and Disputes),* the conciliation commissioner was appointed. Formal meetings with the parties were held and a report was rendered in February 1995.

According to the Conciliation Commissioner Hope, who examined the issues and proposals set forth by CP Rail and the other railways as well as the proposals and responses of the unions, the impasse in bargaining stemmed from the demands made by the railways:

> [I]t is clear that the measures the Railways propose are diametrically opposed to the interests of the Unions and their members. The Railways propose measures which will have an impact on levels of employment, not only in a reduction in numbers, but as a result of the relocation and amalgamation of services which will lead to a restructuring and redistribution of the employee population across their systems. . . . [I]n short, it is not an extreme metaphor when some Unions describe themselves as being under siege. (Hope 1995, 48)

At the same time, there were numerous distractions in bargaining which served to complicate and lengthen negotiations and push the parties even farther apart. These distractions included: the absence of any specific plan for rationalization by the railways, which had a 'chilling effect' on the unions and their willingness to negotiate with the railways; the consolidation of bargaining units, which complicated and prolonged negotiations;[20] the possibility of eventual interest arbitration, which inhibited bargaining between management and labour; and government involvement in collective bargaining and labour relations. According to Conciliation Commissioner Hope (1995), these distractions, some of which had not been present in earlier rounds, tended to protract and polarize negotiations in terms which hardened positions rather than softened them. CP

[20] Hope points out that through much of the bargaining, the CAW was undergoing an amalgamation with other bargaining units following the decision by the Canada Labour Relations Board.

Rail was adamant that significant changes were needed in its collective agreements if it was to remain viable. From the unions' standpoint, they were being asked to significantly amend, reduce, or eliminate provisions which had been won in previous rounds of negotiations. They took the position that their members should not be asked `to surrender existing wages and benefits and forgo legitimate demands in order to accommodate financial conditions that management has allowed to accrue over many years' (Hope 1995, 53).

Despite these distractions and the hard line taken by the railways with respect to their bargaining demands, the apparent failure to reach an agreement following lengthy negotiations was not due to a lack of will by the parties but, instead, 'the real source of difficulty in bargaining was the structure itself' (Hope 1995, 46). It was noted that the tough issues that divided labour and management had pushed them to an impasse at all bargaining tables.

Across the country, the story of industrial relations today is one of negotiating change. The CP Rail case illustrates the difficulties of doing this because of environmental forces and complex issues that confront the parties. Despite initial moves towards interests-based bargaining, hard positions were taken. By the time the parties had reached an impasse, 'bargaining [had] not advanced to any significant degree beyond the initial exchanges of positions' (Hope 1995, 33). The conciliation commissioner's report went on to state that the parties'

> apparent strategic reluctance to move from positional bargaining to the interest-based bargaining that is essential to the formation of an agreement . . . became explicable when it was understood that the expectation was that the resolution of the dispute would likely occur in a subsequent arbitration. (Hope 1995, 43, 45)

Once again, past circumstances seem to have cast a long shadow over current bargaining and new approaches. According to the conciliation commissioner's report,

> the reality is that bargaining in this round has followed deep ruts established in prior rounds. Those ruts lay down a path which, when hard positions are taken, ends in some form of imposed settlement. Various of the parties, while they expressed a strong antipathy to interference by Parliament, appeared resigned to the fact that their disputes would be resolved in some form of third party process and they were reluctant to risk a compromise of their positions until that process had begun. (Hope 1995, 11)

Similarly, it was the opinion of the conciliation commissioner that the unions, faced with proposals by the railways which they could not accept, were thrust into their familiar stance of confrontation as the only alternative to unacceptable demands. Given the divergence in bargaining goals, Hope's report foresaw the possibility that the parties would be unable to reach a settlement through direct collective bargaining and recommended that a mediation-arbitration process be used. He did state that, given the complexity of the issues, only the parties themselves had the insight and experience to deal with them and urged that they should be given every opportunity to reach a negotiated settlement.

Following the submission of the conciliation commissioner's report to the Minister of Labour, a legal work stoppage began in March 1995. It involved rotating strikes by the BMWE and subsequent lockout of BMWE rail workers by CP Rail (Bertin and Gibbon 1995). As noted earlier, CP Rail's strategy was to continue operating using trained nonunionized management personnel.

In addition to a divergence between union and management in bargaining, differences also emerged between the CAW and other unions early in the railway dispute. The preferred strategy of the CAW was to avoid back-to-work legislation by targeting one company, CP Rail, and using pressure tactics or work stoppages at the company to effect a pattern-setting agreement for the industry. For example, one approach was to create financial hardship for CP Rail by urging shippers to use other carriers. Other unions, such as the BMWE, preferred a strategy of rotating strikes. Although in a legal strike position in early March 1995, both the CAW and BMWE initially agreed to postpone any strike action until March 15. However, on March 8, the BMWE began a series of rotating strikes against CP Rail, who responded with a lockout. Attempts by the CAW to work out an arrangement with the BMWE whereby CAW members could return to work without crossing BMWE picket lines failed. On March 18, the BMWE and the CCROU struck CN and two other unions walked out at VIA. The government stepped in with its back-to-work legislation on March 26 (Bertin and Gibbon 1995; Jenish 1995).

