

No. 27510

**BRAZIL
and
CANADA**

**Agreement on air transport (with annex). Signed at Brasília
on 15 May 1986**

Authentic texts: Portuguese, English and French.

Registered by Brazil on 17 August 1990.

**BRÉSIL
et
CANADA**

**Accord sur le transport aérien (avec annexe). Signé à Brasília
le 15 mai 1986**

Textes authentiques : portugais, anglais et français.

Enregistré par le Brésil le 17 août 1990.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL ON AIR TRANSPORT

The Government of Canada and the Government of the Federative Republic of Brazil, hereinafter referred to as the Contracting Parties,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago, on the 7th day of December, 1944,²

Desiring to conclude an agreement supplementary to the said Convention for the purpose of establishing commercial air services between and beyond their respective territories,

Have agreed as follows:

Article I. (DEFINITIONS)

For the purpose of this Agreement, unless otherwise stated:

a) "Aeronautical Authorities" means, in the case of Canada, the Minister of Transport and the Canadian Transport Commission and, in the case of the Federative Republic of Brazil, the Minister of Aeronautics or, in both cases, any other authority or person empowered to perform the functions now exercised by the said authorities;

b) "Agreed services" means scheduled air services on the routes specified in the Annex to this Agreement for the transport of passengers, cargo and mail, separately or in combination;

c) "Agreement" means this Agreement, the Annex attached thereto, and any amendments to the Agreement or to the Annex;

d) "Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December 1944 and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or of the Convention under Articles 90 and 94 thereof so far as those Annexes and amendments have been adopted by both Contracting Parties;

e) "Designated airline" means an airline which has been designated and authorized in accordance with Articles IV and V of this Agreement;

f) "Tariffs" means the prices to be paid for the carriage of passengers, baggage and cargo and the conditions under which those prices apply including, to the extent required by respective national laws and regulations, prices and conditions for agency services and other services performed by the carrier in connection with air transportation, but excluding remuneration and conditions for the carriage of mail;

¹ Came into force provisionally on 15 May 1986, the date of signature, and definitely on 26 July 1990, the date of the last of the notifications by which the Contracting Parties informed each other of the completion of the constitutional requirements, in accordance with article XXIV.

² United Nations, *Treaty Series*, vol. 15, p. 295. For the texts of the Protocols amending this Convention, see vol. 320, pp. 209 and 217; vol. 418, p. 161; vol. 514, p. 209; vol. 740, p. 21; vol. 893, p. 117; vol. 958, p. 217; vol. 1008, p. 213, and vol. 1175, p. 297.

g) "Territory", "Air Service", "International Air Service", "Airline" and "Stop for non-traffic purposes" have the meaning respectively assigned to them in Articles 2 and 96 of the Convention;

h) "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, in accordance with Article III of this Agreement, by aircraft different in capacity from those used on another section.

Article II. (GRANT OF RIGHTS)

1. Each Contracting Party grants to the other Contracting Party except as otherwise specified in the Annex the following rights for the conduct of international air services by the airline or airlines designated by the other Contracting Party:

- a) To fly without landing across the territory of the other Contracting Party;
- b) To make stops in the said territory for non-traffic purposes; and
- c) To make stops in the said territory for the purpose of taking up and discharging, while operating the routes specified in the Annex, international traffic in passengers, cargo and mail, separately or in combination.

2. Nothing in paragraph 1 of this Agreement shall be deemed to confer on a designated airline of one Contracting Party the privilege of taking up, in the territory of the other Contracting Party, passengers, cargo and mail destined for another point in the territory of that other Contracting Party.

Article III. (CHANGE OF GAUGE)

A designated airline of one Contracting Party may make a change of gauge at any point on the specified route only on the following conditions:

- i) That it is justified by reason of economy of operation;
- ii) That the capacity of the aircraft used on the section of the route more distant from the territory of the Contracting Party designating the airline is not larger in capacity than that used on the nearer section;
- iii) That the aircraft of smaller capacity shall operate only in connection with the aircraft of larger capacity and shall be scheduled so to do; the former shall arrive at the point of change for the purpose of carrying traffic transferred from, or to be transferred into, the aircraft of larger capacity; and their capacity shall be determined with primary reference to this purpose;
- iv) That there is an adequate volume of through traffic carried to or from another territory;
- v) That the airline shall not hold itself out to the public by advertisement or otherwise as providing a service which originates at the point where the change of aircraft is made, unless otherwise permitted by the Annex;
- vi) That in connection with any one aircraft flight into the territory of the other Contracting Party, only one flight may be made out of that territory unless the airline is authorized by the aeronautical authorities of the other Contracting Party to operate more than one flight; and
- vii) That the provisions of Article XI of the present Agreement shall govern all arrangements made with regard to change of gauge.

