

No. 4503

**JAPAN
and
CANADA**

**Agreement for air services (with schedule). Signed at
Ottawa, on 12 January 1955**

Official texts : English and Japanese.

Registered by the International Civil Aviation Organization on 9 September 1958.

**JAPON
et
CANADA**

**Accord (avec annexe) relatif aux services aériens. Signé à
Ottawa, le 12 janvier 1955**

Textes officiels anglais et japonais.

Enregistré par l'Organisation de l'aviation civile internationale le 9 septembre 1958.

No. 4503. AGREEMENT¹ BETWEEN JAPAN AND CANADA
FOR AIR SERVICES. SIGNED AT OTTAWA, ON 12 JAN-
UARY 1955

The Government of Japan and the Government of Canada,

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

Being parties to the Convention on International Civil Aviation signed at Chicago on December 7, 1944² (hereinafter called "the Convention"),

Have accordingly appointed their respective representatives, who have agreed as follows :

Article I

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

- (a) the term "aeronautical authorities" means, in the case of Japan, the Ministry of Transportation and any person or body authorized to perform any functions on civil aviation exercised by the said Ministry or similar functions, and, in the case of Canada, the Minister of Transport, the Air Transport Board and any person or body authorized to perform any functions on civil aviation exercised by the said Minister or Board or similar functions ;
- (b) the term "designated airline" means an airline which one Contracting Party shall have designated by written notification to the other Contracting Party, in accordance with the provisions of Article III of the present Agreement, for the operation of air services on the routes specified in such notifications ;
- (c) the term "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that State ;
- (d) the term "air service" means any scheduled air service performed by aircraft for the public transport of passengers, cargo or mail ;
- (e) the term "international air service" means an air service which passes through the air space over the territory of more than one State ;

¹ Came into force on 20 July 1955, the date of an exchange of notes indicating approval by each Contracting Party, in accordance with article XVIII.

² See footnote 2, p. 28 of this volume.

- (f) the term "airline" means any air transport enterprise offering or operating an international air service ;
- (g) the term "stop for non-traffic purposes" means a landing for any purpose other than taking on or putting down passengers, cargo or mail.

2. The Schedule¹ to the present Agreement forms an integral part of the Agreement, and all reference to the "Agreement" shall include reference to the Schedule except where otherwise provided.

Article II

Each Contracting Party grants to the other Contracting Party the rights specified in the present Agreement to enable its designated airlines to establish and operate international air services on the routes specified in the appropriate section of the Schedule (hereinafter called "agreed services" and "specified routes" respectively).

Article III

1. The agreed services on any specified route may be commenced immediately or at a later date at the option of the Contracting Party to which the rights are granted under Article II of the present Agreement, subject to the provisions of Article X of the present Agreement, but not before

- (a) the Contracting Party to which the rights have been granted has designated an airline or airlines for that route, and
- (b) the Contracting Party granting the rights has given the appropriate operating permission to the airline or airlines concerned ; which it shall, subject to the provisions of paragraph 2 of this Article and of paragraph 1 of Article VI, be bound to grant without delay.

2. Each of the designated airlines may be required to satisfy the aeronautical authorities of the other Contracting Party that it is qualified to fulfil the conditions prescribed by the laws and regulations normally and reasonably applied by those authorities in conformity with the provisions of the Convention to the operation of international air services.

Article IV

1. Subject to the provisions of the present Agreement, the designated airlines of each Contracting Party shall enjoy, while operating an agreed service on a specified route, the following privileges :

- (a) to fly without landing across the territory of the other Contracting Party ;

¹ See p. 196 of this volume.

- (b) to make stops in the said territory for non-traffic purposes ;
- (c) to make stops in the said territory at the points specified for that route in the Schedule for the purposes of putting down and of taking on international traffic in passengers, cargo and mail coming from or destined for other points so specified ; and
- (d) to omit on any or all flights any one or more of the intermediate points.

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

Article V

1. The charges which either of the Contracting Parties may impose, or permit to be imposed, on the designated airlines of the other Contracting Party for the use of airports and other facilities under its control shall be just and reasonable and shall not be higher than would be paid for the use of such airports and facilities by the airlines of the most favoured nation or by any national airline of the first Contracting Party engaged in international air services.