The legislation established mediation-arbitration commissions, in a manner similar to the process recommended in the conciliation commissioner's report. Before discussing the outcome of the mediation-arbitration process, it is useful to consider government policy with respect to railway negotiations.

Government Policy

Without a major change in government policy, it is unlikely that the railroads would have been able to negotiate change. In the 1994-95 bargaining round, one government agency played the role of change agent and another the role of dispute resolver or 'honest broker.' It is unclear whether this was by deliberate design or because of deep-seated differences in approach by the two Ministers, Lloyd Axworthy of Human Resources Development Canada and Doug Young of Transport Canada.

Throughout the negotiations, the two government agencies, the Ministry of Labour (now called Human Resources Development) and Transport Canada, seemed to have engaged in a tug-of-war to gain control of or influence the negotiations. In April 1994, Human Resources Development Minister Lloyd Axworthy, under the provisions of s. 106 of the Canada Labour Code, appointed Paul Fraser as his special advisor on the railway negotiations. However, Human Resources Development appears to have played its traditional neutral role of facilitating a settlement. Indeed, the conciliation commissioner made it clear in his report that the Ministry of Labour, that is, Human Resources Development, which has jurisdiction over industrial relations in the rail industry, 'maintained the traditional posture of strict neutrality and objectivity in dealing with the disputes' (Hope 1995, 6). He felt that the same could not be said of the Ministry of Transport.

Statements attributed to Transport Canada with respect to major issues were perceived by the unions to be supporting the railways' position. For example, the employment security provision has been depicted as an 'extravagance' that the railways could ill-afford. Tension over the role of the government in railway negotiations did not escape the attention of the conciliation commissioner. Commissioner Hope (1995, 51) characterized the Minister's perception of the employment security provisions as 'mischievous and unfair.' In a policy statement, Transport Minister Doug Young called the future of the railway industry in Canada 'uncertain' and `gripped by problems of over-regulation, of mismanagement, of over-capacity, of financial losses, of archaic work practices, of out-of-date legislation' (Transport Canada 1994a). The Minister has also emphasized the need to make the railways more efficient, affordable, and viable and viewed labour-management relations as critical:

> [E]xpectations and actions on both sides need to be consistent with current economic realities. Workers and management should continue to expect to be well paid for providing high quality, efficient service and adding significant value to individual transactions and the total transportation system and the economy. . . . However, no one can take more out of the system and economy than we can contribute, without undermining the efficiency, affordability and integrity of the national transportation system, and our ability to compete as an economy and society. (Transport Canada 1994b, 15)

In its commitment to privatize CN, government policy seems to have been driven by the need to ensure a competitive rail industry in Canada, particularly in light of the fact that the government rejected CP Rail's offer to buy CN's eastern rail operations. In the end, it is clear that the forces for change within the government won the policy battle, as evidenced by the clause inserted into the back-to-work legislation. This clause stated that the guiding principle for the mediation-arbitration commission established to resolve the railway disputes should be

> the need for terms and conditions of employment that are consistent with the economic viability and competitiveness of a coast-to-coast rail system in both the short and the long term, taking into account the importance of good labour-management relations. (Bill C-77, *Maintenance of Railway Operations Act,* SC 1995, March 26, 1995, s. 12)

Also, in June 1995 the Ministry of Transport, in an attempt to position CN for privatization, introduced legislation which overhauls the *National Transportation Act* and is aimed at making the railways more competitive. Among the regulatory reforms contained in Bill C-101 are measures which would ease and expedite the process for the abandonment or sale of uneconomic rail lines and the creation of short line operations (Transport Canada 1995).

Outcomes of the Mediation-Arbitration Commissions at CP Rail

The mediation-arbitration commissions were appointed to settle the railway disputes involving CP Rail and the CAW, the BMWE, and the Canadian Council of Railway Operating Unions (the Brotherhood of Locomotive Engineers and United Transportation Union). During the mediation-arbitration proceedings, agreements were reached through mediation with the BMWE and the Canadian Pacific Police Association. Prior to the establishment of the mediation-arbitration commission, mediated settlements were reached with the Transportation-Communications International Union (TCIU), the Rail Canada Traffic Controllers (RCTC), and the Signal and Communications Systems Council No. 11 of the International Brotherhood of Electrical Workers (IBEW).

