

**SERVICES 2000:
AIR TRANSPORTATION
SERVICES AND
GATS**

INITIAL COMMENTS

**IN RESPONSE
TO**

**TRANSPORT CANADA'S
FEBRUARY 2001**

**CONSULTATION
PAPER**

**Alberta Department
of
Transportation**

May 15, 2001

FOREWORD

These initial comments have been prepared in response to Transport Canada's **Services 2000: Air Transportation Services Consultation Paper**, with its emphasis on the General Agreement on Trade in Services.

They complement our earlier paper, **Review of Canada's Policy for International Scheduled Air Services: Initial Comments in Response to Transport Canada's February 2001 Issues for Discussion Paper** (April 20, 2001).

Alberta Department of Transportation

May 15, 2001

[air gats consultation paper-FINAL]

CONTENTS

FOREWORD

EXECUTIVE SUMMARY..... i

1.0 INTRODUCTION..... 1

2.0 CONTEXT AND SCOPE2

3.0 EXISTING AND FUTURE GATS COVERAGE.....4

 3.1 Existing Coverage – 4

 3.2 Future Coverage – 6

 3.3 Other Issues – 8

4.0 SPECIALTY AIR SERVICES.....9

5.0 BUSINESS AVIATION11

EXECUTIVE SUMMARY

Introduction:

These initial comments have been prepared in response to Transport Canada's **Services 2000: Air Transportation Services Consultation Paper**, dated February 2001. Transport Canada is consulting with interested parties prior to developing negotiating positions in preparation for upcoming General Agreement on Trade in Services (GATS) negotiations, specifically "positions for Canadian air transportation and auxiliary services" (p. 3).

Our present comments have been compiled subsequent to discussions with key Alberta stakeholders, and are based on the premise that the needs of travellers, shippers, communities and other consumers of air-transportation services should be paramount in any such policy. They also complement – and should be read in conjunction with – our earlier paper, **Review of Canada's Policy for International Scheduled Air Services: Initial Comments in Response to Transport Canada's February 2001 Issues for Discussion Paper** (April 20, 2001).

Context and Scope:

The needs of Canada's economy are best met in a competitive environment, no matter what segment is involved. Bilateral air agreements can lead to non-competitive situations, where only one carrier is designated from each country and those carriers are part of the same carrier alliance – reinforcing the need for a new, more open approach designed to maximize competition.

Alberta's **Overall Position Paper for the Consideration by the CTA Review Panel** (November 17, 2000) suggested that the federal government should "greatly liberalize the current approach to international air policy by aggressively moving to expand open-skies agreements with other countries, beginning with a push to include air-cargo traffic rights under the General Agreement on Trade in Services" (p. 18).

The **Services 2000** document poses questions in three parts: first, on air-transportation services under both existing and possible future GATS provisions; second, on specialty air services; and third, on business aviation. It does not specify what the next steps in its review process will be after comments have been received on the consultation paper.

Existing and Future GATS Coverage:

Canada's full commitment to GATS where air-transportation services are concerned applies only to Computer Reservations Systems, and even here normal immigration rules are applied to foreigners entering Canada. The federal government should move towards full commitment in this and two other existing areas in which it has not done so: sales and marketing; and repair and maintenance.

The existing GATS coverage represents a starting point only. It needs to be greatly expanded. Greater liberalization would encourage Canadian companies providing services in these areas to become more efficient – which in turn would assist the domestic purchasers of their services in achieving a higher degree of competitiveness.

As described in our comments in response to Transport Canada's international scheduled air policy review, multilateral arrangements would be a logical step in meeting the future needs of our travellers, shippers and communities. The world is moving towards trading blocs, and all transportation modes must follow in support. This is why Alberta's **Overall Position Paper for Consideration by the CTA Review Panel** called for an initial "push to include air-cargo traffic rights under the General Agreement on Trade in Services" (p. 18) – recognizing that global political realities are such that it should be possible to proceed **now** with air-cargo and follow **later** with passenger.

There are three specific advantages in pushing for multilateral arrangements instead of liberalization bilateral by bilateral: (i) better service for our travellers and shippers, more quickly; (ii) less expensive and time consuming administration, to meet fast-changing circumstances; and (iii) a chance for our carriers to use their comparative advantages to succeed in the new environment.

