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No. 5915

**PERU
and
CANADA**

Agreement (with schedule) for air services between and beyond their respective territories. Signed at Lima, on 18 February 1954

Exchange of notes constituting an agreement amending the above-mentioned Agreement. Lima, 25 April and 5 June 1957

Official texts of the Agreement: English and Spanish.

Official text of the notes: English.

Registered by the International Civil Aviation Organization on 25 October 1961.

**PÉROU
et
CANADA**

Accord (avec annexe) relatif aux services aériens entre leurs territoires respectifs et au-delà de ces territoires. Signé à Lima, le 18 février 1954

Échange de notes constituant un accord modifiant l'Accord susmentionné. Lima, 25 avril et 5 juin 1957

Textes officiels de l'Accord: anglais et espagnol.

Texte officiel des notes: anglais.

Enregistrés par l'Organisation de l'aviation civile internationale le 25 octobre 1961.

No. 5915. AGREEMENT¹ BETWEEN THE GOVERNMENT OF PERU AND THE GOVERNMENT OF CANADA FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES. SIGNED AT LIMA, ON 18 FEBRUARY 1954

The Government of Peru and the Government of Canada, hereinafter called the Contracting Parties, having ratified the Convention on International Civil Aviation opened for signature at Chicago on the seventh of December, Nineteen Hundred and Forty-four,² and desiring to conclude an Agreement for the purpose of establishing air services between and beyond Canadian and Peruvian territories, have appointed for this purpose as their plenipotentiaries,

The Government of Peru,

Dr. Ricardo Rivera Schreiber, Minister of State in charge of Foreign Affairs, and

The Government of Canada,

Mr. Émile Vaillancourt, Ambassador of Canada in Peru,

who having communicated to each other their full powers have agreed on the following Articles :

Article I

For the purpose of this Agreement, the terms described below will have the meaning given in this Article, unless the context of the Agreement otherwise requires.

(a) the term "The Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, Nineteen Hundred and Forty-four, and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Articles 90 and 94 thereof ;

(b) the term "aeronautical authorities" means, in the case of Peru, the Ministry of Aviation, and any person or body authorized to perform any functions presently exercised by the said Ministry of Aviation, or similar functions, and in the case of Canada, the Minister of Transport, the Air Transport Board and any person or body

¹ Applied provisionally from 18 February 1954, the date of signature, and came definitively into force on 18 February 1955, the date following the exchange of the instruments of ratification which took place at Lima, in accordance with article XIV.

² See footnote 2, p. 27 of this volume.

authorized to perform any functions presently exercised by the said Minister or Board or similar functions ;

(c) the term "designated airline" means an airline which one Contracting Party shall have designated, by written notification to the other Contracting Party, in accordance with Article III of this Agreement, for the operation of agreed services on the routes specified in such notification ;

(d) the term "change of gauge" means the operation of one of the agreed services by a designated airline in such a way that one section of the route is flown by aircraft different in capacity from those used on another section ;

(e) the term "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that State ; and

(f) the terms "air services", "international air service", "airline" and "stop for non-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention.

Article II

(1) Each Contracting Party grants to the other Contracting Party the rights specified in this Agreement for the purpose of establishing the commercial international air services to be operated by virtue of the said Agreement on the routes specified in the appropriate section of the Schedule¹ hereto (hereinafter called the "agreed services" and the "specified routes").

(2) Subject to the provisions of this Agreement, the airlines designated by each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following privileges :

- (a) to fly without landing across the territory of the other Contracting Party only in cases where, while making a flight to the said territory, landing is not possible or where there is no traffic to be set down or picked up ;
- (b) to make stops in the said territory at the point or points specified for that route in the Schedule to this Agreement for the purpose of putting down and picking up international traffic in persons, goods and mails coming from or destined for other points so specified ;
- (c) on any flight in an agreed service, the privilege to carry into and out of the territory of the other Contracting Party on the same flight, international traffic originating in or destined for points in third countries not included on a specified route ; and
- (d) at the option of the designated airline or airlines intermediate points on any of the specified routes may be omitted on any or all flights.

¹ See p. 80 of this volume.

(3) Nothing in paragraph (2) of this Article shall be deemed to confer on the airlines of one Contracting Party the privilege of picking up, in the territory of the other Contracting Party, persons, goods, or mails carried for hire or reward and destined for another point in the territory of that other Contracting Party.

Article III

(1) Each Contracting Party, with respect to each route established in this Agreement which is specified in the Schedule hereto for operation by an airline of such Contracting Party, shall have the right to designate in writing to the other Contracting Party, one airline for the purpose of operating the agreed service on the said route.

(2) Each Contracting Party shall have the right by written notification to the other Contracting Party to withdraw the designation of an airline and to substitute the designation of another airline.

(3) On receipt of the designation of an airline of one Contracting Party the other Contracting Party shall, subject to the provisions of paragraphs (4) and (5) of this Article, without delay, grant to the airline designated the appropriate operating authorization.

(4) The aeronautical authorities of one Contracting Party may require an airline designated by the other Contracting Party to satisfy them that it is qualified to fulfill the conditions prescribed under the laws and regulations normally and reasonably applied by them in conformity with the provisions of the Convention to the operation of international commercial air services.

(5) Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the privileges specified in paragraph (2) of Article II of this Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of the Contracting Party designating the airline.

(6) Subject to the provisions of Article VII of this Agreement, at any time after the provisions of paragraphs (1) and (3) of this Article have been complied with, an airline so designated and authorized may begin to operate the agreed services.

(7) Each Contracting Party shall have the right to suspend the exercise by an airline of the privileges specified in paragraph (2) of Article II of this Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges in any case where the airline fails to comply with the laws and regulations of the Contracting Party granting those privileges or otherwise fails to operate in accordance with the conditions prescribed in this Agreement ; provided that, unless

immediate suspension or imposition of conditions is essential to prevent further infringements of laws or regulations, this right shall be exercised only after consultation with the other Contracting Party.

Article IV

Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores introduced into the territory of one Contracting Party, or taken on board aircraft in that territory, by or on behalf of the other Contracting Party or its designated airline or airlines and intended solely for use by or in the aircraft of those airlines, shall be accorded by the first Contracting Party, in respect of customs duties, inspection fees and other similar national or local duties and charges, treatment not less favourable than that accorded to similar supplies introduced into the said territory, or taken on board aircraft in that territory, and intended for use by or in the aircraft of a national airline of the first Contracting Party, or of the most favoured airline of any other State, engaged in international air services.

Article V

(1) There shall be fair and equal opportunity for the airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

(2) In operating the agreed services, the airlines of each Contracting Party shall take into account the interests of the airlines of the other Contracting Party so as not to affect unduly the services which the latter provide on the whole or part of the same routes.

(3) On any specified route the capacity provided by the designated airlines of one Contracting Party together with the capacity provided by the designated airlines of the other Contracting Party shall be maintained in reasonable relationship to the requirements of the public for air transport on that route.

(4) In the application of the principles stated in the preceding paragraph of this Article the following shall be taken into consideration :

- (a) The agreed services provided by a designated airline shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to the current and reasonably expected requirements of that airline for the carriage of traffic originating in or destined for the territory of the Contracting Party which has designated the airline.
- (b) The capacity provided under sub-paragraph (a) above may be augmented by supplementary capacity adequate for the carriage of international air traffic both originating at and destined for points on the specified routes in the territories of states other than that designating the airline. Such additional capacity shall be