Mediation-arbitration commissions dealt with unresolved matters between CP Rail and the CAW and the Canadian Council of Railway Operating Unions. Both commissions were chaired by the Honourable Mr. Justice George Adams. Each commission was also made up of a company-appointed member as well as a union-appointed member. The commissions submitted their reports to the Minister of Labour on June 14, 1995.

Mediated settlements between CP Rail and the BMWE and Canadian Pacific Police Association during commission proceedings, as well as the three settlements reached through direct bargaining with the IBEW, TCIU and RCTC prior to work stoppage and back-to-work legislation, helped the commission in fashioning the arbitrated settlements. The CP Rail-BMWE four year settlement provided for wage increases of 1.0 percent in each of the first three years and 2.0 percent in the fourth year. There were improvements in the extended health, dental, and pension plan benefits and increased life and disability benefits. A jointly managed Employment Security Fund was established, and CP Rail will contribute an initial $7.5 million. Thereafter, CP Rail will contribute 2 percent of the monthly BMWE payroll and a further 0.016 percent of the monthly payroll for each employee in excess of 220.

Obligations of employees on ES were broadened. For example, under the new agreement employees must fill unfilled permanent vacancies in all other bargaining units as well as positions which are not covered by a collective agreement on the region; they must fill temporary vacancies in all other bargaining units as well as positions which are not covered by a collective agreement within 35 miles of their home location; and they must accept employment outside of CP Rail within 35 miles of the home location. There is no entitlement to employment security benefits for employees eligible for bridging or early retirement. The employment security benefit was not capped (Mediation-Arbitration Commission 1995a; *Memorandum of Agreement* 1995).

In three-year settlements with the IBEW, TCIU, and RCTC, monetary improvements included a 2.0 percent lump-sum payment in lieu of a wage increase in the first year and 2.0 percent annual wage increases in each of the second and third years. Benefit improvements were also provided in extended health, vision, and pension plans, life insurance, and disability. In addition, the employment security provision was modified. In order to maintain employment security status, the employee must now displace beyond the seniority territory in the bargaining unit and up to and including the system. Moreover, employees must take vacancies in other bargaining units, including available nonunion and management positions and must also accept work outside the company at the home location (to be determined by a Labour Adjustment Committee). Employment security benefits were capped at 6 years (Mediation-Arbitration Commission 1995a).

In the arbitrated settlements with the CAW, employment security provisions remained in force. Justice Adams stated that to eliminate the provisions for existing employees 'would not be fair, justifiable, or consistent with good labour-management relations' (Mediation-Arbitration Commission 1995a, 55). However, the provisions were modified along the lines of the changes made in the earlier settlements with the other unions.

Under the terms of the award with the CAW, eligibility for employees hired after January 1, 1994 was removed and the provisions were modified to give CP Rail some financial relief. The new provisions limit benefits to a period of six years where previously there was no cap (eight years for former Angus Shop employees). Furthermore, to maintain employment security status, an employee must be willing to displace beyond the seniority territory in the bargaining unit and up to and including the system. Employees must also take work outside CP Rail at the home location, as determined by the Labour Adjustment Committee, which is to be established under the terms of the arbitration award (previously employees were not required to accept vacancies in the region, within bargaining groups covered by ES, or at their home location). There were also improvements to supplemental unemployment benefits (SUB), bridging and relocation provisions, and early retirement allowances.

The previous employment security clause provided benefits to eligible employees who were affected by permanent technological, operational, or organizational change. Under the terms of the arbitrated settlement, employment security benefits were extended to those affected by any other permanent change of a known duration of one year or more and having an adverse impact on permanent employees as well as those displaced from a permanent position by supervisors or by excepted or excluded employees returning to the bargaining unit.

In the area of wages, the arbitration award granted a lump-sum payment of 2 percent for 1994 and increases of 2 percent in each of 1995, 1996, and 1997, respectively. The arbitrator found no justification for the COLA clause that the CAW was demanding. There were improvements to pensions and life insurance, weekly indemnity, and extended health and vision care plan benefits.

Prior to the arbitrated settlement, CP Rail and the CAW agreed to formalize a Trades Modernization Committee. With the assistance of a facilitator, the parties will examine the workplace flexibility issue and make recommendations. If unresolved, the issue will be arbitrated. While the Committee's review is underway, the company was granted interim measures of relief. For example, in peak periods of work demand, CP Rail will be allowed to assign employees within the bargaining unit to perform any function for which they are qualified as long as an employee in another craft is not laid off (normal seniority provisions apply). In addition, the incidental work rule provision of 30 minutes will be increased to 60 minutes provided that no net reduction in the number of positions results.