Liberalization of trade always carries risks. There were many opponents of the North American Free Trade Agreement and Canada-U.S. Open Skies, but the consensus is that, despite irritants with the former and continuing restrictions with the latter (namely the absence of cargo co-terminalization and open exchange of fifth-freedoms), both have worked extremely well.

The more relevant question is this: Can Canada thrive in a globalized world without opening up its markets on a reciprocal basis? Presumably, this is the reasoning behind strong federal government support for GATS in general, and for its recent liberalization of international air passenger and cargo service policy – not to mention Transport Canada’s current scheduled international air service review with its goal of **further** liberalization. Moving to multilateral trade agreements is the logical next step.

Specialty Air Services and Business Aviation:

As stated earlier, we support GATS as a means of enabling Canadian companies providing services to become more efficient, which in turn helps the domestic purchasers of their services to be more competitive. GATS also would give Canadian companies opportunities to capitalize on their expertise abroad. The only caveat is that Canadian companies should receive true reciprocal access from other signatories to GATS, and that mechanisms exist to deal with situations in which they do not.

Current restrictions on business-aviation cabotage, and on the fractional ownership of aircraft, seem out of sync with the globalization of business, and could hurt Canada’s attractiveness as a place in which to do business.

Conclusion:

Bringing international air services under GATS – together with specialty air services and business aviation – is a logical next step which would contribute to the prosperity of the province and Canada generally. More specifically, it would eliminate the need for the current restrictive air-bilateral system, encourage our own providers of specialty air services to become more efficient, and create opportunities abroad in the fields of both these services and business aviation.

1.0 INTRODUCTION:

These initial comments have been prepared in response to Transport Canada's **Services 2000: Air Transportation Services Consultation Paper**, dated February 2001.

Services 2000 begins with these welcome comments:

Promoting trade liberalization continues to be an objective of the federal government Increased access to international trade and investment opportunities for the service industries results, not only in job creation for the service sectors, but also in the creation of opportunities for all businesses [GATS] is first and foremost an instrument for the benefit of business and consumers in general.
(p. 3)

Transport Canada is consulting with interested parties prior to developing negotiating positions in preparation for upcoming General Agreement on Trade in Services (GATS) negotiations, specifically "positions for Canadian air transportation and auxiliary services" (p. 3). GATS is being reviewed after its first five years of existence, during which the only air-transportation services included have been aircraft repair and maintenance, sales and marketing of air services, and Computer Reservation Systems. Transport Canada has asked for comments on how these provisions are working, and whether international air routes, specialty air services (e.g., aerial photography and crop-dusting), and business aviation (i.e., private aircraft) should now be included

Our present comments have been compiled subsequent to discussions with key Alberta stakeholders, and are based on the premise that the needs of travellers, shippers, communities and other consumers of air-transportation services should be paramount in any such policy. They also complement – and should be read in conjunction with – our earlier paper, **Review of Canada's Policy for International Scheduled Air Services: Initial Comments in Response to Transport Canada's February 2001 Issues for Discussion Paper** (April 20, 2001).

As with this earlier paper, Alberta Transportation's comments take into consideration the general views expressed on international air policy at three workshops sponsored by the Alberta Economic Development Authority at the request of the Government of Alberta, in connection with the review of the **Canada Transportation Act (CTA)**. The Panel reviewing the **CTA** has a responsibility to address international air policy, given that the legislative basis for the policy is provided by this act. Our comments also bear in mind stakeholder views heard during meetings involving the Alberta Aviation Strategy initiative.

Finally, Transport Canada's review of international air policy appears to be proceeding parallel to the CTA Review, and according to different timelines. On top of this, there is now **this** review of air transportation as it relates to GATS. It would appear that these detailed reviews are being carried out before the Minister has had a chance to consider what the Panel eventually has to recommend on international air policy.

2.0 CONTEXT AND SCOPE:

As described in its **Overall Position Paper for Consideration by the CTA Review Panel** (November 17, 2000), the Government of Alberta believes that international air policy:

must be based on the specific needs of our economy, today and tomorrow – not the narrow needs of the airline industry. The federal government must re-examine its approach towards international bilateral agreements, particularly if the dominant carrier in Canada is not interested in linking certain foreign markets with Canadian destinations (p. 9).

