

No. 5922

**FEDERAL REPUBLIC OF GERMANY
and
CANADA**

**Air Transport Agreement (with exchange of notes). Signed
at Ottawa, on 4 September 1959**

Official texts of the Agreement: English and German.

Official text of the notes: English.

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

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
CANADA**

**Accord (avec échange de notes) relatif aux services aériens.
Signé à Ottawa, le 4 septembre 1959**

Textes officiels de l'Accord: anglais et allemand.

Texte officiel des notes: anglais.

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

No. 5922. AIR TRANSPORT AGREEMENT¹ BETWEEN THE
FEDERAL REPUBLIC OF GERMANY AND CANADA.
SIGNED AT OTTAWA, ON 4 SEPTEMBER 1959

The Federal Republic of Germany and Canada,

Being parties to the Convention on International Civil Aviation of December 7, 1944,² and

Desiring to conclude an agreement for the purpose of establishing air services between and beyond their respective territories.

Have agreed as follows :

Article I

1. For the purpose of this Agreement, unless the context otherwise requires :

(a) the term "aeronautical authorities" shall mean in the case of Canada, the Minister of Transport, the Air Transport Board ; in the case of the Federal Republic of Germany, the Federal Minister of Transport ; or in both cases any other person or agency authorized to perform the functions exercised by the said authorities ;

(b) the term "designated airline" shall mean an airline that one Contracting State has designated in writing to the other Contracting State in accordance with Article III as being the airline which is to operate the international air service on the routes specified in accordance with paragraph (2) of Article II.

2. The terms "territory", "air service", "international air service" and "stop for non-traffic purposes", for the purpose of this Agreement, shall have the meaning laid down in Articles 2 and 96 of the Convention on International Civil Aviation of December 7, 1944 as amended now or in future.

Article II

1. Each Contracting State grants to the other Contracting State for the purpose of operating international air services by designated airlines over the routes specified in accordance with paragraph (2) of this Article :

the right to fly across its territory without landing ;

¹ Came into force on 19 July 1961, thirty days after the exchange of the instruments of ratification which took place at Bonn on 19 June 1961, in accordance with article XVI.

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

the right to land in its territory for non-traffic purposes,

and the right to land in its territory at the points named on the routes specified in order to take on or discharge passengers, mail and/or cargo on a commercial basis, including the carriage of in-transit traffic on the same flight.

2. The routes over which the designated airlines of the two Contracting States will be authorized to operate international air services shall be specified in a Route Schedule to be agreed upon in an exchange of notes.¹

Article III

1. The international air services on the routes specified in accordance with paragraph (2) of Article II may be inaugurated at any time, provided

- (a) the Contracting State to whom the rights specified in paragraph (1) of Article II are granted, has designated in writing an airline or airlines, and
- (b) the Contracting State granting these rights has authorized the designated airline or airlines to inaugurate the air services.

2. The Contracting State granting these rights shall, subject to the provisions of paragraphs (3) and (4) of this Article and subject to the provisions of Article IX grant without delay the said authorization to operate the international air service.

3. Each Contracting State may require an airline designated by the other Contracting State to satisfy it that it is qualified to meet the requirements prescribed under the laws and regulations of the first Contracting State governing the operation of international air traffic.

4. Each Contracting State may withhold the exercise of the rights provided for in Article II from any airline designated by the other Contracting State if such airline is not able to prove upon request that substantial ownership and effective control of such airline are vested in nationals or corporations of the other Contracting State or in that State itself.

Article IV

1. Each Contracting State may revoke, or limit by the imposition of conditions, the authorization granted in accordance with paragraph (2) of Article III in the event of failure by a designated airline to comply with the laws and regulations of the Contracting State granting the rights, or to comply with the provisions of this Agreement, or to fulfil the obligations arising therefrom. This shall also apply if the proof referred to in paragraph (4) of Article III is not furnished. Each Contracting State will exercise this right only after consultation as provided for in Article XIII, unless an immediate suspension of operations or imposition of conditions is necessary to avoid further infringements of laws or regulations.

¹ See p. 276 of this volume.

2. Each Contracting State shall have the right by written communication to the other Contracting State to replace a designated airline by another airline. The newly designated airline shall have the same privileges and be subject to the same obligations as the designated airline which it replaces.

Article V

The charges imposed by either Contracting State for the use of airports and other aviation facilities by the aircraft of a designated airline of the other Contracting State shall not be higher than those paid by its national aircraft engaged in similar international air services.

Article VI

Each Contracting State shall grant relief from taxes, duties and other charges for aircraft of a designated airline of the other Contracting State exclusively engaged in international air service as follows :

1. The aircraft operated by any designated airline of one Contracting State and entering into, departing from or flying across the territory of the other Contracting State, as well as the regular equipment and spare parts on board such aircraft shall be exempt from customs duties and other charges levied on the occasion of importation, exportation or transit of goods.

2. Spare parts and articles of equipment which are

- (a) removed from or taken off the aircraft referred to in item 1 above and stored within the territory of the other Contracting State under customs supervision, or
- (b) imported for such aircraft into, and stored in, the territory of the other Contracting State under customs supervision,

shall be exempt from the duties and other charges mentioned in item 1 above, if they either are installed in or otherwise taken aboard the said aircraft under customs supervision, or are otherwise exported again from the territory of the other Contracting State.

The same exemption from such duties and other charges shall be granted for spare parts and articles of equipment taken from appropriate stores of other airlines and installed in or otherwise taken aboard the said aircraft under customs supervision.

3. Fuel and lubricants on board the aircraft referred to in item 1 above and introduced into the territory of the other Contracting State shall be free of customs duties and other charges levied on the occasion of importation, exportation and transit of goods, if they are used on board the aircraft, and this applies also on that part of any flight which takes place between points in the territory of that Contracting State.

Fuel and lubricants taken on by aircraft belonging to a designated airline under customs supervision in the territory of the other Contracting State and used in international air service shall be exempt from, or shall be subject to remission or refund of, the afore-mentioned duties and other charges.

4. Aircraft stores introduced aboard the aircraft mentioned in item 1 above and intended for consumption by passengers and crew members may be issued in the territory of the other Contracting State for immediate consumption aboard free of customs duties and other charges levied on the occasion of the importation, exportation and transit of goods, provided such aircraft can be continuously supervised by customs authorities at intermediate landings.

Article VII

1. There shall be fair and equal opportunity for the designated airlines of both Contracting States to operate international air services on the specified routes between their respective territories, in accordance with paragraph (2) of Article II.

2. In operating these services, the designated airlines of each contracting State shall take into account the interests of the airlines of the other Contracting State so as not to affect unduly the air 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 State together with the capacity provided by the designated airlines of the other Contracting State shall be maintained in reasonable relationship to the requirements for air transport on that route.

4. In the application of the principles stated in the preceding paragraphs of this Article :

(a) the air 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 points within the territory of the Contracting State which has designated that 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 related to traffic demands of the areas through which the designated airline operates, after taking account of the air services established by airlines of the other Contracting State and of the States referred to above