

No. 6710

**CANADA
and
SWITZERLAND**

**Agreement concerning air services (with routes schedule).
Signed at Berne on 10 January 1958**

Official texts: English and French.

Registered by the International Civil Aviation Organization on 15 May 1963.

**CANADA
et
SUISSE**

**Accord relatif aux services aériens (avec tableau de routes).
Signé à Berne, le 10 janvier 1958**

Textes officiels anglais et français.

Enregistré par l'Organisation de l'aviation civile internationale le 15 mai 1963.

No. 6710. AGREEMENT¹ BETWEEN CANADA AND SWITZERLAND CONCERNING AIR SERVICES. SIGNED AT BERNE, ON 10 JANUARY 1958

The Government of Canada and the Swiss Federal Council,

Having ratified the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944,² and

Desiring to conclude an Agreement for the purpose of establishing air services between Canada, and Switzerland, and beyond in both directions,

Have agreed as follows :

Article I

In the application of this Agreement the terms hereafter defined shall have the meanings indicated in this article :

1. "the 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 as well as any amendment of the Annexes or Convention adopted under Articles 90 and 94 thereof ;

2. "aeronautical authorities" means, in the case of Canada, the Minister of Transport, the Air Transport Board and any person or body authorized to perform any functions presently exercised by the said Minister or Board or similar functions, and, in the case of Switzerland, the Department of Post and Railways, the Federal Air Office and any person or body authorized to perform any functions presently exercised by the said Department of Office or similar functions ;

3. "designated airline" means an airline which one contracting party shall have notified, by written designation, to the other contracting party, in accordance with Article III hereafter, for the operation of agreed services on the routes specified in such notifications ;

4. "territory" in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty of that State ; and

¹ Came into force provisionally on 10 January 1958, upon signature, and in accordance with article XIII, definitively on 9 November 1961, the date on which the Contracting Parties notified each other that the Agreement had been ratified.

² United Nations, *Treaty Series*, Vol. 15, p. 295 ; Vol. 26, p. 420 ; Vol. 32, p. 402 ; Vol. 33, p. 352 ; Vol. 44, p. 346 ; Vol. 51, p. 336 ; Vol. 139, p. 469 ; Vol. 178, p. 420 ; Vol. 199, p. 362 ; Vol. 252, p. 410 ; Vol. 324, p. 340 ; Vol. 355, p. 418, and Vol. 409, p. 370.

5. "air service", "international air service", "airline " and "stop for non-traffic purposes" have the meanings respectively assigned to them in Article 96 of the Convention.

Article II

1. Each contracting party grants to the other contracting party the rights specified in this Agreement for the purpose of establishing the air services to be operated, by virtue of said Agreement, on the routes specified in the appropriate Section of the Schedule thereto (hereinafter called "the agreed services" and "the specified routes").

2. Subject to the provisions of this Agreement, the airline designated by 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 ;
- b. to make stops in the territory of the other contracting party for non-traffic purposes ;
- c. to make stops in the territory of one contracting party, at the points specified for that route in the Schedule of the Annex to this Agreement, for the purpose of putting down and taking on international traffic in passengers, cargo and mail coming from or destined for the points so specified in the territory of the other contracting party ;
- d. to carry into and out of the territory of the other contracting party, on the same flight, in-transit traffic originating in or destined for points in third countries ;
- e. to omit on any or all flights any one or more of the intermediate points.

3. Nothing in paragraph 2 of this Article shall be deemed to confer on the airline of one contracting party the privilege of taking up, in the territory of the other contracting party, passengers, cargo or mail carried for hire or reward and destined for another point in the territory of that other contracting party.

Article III

1. Each contracting party shall have the right to designate in writing to the other contracting party one airline for the purpose of operating the agreed services on the specified routes.

2. Each contracting party shall have the right by written notification to the other contracting party to withdraw the designation of an airline and to designate another airline.

3. On receipt of notification of the designation of an airline of a contracting party, the other contracting party shall, subject to the provisions of paragraphs 4 and 5 of this Article, grant without delay to the airline the appropriate operating authorization.

4. The aeronautical authorities of one contracting party may require an airline designated by the other contracting party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations which they normally and reasonably apply, in conformity with the provisions of the Convention, to the operation of international commercial air services.

5. Each contracting party shall have the right to refuse to accept the designation of an airline and to grant the privileges specified in paragraph 2 of Article II hereinbefore and to withdraw these privileges or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges, in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the contracting party designating the airline or in its nationals.

