



AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

THE WORLD'S LARGEST PILOTS UNION • WWW.ALPA.ORG

360 Albert Street, Suite 1715 • Ottawa, ON K1R 7X7 • 613-569-5668

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The Honourable David Emerson
Chair, Canada Transportation Act Review

Via email: secretariat@reviewcta-examenlrc.gc.ca

Dear Mr. Emerson:

The Air Line Pilots Association, Int'l (ALPA) is the world's largest professional pilot association and the world's largest non-governmental aviation safety organization representing over 51,000 pilots flying for 30 airlines in Canada and the United States, including over 2600 professional pilots that fly for nine airlines in Canada.

On behalf of ALPA's Canadian Members, I would like to thank you for the opportunity to provide the Association's views on this important project. I am pleased that the Minister has launched this statutory review of the Canada Transportation Act (the Act) and I appreciate your oversight and interest in the aviation sector of the review.

As our Members make their livelihood in the aviation sector, its growth and prosperity are of prime concern and I hope our collective experience will be able to enhance your report.

Canadian Transportation Agency

Include Labour Protections in Air Transport Agreements

The CTA takes part in the negotiation and subsequent administration of bilateral/multilateral air transport agreements.

The Canada/EU Air Transport Agreement includes a clause which addresses the importance of considering the effects of the Agreement on labour, employment and working conditions. Labour Matters may be referred to the Joint Committee for discussion by either party.

Canada has been actively engaged in negotiating other air transport agreements under the Blue Skies Policy. Since 2006, Canada has signed 80 such agreements. Many of the nations with which agreements have been signed do not have labour laws that are on a par with Canada's.

Policy Recommendation

ALPA believes that it is in the public interest for Canada's negotiations team to ensure that robust labour protective provisions are included in all future air service agreements. To do so

will help ensure against the airline industry being reduced to flag of convenience model that is evident in the marine industry. Accordingly, a labour observer should be appointed to each bilateral negotiation to aid in that endeavour.

Foreign Ownership and Control Provisions

The Act provides that for an entity to be considered “Canadian” it must be controlled in fact by Canadians and have at least 75% of the voting interest owned and controlled by Canadians.

However the Canada-European Union Air Transport Agreement provides for progressive traffic rights to be granted when national ownership and control regulations change to 49% of the voting interest in its airlines. The legal framework permitting foreign nationals to own and control up to 49% of the voting interest in a Canadian airline is in place but is not yet in force.

That issue was addressed at each Joint Committee of the Air Transport Agreement. The Canadian government delegation stated that they did not foresee any change to the ownership and control regulations in the near future.

Policy Recommendation

ALPA does not see a need for the liberalization of foreign ownership and control provisions as they currently stand in the Act.

Although a move to 49% is contemplated, only in regard to the Canada/EU Air Agreement, the traffic rights to be gained are not worth the change in the ownership and control provisions and should not be enacted.

The ratio of foreign ownership and control need not be increased to attract foreign investment as experience shows there is no lack of capital. We have recently seen the expansion of Air Canada rouge and West Jet Encore without changing the ownership and control provisions to attract foreign investment.

Some airlines have structured variable voting shares which allow additional capital to be raised without altering the current 75% voting interest that is to be held by Canadians. ALPA recommends that sort of innovation be encouraged rather than resorting to a change in current limitations.

Cabotage

The carriage of domestic traffic between two points in the same country by an airline of a foreign country is considered cabotage.

The Canada Transportation Act stipulates that traffic with origin and destination in Canada is domestic traffic that must be carried by a domestic carrier, i.e. not a foreign-licensed carrier.

However the Canada/EU Air Transport Agreement contemplates cabotage in the 4th level exchange of rights. The exchange of rights has not yet progressed to the 2nd stage and Canadian government officials have consistently stated that there is no appetite to exchange further rights.

Policy Recommendation

ALPA recommends that cabotage not be negotiated in any future air service agreements. ALPA also recommends that the fourth stage rights in the Canada/EU agreement that would allow cabotage not be instituted.

Wet Leasing

The Canadian Transportation Agency has jurisdiction regarding wet leasing of aircraft (the provision of aircraft with crew) through operation of the Act and Regulations. The Agency considers wet lease applications and administers the wet lease policy.

There were no restrictions on the number of foreign aircraft with foreign crew that could be wet leased by a Canadian air carrier until the introduction of a wet lease policy by Transport Canada in August 2013. Canadian carriers could and did seasonally supplement their fleets with many aircraft and foreign crew on wet lease.

ALPA raised its concern with the Minister regarding the lack of regulation of that practice as it allowed foreign pilots to operate in Canada when there was no shortage of domestic pilots.

The wet lease policy provides guidance to the CTA's consideration of Canadian air carriers' applications for wet lease of aircraft from foreign carriers. The policy stipulates that a Canadian air carrier can wet lease, from a foreign carrier, for a period of more than thirty days, a number of aircraft equal to 20% of the number of Canadian-registered aircraft on the carriers' air operator certificate at the time of the wet lease application. The policy became a Directive of the Minister of Transport, binding upon the Agency pursuant to subsection 76(3) of the Act.