Outstanding issues between CP Rail and the CCROU settled by a mediation-arbitration commission related to the dual pay system in the running trades, an extremely complex compensation scheme dating back to the early 1900s. The system pays for miles run or hours involved, whichever is the greater of the two. In the past, pay was based on a daily minimum of 100 miles, regardless of how many hours it took to make that distance (Jones et al. 1989). The system also provided for 'arbitrary' payments. CP Rail proposed that the minimum day-mileage be gradually increased over three years from 100 to 115 miles. While acknowledging that the status quo was untenable, the arbitrator did not make a decision on this issue. Instead, he directed that a fact-finding/mediation/arbitration process be established; if the parties are not successful in resolving their differences on this issue, the arbitrator will render a decision before

December 31, 1996 resolving all outstanding matters and providing for implementation on no later than April 1, 1997 (Mediation-Arbitration Commission 1995b).

The arbitration award recognized a need for greater flexibility in workplace practices and relaxed some of the restrictions on the amount and type of work performed by conductor-only crews at locations between terminals (Mediation-Arbitration Commission 1995b). The decision also gave the company the ability to assign pre-1979 employees to required positions at the employee's home terminal. In 1992 CP Rail had agreed that these employees would not be required to accept such positions. The arbitration decision awarded the same wage increases as the CAW agreement. There were also improvements in life insurance, weekly indemnity, long-term disability, and extended health and dental care benefits.

CP Rail and the unions reacted to the arbitration decisions handed down by Justice Adams. The company-appointed member of the commission, in a partial dissent, felt that the CAW award was too generous. He disagreed with extending the application of employment security benefits to situations beyond those related to permanent technological, operational, and organizational changes and with enhancing the SUB provisions. The company-appointed member on the CCROU commission also felt that the award was overly generous, particularly in the area of wages and extended health benefits. On the other hand, CP Rail's Vice President of Industrial Relations' overall view of the arbitration decisions was that they were 'balanced' (Gibbon and Bertin 1995).

Union officials expressed dissatisfaction with the arbitration award and considered it a 'setback' (CAW 1995; UTU 1995). Both the union-appointed representatives on the commissions expressed their dissent. It was felt that CP Rail had received a benefit on most of the outstanding issues and that the arbitrator was strongly influenced by earlier settlements in the railways with three smaller rail unions (the TCIU, Rail Traffic Controllers, and Signal and Communications Council).[21]

[21] For example, the CAW's union-appointed member of the Commission stated: 'Not all Unions or Union leaders are created equal, some serve the employers first and the workers second. CP Rail and CN should be eternally thankful to the three Amigos, well known as the three weak siblings' (Mediation-Arbitration Commission 1995a, Dissent).

5. Synopsis and Overview

Union-management relations at CP Rail are steeped in tradition and outdated work rules. The forces for change, however, have been overwhelming and unrelenting. The story at CP Rail is a classic case of an old system of industrial relations finally yielding to these unalterable forces. On the labour relations side, the changes have been very significant. Figure 5 contrasts the past with the present for both management and labour and illustrates the dramatic changes that have taken place. On the company side, management style, the organization of the industrial relations function, and the structure, process, and outcomes of collective bargaining have all been impacted. Change has taken place on the union side as well, but the outcomes for the company, for the most part, are positive, while they are negative for the unions. The unions, of course, have made some gains. But today they have fewer members, have seen the demise of pattern bargaining, and have been forced to give major concessions to the company to reflect economic realities.

Despite impediments to change, CP Rail has tried to introduce many of the elements of a new 'transformed' IR. Indeed, the response of CP Rail is a case with lessons for others interested in change. Figure 6 summarizes many of the components of the new IR at CP Rail.

The change in IR policy began with the reorganization of the company into two business units in 1987. Many IR personnel stayed in the field to serve these business units. However, this was not a planned change but was simply a residual of the company's larger reorganization. Beginning in 1992, the company rethought industrial relations policy. The change process began with the formulation of a mission statement embodying the company's labour relations principles, policies, and practices. It was formulated with the very active input and involvement of top line managers and the CEO. As noted earlier, before it was finalized, the policy went through multiple drafts. A steering committee made up of senior IR and line managers was set up to ensure that industrial relations policy and practices were serving the line and the business units. The IR function was reorganized. IR resources remained in the business units. While it was made clear that they were to serve the line, they reported to corporate IR in order to make sure that IR policy was consistent across the organization. Much more responsibility and decision making was placed on line management for IR outcomes. The company engaged in more information sharing with the unions and provided new channels for union officials to interface with management.

The above changes were accompanied by a two-pronged approach with respect to collective bargaining. The company's bargaining agenda involved the aggressive pursuit of concessions in the areas of employment security and work rules. And, the company sought to achieve its goals through a reformed collective bargaining process. While the situation shifted later in the 1994-95 negotiations, at the outset of bargaining a key component of CP Rail's strategy was to reach a negotiated solution with its unions without government intervention.

