

No. 52450*

**Canada
and
Federal Republic of Germany**

Agreement between Canada and the Federal Republic of Germany on the settlement of disputes arising out of direct procurement. Bonn, 3 August 1959

Entry into force: *1 July 1963, in accordance with article 8*

Authentic texts: *English and German*

Registration with the Secretariat of the United Nations: *Canada, 14 January 2015*

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**Canada
et
République fédérale d'Allemagne**

Accord entre le Canada et la République fédérale d'Allemagne sur le règlement des litiges découlant de fournitures et autres prestations directes. Bonn, 3 août 1959

Entrée en vigueur : *1^{er} juillet 1963, conformément à l'article 8*

Textes authentiques : *anglais et allemand*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Canada, 14 janvier 2015*

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Agreement Between Canada and the Federal Republic of Germany on the Settlement of Disputes Arising out of Direct Procurement

E100908 - CTS 1963 No. 23

Canada and the Federal Republic of Germany

Pursuant to sub-paragraph (b) of paragraph 6 of Article 44 of the Agreement to supplement the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces with respect to Foreign Forces stationed in the Federal Republic of Germany, signed at Bonn on August 3, 1959 (hereinafter referred to as the “Supplementary Agreement”).

Have agreed as follows:

Article 1

For the settlement of disputes arising out of contracts or other arrangements concerning goods and services directly procured in the Federal territory by the authorities of the force or of the civilian component of Canada (hereinafter referred to as the “Canadian authorities”) the following provisions shall apply.

Article 2

The Canadian authorities shall make every effort to reach an amicable settlement by negotiation with the contractor. The German authorities shall, at the request of the Canadian authorities, offer their good offices in a mediatory or advisory capacity in order to reach such settlement.

Article 3

1. If a dispute has not been settled by negotiation within a period of four months from the time that the contractor first submitted in writing to the Canadian authorities a request for a settlement, it shall be permissible for the contractor to submit the dispute to a German court. Submission of the dispute to a German court shall be permissible only to the extent that the dispute has not been settled by negotiation. A proposal for settlement of the dispute made by the Canadian authorities shall be deemed to have been accepted by the contractor if the latter does not, within six weeks after receipt, reject the proposal in writing.
2. The complaint brought by the contractor shall be lodged against the Federal Republic of Germany which shall conduct the case in its own name in the interest of Canada. The complaint shall be lodged with the court in whose area that German authority is situated which represents the Federal Republic of Germany in the case.
3. If the Canadian authorities so request, the German authorities shall lodge a complaint against a contractor in the name of the Federal Republic of Germany acting in the interest of Canada.
4. The decision on a complaint lodged in accordance with paragraphs 2 and 3 of this Article shall be based on the law which the parties have agreed upon at the time that the goods and services

were ordered. If at the time of the order no agreement was made concerning the law to be applied, German law shall be applied.

Article 4

1. The German authorities shall keep the Canadian authorities fully informed and shall consult with them fully at all stages of the court proceedings and shall carry out any instructions given by the Canadian authorities in respect of their conduct and termination, settlement out of court, counter claims, consent to judgment, appeal and similar matters. The German authorities shall, if requested by the Canadian authorities, provide them with copies of all documents bearing on the court proceedings. The Canadian authorities shall forward to the German authorities in good time any data and documents necessary to the conduct of the court proceedings.
2. In the event of an emergency, the German authorities may take measures to safeguard the interests of Canada without the participation of the Canadian authorities, provided these authorities are fully informed as soon as possible thereafter of the measures taken.

Article 5

1. Canada shall meet all the obligations laid upon, and shall enjoy any benefits accruing to the Federal Republic of Germany, as a result of judgments, decisions, orders, and settlements vollstreckbare Titel in the court proceedings arising from disputes referred to in the present Agreement.
2. Costs arising in connection with court proceedings which are not included in the costs established by the court shall be paid by Canada if the Canadian authorities have given their agreement before the costs were incurred.