A problem arises from the number of aircraft on a carrier's AOC at the time of application. Air carriers with a relatively small year-round fleet make application in the timeframe during which they operate numerous foreign dry leased aircraft in Canadian registry, with foreign crews employed pursuant to the Temporary Foreign Worker Program (TFWP). The effect is to inflate the number of aircraft on the AOC which allows a corresponding increase in the number of wet lease applications that may be made or approved.

ALPA participated in the Transport Canada consultations regarding the policy and is of the opinion that the intent of the policy was to base the limit on the air carrier's year-round fleet. In the norm, this year-round fleet would be staffed by Canadian pilots as the programs by which an air carrier may employ foreign pilots, such as TFWP, are limited in duration.

To allow the application to be based on the inflated fleet leads to the anomaly that the number of wet lease foreign aircrews is expanded based on the number of foreign aircrews already on the property through other government programs such as the TFWP.

Policy Recommendation

ALPA recommends that the policy and/or or the regulations be amended to exclude aircraft on a lease of less than one year's duration in the calculation of the number of aircraft on air carriers' AOCs at the time of application.

Economics - Promote a Rational, Common Sense Aviation Taxation Policy that promotes the Airline Industry's Viability and Growth

ALPA recognizes that your mandate includes a comprehensive review of the operation of the Act as well as any other Act of Parliament for which the Minister is responsible and that pertains to economic regulation of a mode of transport or to transportation activities under the legislative authority of Parliament. The Minister does have responsibility for other acts of Parliament that have an economic effect on air transport such as Civil Air Navigation Services Commercialization Act and the Canadian Air Transport Security Act. We recognize that the Minister does not have responsibility for all the entities addressed below but include them so that a comprehensive view of the quantum of the issue is apparent.

The Canadian aviation industry remains a source of income for the federal government and various entities that impose taxes, by whatever name, on the airline industry. The phenomenon is so pronounced that the issue became the subject of hearings before the Standing Senate Committee on Transportation and Communications. The Committee issued a report entitled "The Future of Canadian Air Travel: Toll Booth or Spark Plug?" Unfortunately "Toll Booth" is the more apt description.

Canada has adopted a "user pay" concept for the airline industry. All the fees, charges, taxes or levies associated with airfares find their way back to the consumer. That is in contrast to other modes of transport such as passenger rail, ferry services and roadways generally which receive direct subsidies or indirect taxation support.

It is also counter to most other nations' treatments of the aviation industry. For instance, much of the United States' aviation infrastructure is subsidized from general tax revenue. As the U.S. airline industry is the closest competitor, it creates an unlevel playing field.

Airport Ground Rents

Until the mid-1990s, airports in Canada were primarily owned and operated by the federal government. In 1994, Canada adopted the National Airports Policy to decentralize the operation of the airports by transferring the largest airports to local authorities which are private, non-share capital corporations. They are self-funding for all operating and infrastructure costs. The local airport authorities of the 26 busiest airports which handle about 94% of air passengers and cargo also continue to pay ground rent to the federal government.

Since 2005 the rents have been calculated progressively, based on the airport authorities' gross revenues.

The payment of these "rents" continues to be a contentious issue. The very high cost of bearing those rents has resulted in some of Canada's airports charging the highest landing fees in the world.

Air Traveller Security Charge

The Canadian Air Transport Security Authority (CATSA) was created post 9/11 to provide security screening at Canadian airports. It is funded by the air traveller security fees that are found in the purchase price of an airfare. The security charges are among the highest in the world. Currently, a domestic departure is approximately \$7.50, trans-border \$12.70 and international \$25.90.

ALPA has continually objected to the Air Travellers' Security Charges being imposed on the airline industry. Canada's aviation infrastructure is of benefit to all Canadians and Canada and should not be subject to unique "user fees".

The level of charges administered has consistently resulted in revenues in excess of the costs of CATSA with the excess being funneled into the government's general revenues.

The Airport Improvement Fees

These fees are levied by each airport authority to pay for infrastructure upgrades at individual airports. The fee varies depending on the airport. Major airports such as those in Toronto, Montreal and Ottawa are in the \$20.00 to \$25.00 range.

Nav Canada Service Fees

Nav Canada is a non-share capital corporation which owns and operates Canada's civil air navigation service. It recovers costs for the provision of air navigation services through a system of service charges levied on aircraft operators. Each aircraft operator passes that cost on to the consumer through a ticket surcharge based on the distance travelled.

Fuel Excise Tax

Taxes of varying amounts are levied on different types of aviation fuels by both federal and provincial governments. Prior to the devolution of the airports and air navigation services the taxes were imposed to finance airport /air transport infrastructure. Airports and air navigation services have been divested from the federal government and impose their own surcharges, but the fuel excise tax remains.

Goods and Services Tax (Harmonized Sales Tax)

This tax, now 13%, is applied to the full cost of the ticket, which includes all the foregoing charges.