2. In respect of customs duties, inspection fees and similar national or local duties or charges on fuel, lubricating oils, spare parts (including assembled spare parts), regular aircraft equipment and aircraft stores introduced into the territory of one Contracting Party or taken on board aircraft in that territory, by or on behalf of the designated airline or airlines of the other Contracting Party and intended solely for use by or in the aircraft of those airlines, the designated airlines of the second Contracting Party shall be accorded treatment not less favourable than that granted by the first Contracting Party to the airlines of the most favoured nation or to its national airlines engaged in international air services. Neither Contracting Party shall, however, be obliged to grant to the designated airlines of the other Contracting Party exemption or remission of customs duties, inspection fees or similar national or local duties or charges, unless such other Contracting Party grants exemption or remission of the duties or charges in question to the designated airlines of the first Contracting Party.

3. Each Contracting Party undertakes not to give a preference to its own airlines engaged in international air services over the designated airlines of the other Contracting Party in the application of its customs, immigration, quarantine

and similar regulations or in the use of airports, airways or other air navigation facilities.

Article VI

1. Each Contracting Party reserves the right to withhold or revoke the privileges specified in paragraph 1 of Article IV of the present Agreement in respect of a designated airline of the other Contracting Party, or to impose such conditions as it may deem necessary on the exercise by the airline of those privileges, in any case where it is not satisfied that substantial ownership and effective control of such airline are vested in the Contracting Party designating the airline or in nationals of such Contracting Party.

2. Each Contracting Party reserves the right to suspend the exercise by a designated airline of the other Contracting Party of the privileges referred to in paragraph 1 above, or to impose such conditions as it may deem necessary on the exercise by the airline of those privileges, in any case where such airline fails to comply with the laws and regulations of the Contracting Party granting those privileges or otherwise fails to operate in accordance with the conditions prescribed in the present Agreement ; provided that, unless immediate suspension or imposition of conditions is essential to prevent further infringements of such laws and regulations, this right shall be exercised only after consultation with the other Contracting Party.

Article VII

There shall be fair and equal opportunity for the designated airlines of both Contracting Parties to operate the agreed services on the specified routes between their respective territories.

Article VIII

In the operation by the designated airlines of either Contracting Party of the agreed services, the interests of the designated airlines of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provide on all or part of the same routes.

Article IX

1. On any specified route the capacity provided by the designated airlines of the Contracting Parties shall be maintained in reasonable relationship to the requirements of the public for air transport on that route.

2. In the application of the principle stated in paragraph 1 of this Article :

- (a) an agreed service provided by a designated airline shall have as its primary objective the provision, at a reasonable load factor, of capacity adequate to the current and reasonably expected requirements for the carriage by that airline of traffic originating in or destined for the territory of the Contracting Party which has designated the airline ;
- (b) the capacity provided by a designated airline of one Contracting Party 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 route in the territories of States other than that designating the airline. Such supplementary capacity shall be related to traffic requirements of the areas through which the airline operates, after taking account of the air services so established by airlines of the States referred to above, including the other Contracting Party, insofar as they are carrying international air traffic originating in or destined for their territories.

Article X

1. The tariffs on any agreed service shall be established at reasonable levels, due regard being paid to all relevant factors including cost of operation, reasonable profit, characteristics of service (such as standards of speed and accommodation) and the tariffs of other airlines for any part of the specified route. These tariffs shall be fixed in accordance with the provisions of this Article.

2. Agreement on the tariffs shall, whenever possible, be reached by the designated airlines concerned through the rate-fixing machinery of the International Air Transport Association. When this is not possible, tariffs in respect of each of the specified routes shall be agreed upon between the designated airlines concerned. In any case the tariffs shall be subject to the approval of the aeronautical authorities of both Contracting Parties.

3. If the designated airlines concerned cannot agree on the tariffs, or if the aeronautical authorities of either Contracting Party do not approve the tariffs submitted to them, in accordance with the provisions of paragraph 2 of this Article, the aeronautical authorities of the Contracting Parties shall endeavour to reach agreement on the appropriate tariffs.

4. If the agreement under paragraph 3 of this Article cannot be reached, the dispute shall be settled in accordance with the provisions of Article XIII of the present Agreement.