Figure 5 Past and Present Labour-Management Relations at CP Rail

	Past	Present
CP Rail	Management Style • paternalistic, authoritative • senior positions held by `railway men'	Management Style • more emphasis on 'people' side of the business • recruitment of executives from outside of rail
	IR Function • centralized; specialized staff function but decentralized offices in operations • bureaucratic; many management layers	IR Function • strengthening of central authority, but decentralized to serve and involve line; broader range of expertise • delayering of management levels; reduced corporate staff
	Collective Bargaining Process • centralized, industry-wide negotiations* • pattern bargaining • on/off joint multi-employer bargaining • status quo and positional collective bargaining • slow response and incremental change to agreements • third party and government involvement • government as a 'preventer' of change • stable arm's -length labour relations	Collective Bargaining Process • consolidation of bargaining units for more efficient and consistent collective agreement negotiation and administration • pattern bargaining broken; more individual bargaining • broader-based bargaining • several separate employer bargaining tables but some coordination between CP Rail and CN • desire to supplement traditional bargaining with ongoing consultation and negotiation • use of mutual gains bargaining but with reversion to positional bargaining; more information sharing, communications • initial reluctance for government intervention • government (Transport Canada) as 'agent of change'
	Collective Bargaining Proposals • formula wage bargaining • labour costs could be passed on to shippers through increased rates • long-standing complicated work rules; expensive employment security provisions	Collective Bargaining Proposals • more comprehensive and aggressive management bargaining agenda; urgent need to streamline and simplify collective agreements • more strategic bargaining, i.e., linking business strategies to compensation, productivity • more flexibility in, e.g., work rules, employment security • wage increases only if commensurate with productivity improvements through changes in collective agreements; revisions to dual pay system
		Outcomes • back-to-work legislation and arbitrated settlements • employment security modified • relaxed restrictions on some workplace practices • relief through arbitration of

Figure 5 Continued

Past	Present
Unions Union Style	Union Style
• international craft-based	• presence of CAW
• conservative, business unionism	
• narrow jurisdictions	• consolidation of shoperaft unions and running trades unions by CLRB
	• union rivalry/divisiveness
• union membership in 1984-23,198	• heavy membership losses-14,789 members in 1993
	• increased access of union officials to senior company officials
Collective Bargaining Process	Collective Bargaining Process
• multiple unions, but cooperative 'coming together' for on./off joint bargaining (ARUs)	• new union approach with CAW bargaining for shoperafts • separate union bargaining tables
• multi-union bargaining	
• relatively high wages; dual pay systems	
• work rule protection	• improving labour relations climate and mediation/ arbitration
• job/employment security protection	• some participation in mutual gains bargaining, but reversion to positional bargaining
	• more information sharing, face-to-face meetings
	• opposed to government intervention
	Demands
	• desire to preserve employment security, existing job classifications; opposed to work rule changes
	• wage catch-up; COLA
	Outcomes
	• back-to-work legislation and arbitrated settlements guided by a principle of 'economic viability and competitiveness'
	• concessions: employment security provisions weakened; work rule changes
	• modest wage increases and changes to employee benefits
	• fewer members
	• consolidated bargaining units through CLRB rulings
	• decentralized bargaining—single employer/single table negotiations
	• more union involvement in issues such as training, health and safety, alcohol/drug abuse policy

* This was the case for many years with the nonoperating and shoperaft groups but there was no industry-wide bargaining in the running trades.

** The arbitrated settlement between CP Rail and the CCROU called for the establishment of a joint Minimum Day Study. The parties are to participate in a fact finding/mediation/arbitration process and unresolved differences are to be settled by arbitration.

Figure 6 Components of a New IR Strategy at CP Rail

- adoption of new IR mission statement
- participation of IR in senior management committee and input into executive decision making committee
- devolution of IR to serve the line/business unit interests
- more comprehensive management bargaining agenda
- more strategic bargaining i.e., linking business strategies to compensation, productivity
- more line involvement in collective bargaining
- more information sharing, communicating with unions particularly on the railway as a business
- attempts to improve labour-management relationship
- use of mutual gains bargaining

The introduction of mutual gains bargaining was a part of this strategy, and the developments here are instructive. Mutual gains bargaining offered a very attractive alternative to traditional bargaining, but the approach proved extremely difficult to implement. CP Rail was very thorough in its introduction of mutual gains bargaining in that before using the approach, the company provided for management training in the process and offered joint union-management training to the unions and several of these accepted. Despite their skeptical and cautious view, most of the unions indicated an interest in and a willingness to use this new approach. For example, in the early stages of negotiations, one union leader stated,

CP Rail has indicated to us and other unions that they have a desire to change their style of bargaining and [a] view that open bargaining with the result of mutual gains is preferable for all. I have informed CP Rail officers that we will consider their approach. (Transportation Communications International Union 1993, 7)

In the end, however, mutual gains bargaining was able to take the parties only so far before the process was overwhelmed by longstanding issues involving considerable economic pressures.