6. Subject to the provisions of paragraphs 1 and 3 of this Article, and to Article VI hereafter, the airline so designated and authorized may at any time begin to operate the agreed services.

7. Each contracting party shall have the right to suspend the exercise by the designated airline of the other contracting party of the privileges specified in paragraph 2 of Article II hereinbefore or to impose such conditions as it may deem necessary on the operation, in any case where the airline fails to comply with the laws or regulations of the contracting party granting those privileges, or otherwise fails to operate in accordance with the conditions prescribed in this Agreement ; provided that, unless immediate suspension or imposition of conditions is essential to prevent further infringements of laws or regulations, this right shall be exercised only after consultation with the other contracting party.

Article IV

1. Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores introduced into the territory of one contracting party, taken on board aircraft in that territory, or retained on board the aircraft in that territory, by or on behalf of the other contracting party or its designated airline and intended solely for use by or in the aircraft of that airline, shall be accorded by that contracting party, in respect of customs duties, inspection fees and other similar national or local duties and charges, treatment not less favourable than that accorded to similar supplies introduced into the said territory, taken on board aircraft in that territory, or retained on board the aircraft in that territory and intended for use by or in the aircraft of a national airline of that contracting party, or of the most favoured airline of any other State, engaged in international air services.

2. Each of the contracting parties agrees not to give a preference to its own airlines or to those of any third state over the airline of the other contracting party in the application of its customs, immigration, quarantine, exchange control and similar regulations or in the use of or charges for the use of airports, airways or other facilities.

Article V

1. The designated airlines of both contracting parties shall be accorded fair and equitable opportunity for the operation of the agreed services on the routes specified between their respective territories.

2. In operating the agreed services the designated airline of each contracting party shall take into account the interests of the designated airline of the other contracting party so as not to affect unduly the services which the latter provides on the whole or part of the same routes.

3. On any specified route the capacity provided by the designated airline of one contracting party together with the capacity provided by the designated airline of the other contracting party shall be maintained in reasonable relationship to the requirements of the public for air transport on that route.

4. In the application of the principles stated in the paragraphs hereinbefore :

- a. The agreed services provided by a designated airline shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to the current and reasonably expected requirements of that airline for the carriage of traffic originating in or destined for the territory of the contracting party which has designated that airline.
- b. The capacity provided under sub-paragraph *a* above may be augmented by supplementary capacity adequate for the carriage of international air traffic originating at and destined for points on the specified routes in the territories of States other than that designating the airline. Such additional capacity shall be related to traffic demands of the areas through which the airline operates, after taking account of the air services established by airlines of the other contracting party and of the States referred to above in so far as they are carrying international air traffic originating in or destined for their territories.

5. Subject to the provisions of this agreement, nothing in this Article shall prevent unfilled space in any aircraft from being used for the carriage of any international air traffic offered.

Article VI

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 routes. These tariffs shall be determined in accordance with the following provisions.

2. The tariffs referred to in paragraph 1 of this article shall, if possible, be agreed in respect of each route between the designated airlines, after consultation with other airlines operating over the whole part of that route, and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association (IATA). The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both contracting parties.

3. In the event of disagreement between the designated airlines concerning the tariffs, the aeronautical authorities of the contracting parties shall endeavour to determine them by agreement between themselves.

4. The designated airline of either contracting party shall file with the aeronautical authorities of both contracting parties any tariff determined under paragraph 2 of this Article which it proposes to establish, at least thirty days before the date on which it proposes that the tariff shall come into effect; provided that the aeronautical authorities of the contracting parties may in particular cases vary the period of thirty days.

5. If the aeronautical authorities of one of the contracting parties are dissatisfied with a tariff filed in accordance with paragraph 4 of this Article, they shall so notify in writing the aeronautical authorities of the other contracting party and any designated airline filing the tariff, within fifteen days of the date of filing or in particular cases within such other period as may be agreed by both authorities.

6. After notification under paragraph 5 of this Article the aeronautical authorities of both contracting parties shall endeavour to secure agreement on the tariff to be established.

7. If the aeronautical authorities of the contracting parties cannot secure agreement, the dispute shall be settled in accordance with the provisions of Article IX of this Agreement.

8. If agreement has not been reached at the end of the thirty days period referred to in paragraph 4 of this article, a disputed tariff on the agreed services shall remain in suspension until the dispute shall have been settled. In the meantime, the existing tariff shall remain in effect.

9. Nothing in this Article shall affect the right of either contracting party to disallow an offending tariff between a third country and a point in the territory of the dissatisfied contracting party.

