No. 52659*

Canada
and
Federal Republic of Germany

Air Transport Agreement between Canada and the Federal Republic of Germany. Ottawa, 26 March 1973

Entry into force: *18 February 1975 by notification, in accordance with article 21*

Authentic texts: *English, French and German*

Registration with the Secretariat of the United Nations: *Canada, 13 April 2015*

Note: *See also annex A, No. 52659.*

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Canada
et
République fédérale d'Allemagne

Accord relatif aux transports aériens entre le Canada et la République fédérale d'Allemagne. Ottawa, 26 mars 1973

Entrée en vigueur : *18 février 1975 par notification, conformément à l'article 21*

Textes authentiques : *anglais, français et allemand*

Enregistrement auprès du Secrétariat des Nations Unies : *Canada, 13 avril 2015*

Note : *Voir aussi annexe A, No. 52659.*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AIR TRANSPORT AGREEMENT BETWEEN CANADA AND THE FEDERAL REPUBLIC OF GERMANY

Canada and the Federal Republic of Germany hereinafter referred to as the Contracting Parties, both being Parties to the Convention on International Civil Aviation opened for signature at Chicago, on the 7th day of December, 1944, and desiring to conclude an Agreement on air transport between and beyond their respective territories have agreed on the following:

ARTICLE 1

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 Federal Republic of Germany, the Federal Minister of Transport, 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 for the transport of passengers, mail and cargo on the specified routes;

(c) "Convention" means the Convention on International Civil Aviation opened for signature at Chicago on the 7th day of December, 1944;

(d) "Designated airline" means an airline which has been designated and authorized in accordance with Article 4 of this Agreement;

(e) "Territory", "Air Service", "International Air Service", "Airline" and "Stop for non-traffic purposes" have the meanings respectively assigned to them in Articles 2 and 96 of the Convention.

ARTICLE 2

1. Each Contracting Party grants to the other Contracting Party the following rights for the conduct of international air services by the designated airline or airlines:

(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 at the points named on the routes specified in accordance with paragraph 2 of this Article for the purpose of taking up and discharging international traffic in passengers, mail and cargo.

2. The routes over which the designated airlines of the Contracting Parties will be authorized to operate international air services referred to in paragraph 1(c) of this Article shall be specified in an Exchange of Notes between the Governments of the Contracting Parties.

ARTICLE 3

Each Contracting Party shall have the right to designate, by diplomatic note, an airline or airlines to operate the agreed services on any route specified in the Exchange of Notes for such a Contracting Party and to substitute another airline for that previously designated.

ARTICLE 4

1. Following receipt of a notice of designation pursuant to Article 3, the aeronautical authorities of the other Contracting Party shall, consistent with its laws, regulations and procedures, grant with a minimum of delay to an airline so designated the appropriate authorizations to operate the agreed services for which the airline has been designated.

2. Upon receipt of such authorizations the airline or airlines may begin at any time to operate the agreed services, partly or in whole, provided that the tariffs established in accordance with the provisions of Article 12 of this Agreement are in force in respect of such services.

ARTICLE 5

1. The aeronautical authorities of each Contracting Party shall have the right to withhold the authorizations referred to in Article 4 with respect to an airline designated by the other Contracting Party, to revoke such authorizations or impose on them 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 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 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 other Contracting Party. Unless otherwise agreed by the Contracting Parties, such consultations shall begin within a period of sixty (60) days from the date the other Contracting Party receives the request.

ARTICLE 6

1. The laws, regulations and procedures of one Contracting Party relating to the admission to 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 a designated airline of the other Contracting Party upon entrance into, departure from and while within the said territory.

2. The laws and regulations of a Contracting Party respecting entry, clearance, transit, immigration, passports, customs and quarantine shall be complied with by a designated airline of the other Contracting Party and its crews, passengers, mail and cargo upon transit of, admission to, departure from and while within the territory of such a Contracting Party.

ARTICLE 7

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 Exchange of Notes, 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 operating the agreed services on the routes specified in the Exchange of Notes, 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 request consultations with the aeronautical authorities of that Contracting Party with a view to satisfying themselves that the practice in question is acceptable to them. Failure to reach a satisfactory agreement in matters regarding flight safety will constitute grounds for the application of Article 5; in other cases Article 17 applies.

ARTICLE 8

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

2. Neither of the Contracting Parties shall give a preference to its own or any other airline over an airline of the other Contracting Party in the application of its regulations concerning customs, immigration, quarantine and the use of facilities under its control.

ARTICLE 9

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 and beyond 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 route.

3. The agreed services provided by the designated airline or airlines of the Contracting Parties shall bear reasonable relationship to the requirements of the public for transportation on the specified routes and shall have as their primary objectives the provisions, at a reasonable load factor, of capacity adequate to carry the current and reasonably anticipated requirements for the carriage of passengers, cargo and mail between the territories of the Contracting Parties.

4. Provision for the carriage of passengers, cargo and mail both taken up and discharged at points on the specified routes in the territories of States other than that designating the airline shall be made in accordance with the general principle that capacity shall be related to:

(a) traffic requirements to and from the territory of the Contracting Party which has designated the airline;

(b) traffic requirements of the area through which the airline passes after taking account of other transport services established by airlines of the States comprising the area; and

(c) the requirements of through airline operation.

5. In order to enable the designated airlines of the Contracting Parties to enjoy fair and equal opportunities, and to secure a balanced participation by the designated airlines in the traffic potential between their respective territories, the Contracting Parties have agreed that the capacity to be provided, as well as the frequency of services to be operated