In any case, industrial relations is being transformed, although the final outlines of a new system are not well defined at this stage. What is clear, however, is that change has been driven by the strategies of rail management and government policy.

To return to the strategic choice model: environmental factors and responses by CP Rail have shaped IR policies. Facing a harsh economic environment, both CP Rail and CN mounted new capital investment and business strategies, but a distinct and different set of IR strategies. In the end, at the collective bargaining level it appears that the outcomes for CP Rail and CN may be similar, that is, arbitrated settlements. However, even if there are no substantive differences, one can argue that the quality of outcomes has been different. For example, at CP Rail there has been more bona fide collective bargaining. Three settlements were reached without third-party intervention or back-to-work legislation, while at CN, the first settlements were reached only at the mediation phase of mediation-arbitration commission proceedings. The unions, too, indicated that at least prior to the strike/lockout and back-to-work legislation, a more positive labour-management relationship was emerging at CP Rail.

As noted in the introduction (at p. 6), a recent U.S. study of negotiated change in labour-management relations (Walton, Cutcher-Gershenfeld, and McKersie 1994) outlined three strategies or approaches to change: fostering, forcing, and escaping. To use the language of *Strategic Negotiations,* CP Rail began a fostering approach three years ago. As noted, this entailed a mission statement for industrial relations, more communication, greater information sharing, more line involvement in industrial relations, and training in mutual gains bargaining for management and union officials, as the company attempted to change attitudes and establish better working relationships with its unions. However, in light of the recent set of negotiations, fostering change gave way to a forcing approach which included positional bargaining, a lockout of employees, and a readiness by management to continue operating during a work stoppage using management personnel. CP Rail did achieve many of its objectives through the mediation-arbitration process. However, it is unclear how the company will choose to implement the changes and build industrial relations in the future. It is clear that the unions today remain unhappy with the outcomes of the 1995 negotiation round (Gibbon and Waldie 1995).

The use of both a fostering and a forcing approach is not unknown; nor is it a schizophrenic strategy. Walton, Cutcher-Gershenfeld, and McKersie discuss this mixed strategy in their book (1994). For example, in the case of Conrail in the U.S. railroad industry, corporate reorganization plans by management in the early 1980s under a federal government bailout initiative were aimed at avoiding bankruptcy and making the railway company profitable. The plans entailed a wage freeze, reduced crew sizes, closure of some operations, changes in work schedules, and a consolidation of collective agreements. At the same time as the company negotiated and implemented these changes, it pursued a fostering strategy of being open and participative while attempting to minimize adverse effects and achieve constructive labour relations. By 1987, Conrail was economically viable, and ownership reverted from government to private control. The parties decided to continue the fostering strategy, and joint labour-management activities were expanded in the areas of health and safety, quality, and productivity. In the authors' view, the strong third-party role of the federal government enhanced the ability of Conrail to use this mixed strategy of forcing and fostering. While the company had the power to force change, it followed a path of constructive relationships with unions and a problem-solving approach (328). The study also discusses the combined strategy of fostering and forcing that occurred at Packard Electric and the Budd Company in the auto supply industry and at Champion's Pensacola mill in the pulp and paper industry.

CP Rail followed a similar strategy. At the same time that it was engaging in downsizing and technological change (forcing), it implemented its fostering strategy in industrial relations. Faced with government intervention, it reverted to positional bargaining and maintaining operations during the strike (forcing).

At CP Rail today the intentions of the company and the unions are in flux.[22] Another wave of layoffs seems likely and the outlook for labour-management relations is unclear. Much will depend on how the company implements the changes gained in collective bargaining and how they make changes in industrial relations in the next year or two. They would seem to have a good platform for change, but the company's future intentions regarding change have not been made known. If bargaining outcomes are perceived by management to be less than adequate in terms of enabling the company to come to grips with needed cost savings and operating flexibility, they will in all probability reevaluate the use of forcing and fostering and could consider more aggressive business and labour strategies and reversion to a pure forcing strategy in the future. The unions will have to react to yet another round of demands for change. It is also possible that recent restructuring initiatives will create flashpoints well before the next set of negotiations.

In any case, it is evident that industrial relations has entered a new era in the rail industry and one that will probably entail further union consolidation, more downsizing, and further innovative industrial relations approaches. This will be difficult to manage, not only because of the bad feelings that developed out of the last round of bargaining but also because of the conflict that developed between the unions themselves. The interunion factionalism that now exists is not a positive development for the company, as it is likely to reduce the willingness of union leaders to engage in cooperative approaches with the company.