10. If no notification is given under paragraph 5 of this Article, a tariff filed under paragraph 4 shall come into effect after the expiry of the period specified in paragraph 4 and shall remain in effect until :

- a. the expiry of any period for which the aeronautical authorities of either contracting party may have approved its effectiveness ; or
- b. a new or amended tariff shall have been established in accordance with the provisions of this Article in substitution therefor ;

whichever is the earlier.

11. A new or amended tariff in substitution for an established tariff may be filed by a designated airline at any time, and the provisions of this Article shall apply thereto as if it were a first tariff ; provided that the aeronautical authorities of the contracting parties may by agreement between them adopt procedures for the filing and establishment of amended tariffs within shorter periods than those specified in paragraphs 4 and 5 of this Article.

12. The aeronautical authorities of one contracting party may, with the consent of the aeronautical authorities of the other contracting party, at any time require a designated airline to file a new or amended tariff, and the provisions of this Article shall apply thereto as if it were a first tariff.

Article VII

The aeronautical authorities of either contracting party shall supply to the aeronautical authorities of the other contracting party at their 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 this airline on the agreed services and the origins and destinations of such traffic.

Article VIII

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 this Agreement.

Article IX

1. If any dispute arises between the contracting parties relating to the interpretation of application of this Agreement or its Annex, the contracting parties shall in the first place endeavour to settle it by negotiation between themselves.

2. If the contracting parties fail to reach settlement by negotiation :

- a. they may agree to refer the dispute for decision to an arbitral tribunal or to some other person or body, which they appoint ; or
- b. if they do not so agree or if, having agreed to refer the dispute to an arbitral tribunal, they cannot reach agreement as to its composition, either contracting party may submit the dispute for decision to any tribunal competent to decide it which may hereafter be established within the International Civil Aviation Organization or, if there is no such tribunal, to the Council of the said Organization.

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

4. If and so long as either contracting party or a designated airline of either contracting party fails to comply with a decision given under paragraph 2 of this Article, the other contracting party may limit, withhold or revoke any rights or privileges which it has granted by virtue of this Agreement to the contracting party in default or to the designated airline in default.

Article X

1. If either of the contracting parties considers it desirable to modify any provision of this Agreement, consultations, if necessary, shall be commenced within a reasonable period of time, and any modifications agreed upon between the contracting parties shall come into effect when confirmed by an Exchange of Notes.

2. In the event of the conclusion of any general multilateral convention concerning air transport by which both contracting parties become bound, this Agreement shall be amended so as to conform with the provisions of such convention.

Article XI

Either contracting party may at any time give notice to the other if it desires to terminate this Agreement. Such notice shall be simultaneously communicated to the Council of the International Civil Aviation Organization. If such notice is given, this Agreement shall terminate twelve months after the date of receipt of the notice by the other contracting party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgment of receipt by the other contracting party, notice shall be deemed to have been received fourteen days after the receipt of the notice by the Council of the International Civil Aviation Organization.

Article XII

The present Agreement and any Exchange of Notes in accordance with Article X, shall be registered with the Council of the International Civil Aviation Organization.

Article XIII

The present Agreement shall come into force on the date on which ratification is notified mutually by an Exchange of Notes.

DONE in duplicate at Berne this 10th day of January, 1958, in the English and French languages, both texts being equally authentic.

For the Government
of Canada :

(Signed) Edmond TURCOTTE

For the Swiss Federal
Council :

(Signed) Max PETITPIERRE

ROUTE SCHEDULE

SECTION I

Routes to be operated in both directions by the designated airline of Switzerland :

<i>Points of Departure</i>	<i>Intermediate points (any one or more of the following if desired)</i>	<i>Destination in Canadian Territory</i>	<i>Points beyond (any one or more of the following if desired)</i>
Zurich	Cologne	Montreal	a. Chicago
Geneva	Amsterdam		b. Points in the U.S.A.
Basle	Paris		and Mexico to be
	London		agreed upon
	Manchester		
	Prestwick		
	Shannon		

SECTION II

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

<i>Points of Departure</i>	<i>Intermediate points (any one or more of the following if desired)</i>	<i>Destination in Swiss Territory</i>	<i>Points beyond (any one or more of the following if desired)</i>
Montreal	Shannon	A point to be deter-	a. Vienna and/or Rome
Toronto	London	mined by the Gov-	b. Points in Continental
	Prestwick	ernment of Canada	Europe to be agreed
	Paris		upon
	Brussels		
	Amsterdam		
	Dusseldorf		