

No. 53020*

**Canada
and
Ukraine**

Agreement between the Government of Canada and the Government of Ukraine on air transport (with route schedules). Kiev, 28 January 1999

Entry into force: *28 April 1999 by notification, in accordance with article XXVII*

Authentic texts: *English, French and Ukrainian*

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**Canada
et
Ukraine**

Accord de transport aérien entre le Gouvernement du Canada et le Gouvernement de l'Ukraine (avec tableaux de routes). Kiev, 28 janvier 1999

Entrée en vigueur : *28 avril 1999 par notification, conformément à l'article XXVII*

Textes authentiques : *anglais, français et ukrainien*

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[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF UKRAINE
ON AIR TRANSPORT**

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF
UKRAINE**, 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,

DESIRING to conclude an agreement on air transport between their respective
territories, supplementary to the said Convention,

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 Transportation Agency and, in the case of Ukraine, the State Department of Aviation Transport or, in both cases, any other authority or person empowered to perform the functions exercised by the said authorities,
- (b) "Agreed services" means scheduled air services on the routes specified in this Agreement for the transport of passengers and cargo, including mail, separately or in combination,
- (c) "Agreement" means this Agreement, any Annex attached thereto, and any amendments to the Agreement or to any 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 prices and conditions for other services performed by the carrier in connection with air transportation, but excluding remuneration and conditions for the carriage of mail,

(g) "Territory", "Air services", "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

ARTICLE II

Grant of Rights

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

- (a) the right to fly without landing across its territory;
- (b) the right to land in its territory for non-traffic purposes, and
- (c) to the extent permitted in this Agreement, the right to make stops in its territory on the routes specified in this Agreement for the purpose of taking up and discharging international traffic in passengers and cargo, including mail, separately or in combination.

2 The airlines of each Contracting Party, other than those designated under Article IV of this Agreement, shall also enjoy the rights specified in paragraph 1(a) and (b) of this Article.

3 Nothing in paragraph 1 of this Article shall be deemed to confer on a designated airline of one Contracting Party the right of taking up, in the territory of the other Contracting Party, passengers and cargo, including mail, carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

ARTICLE III

Change of Aircraft

1 A designated airline of one Contracting Party may make a change of aircraft in the territory of the other Contracting Party or at an intermediate point in third countries on the routes specified in this Agreement under the following conditions:

- (a) that the change of aircraft is justified by reason of economy of operation,
- (b) that the capacity offered by the designated airline on the aircraft used on the sector of the route more distant from the territory of the Contracting Party designating the airline is not larger than that used on the nearer sector,
- (c) that the aircraft used on the sector of the route more distant from the territory of the Contracting Party designating the airline shall operate in connection with the agreed service provided with the aircraft used on the nearer sector and shall be scheduled so to do;

- (d) that there is an adequate volume of through traffic.
 - (e) that the airline shall not hold itself out, directly or indirectly and whether in timetables, computer reservation systems or advertisements, or by other like means, as providing any service other than the agreed service on the relevant specified routes,
 - (f) that, where an agreed service includes a change of aircraft, this fact is shown in all timetables, computer reservation systems, advertisements and other like means of holding out the service;
 - (g) that, where a change of aircraft is made in the territory of the other Contracting Party, the number of outgoing flights shall not exceed the number of incoming flights, unless otherwise authorized by the aeronautical authorities of that other Contracting Party or specifically provided for in this Agreement, and
 - (h) that all operations involving change of aircraft shall be conducted in conformity with Article XI of this Agreement.
2. The provisions of paragraph 1 of this Article shall
- (a) not limit the ability of a designated airline to change aircraft in the territory of the Contracting Party designating that airline; and
 - (b) not preclude a designated airline of one Contracting Party authorized to provide air services on the routes specified in this Agreement, subject to the regulatory requirements normally applied by the aeronautical authorities to such joint operations, from selling transportation under its own code on flights of any other airline authorized by the aeronautical authorities of the other Contracting Party to provide services between the same points

ARTICLE IV

Designation

Each Contracting Party shall have the right to designate, by diplomatic note, an airline or airlines to operate the agreed services for such a Contracting Party and to withdraw the designation of any airline or to substitute another airline for one previously designated

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 the laws and regulations of that Contracting Party, 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 designated 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, in particular, that tariffs are established in accordance with the provisions of Article XIV of this Agreement.

ARTICLE VI

Withholding, 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, and to revoke or suspend or impose conditions on such authorizations, temporarily or permanently:

- (a) in the event of failure by such airline to qualify under the laws and regulations normally applied by the aeronautical authorities of the Contracting Party granting the rights,
- (b) in the event of failure by such airline to comply with the laws and regulations of the Contracting Party granting the rights;
- (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 the event that the other Contracting Party is not maintaining and administering the standards as set forth in Article VIII and Article IX of this Agreement.

2 Unless immediate action is essential to prevent infringement of the laws and regulations referred to above or unless safety or security requires immediate action under this Article, Article VIII or Article IX, 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 XXI of this Agreement.