It is evident that, despite a 100-year history of collective bargaining, industrial relations are in a period of great uncertainty. The road ahead is unlikely to be any easier than the path followed thus far.

[22] It was recently announced that CP Rail plans to relocate its corporate headquarters from Montreal to Calgary and is planning extensive job cuts among its administrative and managerial staff (Gibbon 1995). As part of the major reorganization, a new eastern operating unit which includes the eastern Canadian assets of CP Rail and the U.S. based Delaware and Hudson Railway Company was created and named the St. Lawrence and Hudson Railway. More job cuts are expected as the company continues its rationalization efforts (Gibbon 1996).

References

Andrews, Robert Moore. 1993. Technological change and its impact on the railway labour force. Master's essay, School of Industrial Relations, Queen's University, Kingston, Ontario.

Ballantyne, R.H. 1994. Side one: Railway restructuring in eastern Canada. Why now and where is it going? *Canadian Transportation* 97(12): 9-10.

Bertin, Oliver. 1995. CN president takes hard line on union talks. *Globe and Mail,* 15 February, p. B1.

Bertin, Oliver and Ann Gibbon. 1995. CP locks out 3,500 Autoworkers. *Globe and Mail,* 18 March, p. Al.

Burton, John F., Jr. 1988. Review symposium: *The transformation of American industrial relations. Industrial and Labor Relations Review* 41(3): 439-55.

Canadian Auto Workers. 1995. New contract for CAW members at CN and CP Rail. *Contact* 25(24): 1.

Canadian Pacific Limited. 1987. *1987 Annual report.* Montreal.

____ . 1994. *1993 Annual report.* Montreal.

____ . 1995. *1994 Annual report.* Montreal.

Chaykowski, Richard P. and Anil Verma. 1992. Canadian industrial relations in transition. In *Industrial relations in Canadian industry,* edited by Richard P. Chaykowski and Anil Verma, pp. 448-74. Toronto: Holt, Rinehart & Winston of Canada.

_____ . Forthcoming. *Firm-level HR/IR in Canada.* Kingston, ON: IRC Press, Industrial Relations Centre, Queen's University.

Chelius, James and James Dworkin, eds. 1990. *Reflections on the transformation of industrial relations.* Metuchen, NJ: IMLR Press/Rutgers University and The Scarecrow Press.

CP Rail System. 1994. *1993 Annual report.* Montreal.

____ . 1995. *1994 Annual report.* Montreal.

Cruise, David and Alison Griffiths. 1988. Lords of the line: The men who built the CPR. Markham, ON: Penguin Books Canada.

Fisher, E.G. 1991. Main-line labour relations: Canada's railways and trucking. In *Proceedings of the 28th annual conference of the Canadian Industrial Relations Association,* edited by Donald Carter, pp. 147-58. Kingston, ON: Industrial Relations Centre, Queen's University.

Gibbon, Ann. 1995. CP Rail moving to Calgary. *Globe and Mail,* 21 November, p. Bl.

____ . 1996. CP's eastern unit aims at profit. *Globe and Mail,* 6 April, p. B5.

Gibbon, Ann and Oliver Bertin. 1995. Rail awards weaken job security. *Globe and Mail,* 15 June, p. Bl.

Gibbon, Ann and Paul Waldie. 1995. Railroads at the crossroads. *Globe and Mail, 11* November, p. Bl.

Gindin, Sam. 1995. *Canadian Auto Workers: The birth and transformation of a union.* Toronto: James Lorimer.

Goldenberg, Susan. 1983. *Canadian Pacific: A portrait of power.* Toronto: Methuen.

Hope, H. Allan. *Conciliation commissioner's report. In the matter of the Canada Labour Code (Part 1—Industrial Relations) and disputes between Via Rail Canada Inc.; Canadian National Railway Company; and Canadian Pacific Limited and National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada); and Brotherhood of Maintenance of Way Employees and United Transportation Union and Brotherhood of Locomotive Engineers* (February 6). IBI Group. 1992. *Railway financial viability.* Final Report for the National Transportation Act Review Commission.

_____ . 1994. *Railway financial viability: The challenge of becoming more competitive.* Jenish, D'Arcy. 1995. Off the rails. *Maclean's,* 3 April, 36-8.

Jones, J., A. Pignal, C. Schwier, and W.G. Wood. 1989. *Labour and the Canadian railways: A background paper.* CIGGT Report no. 89-10. Kingston, ON: Canadian Institute of Guided Ground Transport, Queen's University.

Kochan, Thomas A., Harry C. Katz, and Robert B. McKersie. 1986. *The transformation of American industrial relations.* New York: Basic Books.

_____ . 1991. Strategic choice and industrial relations theory: An elaboration. In *The future of industrial relations,* edited by Harry C. Katz, pp. 104-19. Ithaca, NY: ILR Press, Cornell University.