5. No new or amended tariff shall come into effect if the aeronautical authorities of either Contracting Party do not approve it except under the terms of paragraph 3 of Article XIII of the present Agreement. Pending determination of the tariffs in accordance with the provisions of this Article, the tariffs already in force shall prevail.

Article XI

The aeronautical authorities of either Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at the latter's request such periodic or other statements of statistics as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services by the designated airlines of the first Contracting Party. Such statements shall include all information required to determine the amount of traffic carried by those airlines on the agreed services and the origins and destinations of such traffic.

Article XII

There shall be regular and frequent consultation between the aeronautical authorities of the Contracting Parties to ensure close collaboration in all matters affecting the fulfilment of the present Agreement.

Article XIII

1. If any dispute arises between the Contracting Parties relating to the interpretation or application of the present Agreement, the Contracting Parties shall in the first place endeavour to settle it by negotiation between themselves.

2. If the Contracting Parties fail to reach a settlement by negotiation, the dispute may at the request of either Contracting Party be submitted for decision to a tribunal of three arbitrators, one to be named by each Contracting Party and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either Contracting Party. Each of the Contracting Parties shall designate an arbitrator within a period of sixty days from the date of receipt by either Contracting Party from the other Contracting Party of a diplomatic note requesting arbitration of the dispute and the third arbitrator shall be agreed upon within a further period of sixty days. If either of the Contracting Parties fails to designate its own arbitrator within the period of sixty days or if the third arbitrator is not agreed upon within the period indicated, the President of the Council of the International Civil Aviation Organization formed by the Convention may be requested by either Contracting Party to appoint an arbitrator or arbitrators.

3. The Contracting Parties undertake to comply with any decision given under paragraph 2 of this Article.

Article XIV

Either Contracting Party may at any time request consultation with the other Contracting Party for the purpose of amending the present Agreement, such consultation to begin within a period of sixty days from the date of request. If the

amendment relates only to the Schedule, the consultation shall be between the aeronautical authorities of both Contracting Parties. When these authorities agree on a new or revised Schedule, their recommendations on the matter will come into effect after they have been confirmed by an exchange of diplomatic notes.

Article XV

If a general multilateral convention concerning air transport comes into force in respect of both Contracting Parties, the present Agreement shall be amended so as to conform with the provisions of such convention.

Article XVI

Either of the Contracting Parties may at any time notify the other of its intention to terminate the present Agreement. A copy of the notice shall be sent simultaneously to the International Civil Aviation Organization. If such notice is given, the present Agreement shall terminate one year after the date of receipt by the other Contracting Party of the notice to terminate, unless by agreement between the Contracting Parties the notice under reference is withdrawn before the expiration of that period. If the other Contracting Party fails to acknowledge receipt, notice shall be deemed to have been received fourteen days after receipt by the International Civil Aviation Organization of its copy.

Article XVII

The present Agreement and the diplomatic notes exchanged in accordance with Article XIV shall be registered with the International Civil Aviation Organization.

Article XVIII

The present Agreement shall be approved by each Contracting Party in accordance with its legal procedures, and the Agreement shall enter into force on the date of exchange of diplomatic notes indicating such approval.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed the present Agreement.

DONE in duplicate, in the Japanese and English languages, both being equally authentic, at Ottawa, this twelfth day of January of the year one thousand nine hundred and fifty-five.

For Japan :

(Signed) Koto MATSUDAIRA

For Canada :

(Signed) L. B. PEARSON

(Signed) George C. MARLER

SCHEDULE

Routes to be operated in both directions by the designated airline or airlines of Japan

<i>Points in Japan</i>	<i>Intermediate points</i>	<i>Point or points in Canada</i>	<i>Points beyond</i>
Tokyo or any other point or points if desired	Points in the Aleutians and Alaska	Vancouver	A point in the west or central part of the United States of America Mexico City Caracas A point or points in Brazil

Routes to be operated in both directions by the designated airline or airlines of Canada

<i>Points in Canada</i>	<i>Intermediate points</i>	<i>Point or points in Japan</i>	<i>Points beyond</i>
Vancouver or any other point or points if desired	Points in Alaska and the Aleutians	Tokyo	Hong Kong Other point or points to be agreed upon