

Response of CANADA
to questions concerning its current policy, position and practice
on air carrier ownership and control

(Date of response: 01/10/07)

No.	Question	Yes	No	Case by Case	Note/Comment
1.	When designating your airline to operate the agreed services under an air services agreement, do you require it to be substantially (or majority) owned and effectively controlled by nationals of your country?	X			Canadian law requires that air carriers must be incorporated or formed under the laws of Canada or a province, be controlled in fact by Canadians and voting interests must be at least 75% owned and controlled by Canadians.
2.	In dealing with the designation of foreign airlines, which of the following criteria do you accept:				
	a) substantially (or majority) owned and effectively controlled by the designating party or its nationals (the traditional approach)?	X			This criteria is specified in most of Canada's bilateral agreements.
	b) substantially (or majority) owned and effectively controlled by one or more States that are parties to an agreement or within a predefined regional grouping (e.g. a "community of interest" carrier)?			X	See note attached.
	c) incorporated and having its principal place of business or permanent residence in the territory of the designating party?			X	See note attached.
	d) having its principal place of business in the territory of and effective control by the designating party (without the ownership requirement)?			X	See note attached.
	e) having its principal place of business in the territory of and effective regulatory control by the designating party?			X	See note attached.

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	f) other criteria? (please describe)				
3.	In dealing with airline designations in the future, are you willing to accept criteria other than the traditional national ownership and control:				
	a) for both yourself and the foreign partner?			X	See note attached.
	b) for the foreign partner but maintain traditional criteria for yourself?			X	See note attached.
	c) What economic regulatory conditions will you impose for such acceptance? (please describe)			X	
4.	Are you willing to consider the following positive action in facilitating liberalization of air carrier ownership and control:				Will consider options.
	a) issuing an individual statement of policy for accepting designations of foreign air carriers?				
	b) developing a common policy with partner States? (please indicate, if possible, with which partner(s))			X	France
	<p>c) any other action? (please describe)</p> <p>Note regarding Question 2</p> <p>Canada has Agreements/arrangements departing from the traditional ownership and control criteria with:</p> <p>Norway, Denmark, Sweden – Conditions include a setting out of what authorities have responsibility under the respective bilateral air agreements for SAS aircraft, crew and equipment. Also, substantial ownership and effective control of the parent companies of SAS must remain vested jointly in the Governments of Norway, Denmark and Sweden and/or their nationals.</p> <p>Ivory Coast – Substantial ownership and control of Ivory Coast designated airline must be held jointly by the governments of the States party to the Yaounde Treaty concerning air transport in Africa, signed on March 28, 1961.</p>				

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	<p>Trinidad and Tobago – Recognizing that ownership of Caricargo is vested equally in the governments of Trinidad and Tobago and Barbados, Caricargo is permitted to be designated and operate agreed services provided that operational control of the aircraft remains with Caricargo. Alternatively, joint operational control of aircraft is subject to an arrangement, acceptable to Canada, between the governments of Trinidad and Tobago and Barbados addressing responsibilities with respect to commercial and operational control, areas of liability and responsibility and the exercise of judicial action.</p> <p>St. Kitts/Nevis – Acceptance by Canada of designation by the Government of the Federation of St. Christopher and Nevis of BWIA International conditional on substantial ownership and effective control of BWIA remaining vested in Trinidad/Tobago government or its nationals, operational control of the aircraft remains with BWIA and operations shall be conducted in accordance with the provisions of BWIA’s operating certificate.</p> <p>An airline incorporated and having its principal place of business or permanent residence in the designating State (including its variants, such as those with the added requirement for a “strong link” with the designating State, for example, through an Air Operator Certificate).</p> <p>Hong Kong – Under the Canada-Hong Kong air services agreement, the criteria for refusing or conditioning authorizations for the airline designated by Hong Kong is any case where Canadian aeronautical authorities are not satisfied that the airline is incorporated and has its principal place of business in Hong Kong.</p> <p>In very few cases, Canada has accepted that airlines designated by foreign governments which did not satisfy ownership and control criteria without requiring an amendment of the bilateral air agreement or a separate arrangement addressing the matter. Examples: Barbados (BWIA), Belgium (Sabena) and Switzerland (Swiss-Lufthansa)</p>				