

## **EU-Canada Air Transport Agreement**

### *Article 14*

#### **Competitive environment**

1. The Parties acknowledge that it is their joint objective to have a fair and competitive environment for the operation of the air services. The Parties recognise that fair competitive practices by airlines are most likely to occur where these airlines operate on a fully commercial basis and are not state subsidised. They recognise that matters, such as, but not limited to the conditions under which airlines are privatised, the removal of competition distorting subsidies, equitable and non-discriminatory access to airport facilities and services and to computer reservation systems are key factors to achieve a fair and competitive environment.

2. If a Party finds that conditions exist in the territory of the other Party that would adversely affect a fair and competitive environment and its airlines' operation of the air services under this Agreement, it may submit observations to the other Party. Furthermore, it may request a meeting of the Joint Committee. The Parties accept that the degree to which the objectives in the Agreement related to a competitive environment may be undermined by a subsidy or other intervention is a legitimate subject for discussion in the Joint Committee.

3. Issues that may be raised under this Article 14 include, but are not limited to, capital injections, cross subsidisation, grants, guarantees, ownership, tax relief or tax exemption, protection against bankruptcy or insurance by any government entities. Subject to paragraph 4 of Article 14, a Party, upon notification to the other Party, may approach responsible government entities in the territory of the other Party including entities at the state, provincial or local level to discuss matters relating to this Article.

4. The Parties recognise the cooperation between their respective competition authorities as evidenced by the Agreement between the Government of Canada and the European Communities regarding the Application of their competition laws, done at Bonn on 17 June 1999.

5. If, following consultations in the Joint Committee, a Party believes that the conditions referred to in paragraph 2 of Article 14 persist and are likely to result in significant disadvantage or harm being caused to its airline or airlines, it may take action. A Party may take action under this paragraph from the earlier of the establishment, by a decision of the Joint Committee, of procedures and criteria by the Joint Committee for the exercise of such action or one year from the date that this Agreement is applied provisionally by the Parties or enters into force. Any action taken pursuant to this paragraph shall be appropriate, proportionate and restricted with regard to scope and duration to what is strictly necessary. It shall be exclusively directed towards the entity benefiting from the conditions referred to in paragraph 2, and shall be without prejudice to the right of any Party to take action under Article 21 (Settlement of disputes).

### *Article 21*

#### **Settlement of disputes**

1. If any dispute arises between the Parties relating to the interpretation or application of this Agreement they shall in the first place endeavour to settle it through formal consultations within the Joint Committee. Such formal consultations shall begin as soon as possible and notwithstanding paragraph 4 of Article 17 within a period of no more than 30 days from the date of receipt by one Party of the written request made by the other Party, referring to this Article, unless otherwise decided by the Parties.

2. If the dispute is not resolved within 60 days of the receipt of the request for formal consultations, it may be referred to a person or body for decision by consent of the Parties. If the Parties do not so consent, the dispute shall, at the request of either Party be submitted to arbitration by a tribunal of three arbitrators in accordance with the procedures set forth below.
3. Within 30 days from the receipt of a request for arbitration each Party to the dispute shall nominate an independent arbitrator. The third arbitrator shall be appointed within a further period of 45 days by agreement between the two arbitrators named by the Parties. If either of the Parties fails to nominate an arbitrator within the period specified, or if the third arbitrator is not appointed within the period specified, the President of the Council of the International Civil Aviation Organisation may be requested by either Party to appoint an arbitrator or arbitrators as the case requires. If the President is of the same nationality as one of the Parties, the most senior Vice-president who is not disqualified on that ground shall make the appointment. In all cases the third arbitrator shall be a national of a third State, shall act as President of the Tribunal and shall determine the place where arbitration will be held.
4. The Tribunal shall establish its own rules of procedure and the timetable for the proceedings.
5. At the request of a Party the Tribunal may order the other Party to the dispute to implement interim relief measures pending the Tribunal's final determination.
6. The Tribunal shall attempt to render a written decision within 180 days from the receipt of the request for arbitration. The decision of the majority of the Tribunal shall prevail.
7. If the Tribunal determines that there has been a violation of this Agreement and the responsible Party does not cure the violation, or does not reach a resolution with the other Party to the dispute on a mutually satisfactory solution within 30 days after notification of the Tribunal's decision, the other Party may suspend the application of equivalent benefits arising under this Agreement until such time as the dispute has been resolved.
8. The expenses of the Tribunal shall be shared equally between the Parties to the dispute.
9. For the purposes of this Article, the European Community and the Member States shall act together.