Article 6

1. Disputes to which the Deutsche Bundesbahn or the Deutsche Bundespost is a party shall be decided upon by a sole arbitrator who is selected in accordance with subparagraph (b) of paragraph 2 of Article VIII of the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed at London on 19 June 1951. Any decision taken by the arbitrator shall be binding and conclusive. The compensation of the arbitrator shall be fixed by agreement between the German and Canadian authorities and shall, together with the necessary expenses incidental to the performance of his duties, be defrayed in equal proportions by the Deutsche Bundesbahn or the Deutsche Bundespost and the Canadian authorities.
2. The decision of the arbitrator shall be based on the law which the parties have agreed upon at the time that the goods and services were ordered. If at the time of the order no agreement was made concerning the law to be applied, German law shall be applied.

Article 7

The present Agreement shall be applicable to any dispute not settled at the effective date of this Agreement.

Article 8

1. The present Agreement shall be ratified or approved. The instruments of ratification or approval shall be exchanged at Bonn.
2. The present Agreement shall enter into force on the same date as the Supplementary Agreement.

IN WITNESS WHEREOF the undersigned representatives, duly authorized thereto, have signed the present Agreement.

DONE at Bonn in duplicate, this 3rd day of August 1959, in the English and German languages, each text being equally authentic.

Escott Reid
FOR CANADA

A. H. Van Scherpenberg
FOR THE FEDERAL REPUBLIC OF GERMANY

[GERMAN TEXT – TEXTE ALLEMAND]

Abkommen
zwischen Kanada und der Bundesrepublik Deutschland
über die Beilegung von Streitigkeiten aus Direktbeschaffungen

KANADA
und
DIE BUNDESREPUBLIK DEUTSCHLAND

SIND gemäß Artikel 44 Absatz (6) Buchstabe (b) des am *3. August* 1959 in Bonn unterzeichneten Zusatzabkommens zu dem Abkommen zwischen den Parteien des Nordatlantikvertrages über die Rechtsstellung ihrer Truppen hinsichtlich der in der Bundesrepublik Deutschland stationierten ausländischen Truppen (im folgenden als Zusatzabkommen bezeichnet)

WIE FOLGT ÜBEREINGEKOMMEN:

Artikel 1

Für die Beilegung von Streitigkeiten aus Verträgen oder anderen Abmachungen über Lieferungen oder sonstige Leistungen, die von den Behörden der Truppe oder des zivilen Gefolges Kanadas (im folgenden als kanadische Behörden bezeichnet) im Bundesgebiet unmittelbar beschafft werden, gelten die nachstehenden Bestimmungen.

Artikel 2

Die kanadischen Behörden machen alle Anstrengungen, um auf dem Verhandlungswege zu einer gütlichen Regelung mit dem Auftragnehmer zu gelangen. Auf Antrag der kanadischen Behörden stellen die deutschen Behörden ihre guten Dienste durch vermittelnde oder gutachtliche Tätigkeit zur Verfügung, um eine solche Regelung zu erreichen.

Artikel 3

(1) Falls eine Streitigkeit auf dem Verhandlungswege innerhalb von vier Monaten, nachdem der Auftragnehmer die kanadischen Behörden erstmalig schriftlich um eine Regelung gebeten hat, nicht beigelegt worden ist, kann der Auftragnehmer die Streitigkeit einem deutschen Gericht unterbreiten. Die Streitigkeit kann einem deutschen Gericht nur insoweit unterbreitet werden, als sie nicht auf dem Verhandlungswege beigelegt worden ist. Ein Vorschlag der kanadischen Behörden zur Regelung der Streitigkeit gilt als vom Auftragnehmer angenommen, wenn dieser ihn nicht innerhalb von sechs Wochen nach Erhalt schriftlich ablehnt.

(2) Die Klage des Auftragnehmers ist gegen die Bundesrepublik Deutschland zu richten, die den Rechtsstreit im Interesse Kanadas im eigenen Na-