_____ . 1994. *The transformation of American industrial relations.* 2d ed. Ithaca, NY: ILR Press, Cornell University.

Kumar, Pradeep. 1993. *From unity to divergence: Industrial relations in Canada and the United States.* Kingston, ON: IRC Press, Industrial Relations Centre, Queen's University.

Lewin, David. 1987. Industrial relations as a strategic variable. In *Human resources and the performance of the firm,* edited by Morris M. Kleiner, Richard N. Block, Myron Roomkin, and Sidney W. Salsburg, pp.1-41. Madison, WI: Industrial Relations Research Association.

Mediation-Arbitration Commission. 1995a. In the matter of the Mediation-Arbitration Commission appointed by the Minister of Labour pursuant to the *Maintenance of Railways Operations Act* between Canadian Pacific Limited and National Automobile, Aerospace, Transportation and General Workers' Union of Canada (CAW-Canada). June 14.

_____ . 1995b. In the matter of the Mediation-Arbitration Commission appointed by the Minister of Labour pursuant to the *Maintenance of Railways Operations Act* between Canadian Pacific Limited and Canadian Council of Railway Operating Unions. June 14.

Memorandum of Agreement between Canadian Pacific Limited and the Brotherhood of Maintenance of Way Employees re: Wages, employment security, benefits and other issues. 1995. Ottawa: Workplace Information Directorate, Human Resources Development Canada.

National Transportation Act Review Commission. 1993. *Competition in transportation: Policy and legislation in review.* Vol. 2. Ottawa: Minister of Supply and Services Canada.

National Transportation Agency. 1992a. *Rail competitive access.* Staff Report to the National Transportation Act Review Commission. Ottawa: Minister of Supply and Services Canada.

_____ . 1992b. *Annual review 1992.* Ottawa: Minister of Supply and Services Canada.

_____ . 1994. *Annual review 1993.* Ottawa: Minister of Supply and Services Canada. Peitchinis, Stephen G. 1971. *Labour-management relations in the railway industry.*

Study No. 20, Task Force on Labour Relations. Ottawa: Information Canada.

Purcell, John and Bruce Ahlstand. 1994. *Human resource management in the multi-divisional company.* Oxford: Oxford University Press.

Sheik, Yastnin. 1994a. Comparison of performance of Class I Railways in Canada and the United States. In *Rail in Canada 1993,* pp. 121-39. Statistics Canada Catalogue No. 52-216. Ottawa: Minister of Industry Science and Technology.

_____. 1994b. Railways on track: Trends in the railway industry. In *Rail in Canada, 1992,* pp. 93-105. Statistics Canada Catalogue No. 52-216. Ottawa: Minister of Industry, Science and Technology.

Speirs, Rosemary. 1973. Technological change and the railway unions, 1945-1970. Ph.D. diss., University of Toronto.

Statistics Canada. 1994. *Rail in Canada 1993.* Catalogue No. 52-216. Ottawa: Minister of Industry, Science and Technology.

_____ . 1995. *Private and Public Investment in Canada: Intentions.* Catalogue No. 61-205. Ottawa: Minister of Industry, Science and Technology.

Tellier, Paul M. 1995. Turning CN around. *Canadian Business Review.* 22(1): 31. Transport Canada. 1994a. *New directions for transportation: A reality check.* An address to the National Transportation Day Dinner. Thunder Bay, Ontario, Friday, 3 June.

_____ . 1994b. *A vision of Canadian transportation in the 21st century.* Working document, draft, 3 May, Ottawa.

_____ . 1995. *The Canada Transportation Act.* June. Ottawa: Minister of Transport. Transportation Communications International Union. 1993. Tough talking at CP. *Canadian Interchange,* no. 81: 7.

Tretheway, Michael W., W.G.Waters II, and Andy K. Fok. 1994. *Measuring productivity performance for Canadian National Railways and CP Rail 1956-1991.* Executive Summary. Vancouver, BC: Centre for Transportation Studies, University of British Columbia.

United Transportation Union. 1990/91. Railways apply to consolidate bargaining units. *UTU News Canada* 21(11-12): 3.

_____ . 1991. CLRB considers railway bid to merge UTU-Canada and BLE. *UTU News Canada* 22(5-8): 3.

______ . 1995. Federal arbitrator rules against CP and VIA members. *UTU News Canada* 26(2): 1-2.

Walton, Richard E., Joel E. Cutcher-Gershenfeld, and Robert B. McKersie. 1994. *Strategic negotiations: A theory of change in labor-management relations.* Boston, MA: Harvard Business School Press.

Industrial Relations Centre (IRC)
Queen's University
Kingston, ON K7L 3N6
irc.queensu.ca