Article IV. (DESIGNATION)

Each Contracting Party shall have the right to designate, by diplomatic note, an airline or airlines to operate the agreed services on the routes specified in the Annex for such a Contracting Party and to substitute another airline for that previously designated. The number of airlines designated by each Contracting Party shall not exceed two (2) at any one time.

Article V. (AUTHORIZATION)

1. Following receipt of a notice of designation or of substitution pursuant to Article IV of this Agreement, the aeronautical authorities of the other Contracting Party shall, consistent with its laws and regulations, grant without delay to the airline or airlines so designated the appropriate authorizations to operate the agreed services for which that airline has been designated.

2. Upon receipt of such authorizations the airline may begin at any time to operate the agreed services, in whole or in part, provided that the airline complies with the applicable provisions of this Agreement and that tariffs are established in accordance with the provisions of Article XIV of this Agreement.

Article VI. (REVOCATION AND LIMITATION OF AUTHORIZATION)

1. The aeronautical authorities of each Contracting Party shall have the right to withhold the authorizations referred to in Article V of this Agreement with respect to an airline designated by the other Contracting Party, to revoke or suspend such authorization or impose conditions, temporarily or permanently:

a) In the event of failure by such airline to qualify before the aeronautical authorities of that Contracting Party under the laws and regulations normally and reasonably applied by these authorities in conformity with the Convention;

b) In the event of failure by such airline to comply with the laws and regulations of that Contracting Party;

c) In the event that they are not satisfied that substantial ownership and effective control of the airline are vested in the Contracting Party designating the airline or in its nationals; and

d) In case the airline otherwise fails to operate in accordance with the conditions prescribed under this Agreement.

2. Unless immediate action is essential to prevent infringement of the laws and regulations referred to above, the rights enumerated in paragraph 1 of this Article shall be exercised only after consultations with the aeronautical authorities of the other Contracting Party in conformity with Article XVIII of this Agreement.

Article VII. (APPLICATIONS OF LAWS)

1. The laws, regulations and procedures of one Contracting Party relating to the admission to, remaining in, or departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft shall be complied with by the designated airline or airlines of the other Contracting Party upon entrance into, departure from and while within the said territory.

2. The laws and regulations of one Contracting Party respecting entry, clearance, transit, immigration, passports, customs and quarantine shall be complied with by the designated airline or airlines of the other Contracting Party and by or on

behalf of its crews, passengers, cargo and mail upon transit of, admission to, departure from and while within the territory of such a Contracting Party.

3. Passengers in transit across the territory of either Contracting Party shall be subject to no more than a simplified control. Baggage and cargo in direct transit shall be exempt from customs duties and other similar taxes.

Article VIII. (RECOGNITION OF CERTIFICATES AND LICENCES)

1. Certificates of airworthiness, certificates of competency and licences, issued or rendered valid by one Contracting Party and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating the agreed services on the routes specified in the Annex provided that such certificates or licences were issued or rendered valid pursuant to, and in conformity with, the standards established under the Convention. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flights above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party.

2. If the privileges or conditions of the licences or certificates referred to in paragraph 1 above, issued by the aeronautical authorities of one Contracting Party to any person or designated airline or in respect of an aircraft operating the agreed services on the routes specified in the Annex, should permit a difference from the standards established under the Convention, and which difference has been filed with the International Civil Aviation Organization, the aeronautical authorities of the other Contracting Party may, if necessary, request consultations in accordance with Article XVIII of this Agreement with the aeronautical authorities of that Contracting Party with a view to satisfying themselves that the practice in question is acceptable to them. Failure of consultations to result in a satisfactory agreement on matters regarding flight safety will constitute grounds for the aeronautical authorities of the Contracting Party requesting consultations to withhold the authorizations referred to in Article V of this Agreement with respect to an airline designated by the other Contracting Party, to revoke or suspend such authorizations or impose conditions, temporarily or permanently.

Article IX. (AVIATION SECURITY)

1. The Contracting Parties shall act in conformity with the provisions of the Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on September 14, 1963,¹ the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on December 16, 1970,² and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971.³

2. The Contracting Parties agree to provide aid to each other as necessary with a view to preventing unlawful seizure of aircraft and other unlawful acts against the safety of aircraft, airports and air navigation facilities and any other threat to aviation security.

3. When an incident, or threat of an incident, of unlawful seizure of aircraft, airports or other unlawful acts against the safety of aircraft, airports and air naviga-

¹ United Nations, *Treaty Series*, vol. 704, p. 219.

² *Ibid.*, vol. 860, p. 105.

³ *Ibid.*, vol. 974, p. 177 and vol. 1217, p. 404 (corrigendum to volume 974).