The combination of these charges and fees has resulted in very high air travel costs to the consumer especially when compared to the USA. It has resulted in a cross border bleed of consumers who choose to drive to U.S. airports in proximity to the Canada-U.S. border to take advantage of comparatively lower airfares. The Senate report cited estimates of the Canadian Airports Council that as many as 4.8 million Canadians chose that option in 2011, an increase of 15% from the year earlier.

Policy Recommendations

Airport Ground Rents

The National Airports Policy needs to be revised to include a gradual phase-out of ground rents in conjunction with the devolvement of the federally-owned airports to the local authorities. The agreement to transfer the property to the local authorities with resultant reduction in ground rents must be accompanied by commensurate reductions in rents to airport tenants and other users.

Air Travel Security Charges

Aviation security is a national interest, not one restricted to the airline industry or its passengers. The cost of it, much like policing or national defense, should be borne by all Canadians rather than through user fees.

Alternatively, security charges should be reduced to only that required to adequately fund CATSA and any amount in excess should be used for capital expenditures in CATSA rather than as an additional source of revenue for the government.

Airport Improvement Fees

The fees are used to pay for airport infrastructure improvements approved by the board of the local airport authority. Many airport terminals have evolved into elegant consumer malls complete with art displays, waterfalls and other visual attractions. We recommend that an air carrier (or pilot) representative be placed on airport boards to ensure that necessary funds are allocated to the airside of the airports.

As an example of the issue, Canada's capital, Ottawa, the Macdonald-Cartier International Airport terminal has been totally rebuilt over the past few years. It is very functional for passengers and is esthetically pleasing. However, it lacks a Category Two Runway which would allow landings at much reduced visibilities.

Fuel Excise Tax

As the air transport infrastructure and air navigation services have been divested from the federal government and are self-supporting, it is incongruous that governments continue to charge a tax to support infrastructure that they no longer own. This tax should be eliminated immediately.

Regional, Remote and Northern Transportation

It is a fact that the North is about to go through an expansion, the likes of which we have not seen before. ALPA is concerned that Canada is lagging behind in its infrastructure development planning for this future expansion which is already on our doorstep. This expansion will soon overtax the present capabilities of the airports. Airport infrastructure must be, at a minimum, able to accept an increased amount of air traffic on a routine basis in all kinds of weather. Presently, Northern airports cannot provide this capability.

With a population of less than 200,000 people supporting 52 airports and aerodromes, it is clear that the Northern provinces and territories cannot bear the financial burden of upgrading the airport infrastructure on their own. The costs associated with any infrastructure improvement in the North are astronomical in comparison with work in developed areas. They need help to avoid being caught in a catch-up mode.

ACAP funding

Transport Canada states that there are currently 45 northern airports eligible for funding under the ACAP – three in the Yukon, 18 in the NWT and 24 in Nunavut. ACAP funding is budgeted at about \$42 million/year. ALPA believes that, although this program has, and continues to provide many financial benefits to eligible airports, the eligibility criteria and the amount of funding available need to be adjusted in order to ensure the continued provision of safe and efficient domestic air travel to and from the North, as well as provide for safe emergency alternates for international operations in Canadian airspace.

First, with respect to funding, it is well known that that everything costs a lot more in the North, including construction and survey work. Both are critical elements of Northern expansion needed for improving the airport surface environment as well as for implementing state-of-the-art space-based precision navigation procedures. In view of the coming expansion of the North to tap its resources, coupled with the limited financial capabilities of the region to support improved infrastructure work, we believe that this program's budgetary limit needs to be increased by a significant amount.

Second, the current eligibility criteria are limited to projects that meet an airport's required level of safety. ALPA believes that any improvement to an airport's infrastructure that would allow for the design and certification of instrument approaches providing safer access, especially in poor weather, clearly meet that eligibility standard.

The added benefit would be increased access by air to the communities in bad weather conditions and lower fuel costs as crews would most likely be able to use closer alternates during their day-to-day operations.

To maintain the exceptional level of safety in Canada's airline operations, we must make every effort to ensure safety improvements are identified and implemented as operations expand. It is

clear that the stakeholders and the government must work collaboratively to evaluate the needed safety, operational procedures and airport infrastructure improvements that will successfully mitigate the unique challenges of flying safely above the 60th parallel. Existing advanced aviation technology will enable Canada to provide much needed service capability to communities while maintaining the highest level of safety.

ALPA, on behalf of our members who fly in the North as well as the passengers, shippers and communities that rely on safe air travel, is committed to this effort. In 2012, ALPA's president commissioned the Presidents Committee for Remote Operations (PCRO), a dedicated group within our organization whose sole purpose is to identify safety issues unique to this challenging environment. ALPA and the PCRO stand ready to assist in any effort to address such issues.

Once again, I thank you for the opportunity for ALPA to present its views to you. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Adamus', with a stylized, flowing script.

Captain Dan Adamus
Canada Board President
Air Line Pilots Association, Int'l.