The needs of Canada's economy are best met in a competitive environment, no matter what segment is involved. Bilateral air agreements can lead to non-competitive situations, where only one carrier is designated from each country and those carriers are part of the same carrier alliance – reinforcing the need for a new, more open approach designed to maximize competition.

Specifically with regard to international air policy, Alberta's **Overall Position Paper** recommended that the CTA Review Panel call upon the federal government:

(1) to greatly liberalize the current approach to international air policy by aggressively moving to expand open-skies agreements with other countries, beginning with a push to include air-cargo traffic rights under the General Agreement on Trade in Services; (2) to ensure that no co-terminalization restrictions on cargo services exist in such agreements; and (3) to remove unnecessary restrictions on prior sale of tickets on a new route and the occasional use of foreign airlines' aircraft and flight crew (p. 18).

Transport Canada's **Services 2000** paper states that the department "will be consulting closely with transportation service providers, shippers, provincial governments and other interested parties to define Canadian objectives for these [GATS] negotiations" (p. 3). Presumably, this follows from Transport Canada's mission, which is to work towards achieving "the best possible transportation system for Canada and Canadians", and its strategic objective of "contribut[ing] to Canada's prosperity".

The **Services 2000** document poses questions in three parts: first, on air-transportation services under both existing and possible future GATS provisions; second, on specialty air services; and third, on business aviation. However, it concludes by saying: "The purpose of this consultation paper is to determine the extent to which these general objectives are in accord with the specific interests of **businesses** [emphasis added] in the air services sector" – then asks these businesses if they would like to answer a set of questions "on whether you wish to see expanded GATS coverage of the air sector" (p. 19).

It is thus unclear as to whether Transport Canada is interested mainly in the views of those businesses who **provide** air-transportation services, or those of the wider range of **users** of these services – whether or not the latter are provided by domestic or foreign firms. As for governments, Alberta Transportation assumes that the views of provincial and territorial governments are welcome on the entire range of issues raised.

The paper does not refer to the CTA Review process, which, as mentioned earlier, is charged with reviewing **all** aspects of the **CTA**, including those pertaining to international air policy, and to related matters. We wish to point out that it is difficult to consider changes to international air-transportation policy without evaluating corresponding changes to related policies.

Whether GATS is involved or not, the need to further modernize charter, domestic (air and airport), and cargo policies will be paramount if international policies are to meet – to the maximum extent possible – the future needs of travellers, shippers, communities and other consumers of air-transportation services.

Finally, Transport Canada does not specify what the next steps in its review process will be after comments have been received on the **Services 2000** paper.

3.0 EXISTING AND FUTURE GATS COVERAGE:

3.1 Existing Coverage:

Question A-1: “Has the existing GATS coverage of computer reservation systems, sales and marketing and repair and maintenance affected your company’s operations? In what ways?” (p. 20)

Canada’s “full commitment” only applies to Computer Reservations Systems, and even here normal immigration rules are applied to foreigners entering Canada. Greater liberalization would encourage Canadian companies providing services in these areas to become more efficient – which in turn would assist the domestic purchasers of their services in achieving a higher degree of competitiveness.

Question A-2: “In particular, has your company benefited from improved access to foreign markets as a result of the introduction of GATS? Please indicate how and where you have benefited.” (p. 20)

In general, we support “full commitment” as a means of giving Canadian companies opportunities to capitalize on their expertise abroad, not the limited approach taken to date.

Question A-3: “Conversely, has your company been affected adversely by increased competition in the domestic marketplace as a result of liberalized access under GATS? Please elaborate what business difficulties you attribute to the operation of GATS.” (p. 20)

There is a danger here that “business difficulties” will be blamed on GATS when the causes may be totally or mostly unrelated. Being outshone by competitors should not be a matter to be rectified by government. If there are legitimate problems, they should be corrected rather than limiting the reach of GATS.

Question A-4: “Do you have any suggestions as to how the existing GATS coverage might be modified or clarified? Please outline your suggestions and explain how they would help you.” (p. 20)

The federal government should move towards “full commitment” in the two existing areas in which it has not done so: sales and marketing; and repair and maintenance.

Question A-5: “Please characterize your overall attitude to the existing GATS coverage of air services (e.g. very satisfied, somewhat satisfied, neutral, somewhat dissatisfied, very dissatisfied), and indicate why this is the case.” (p. 20)

The existing GATS coverage represents a starting point only. It needs to be greatly expanded so that those who depend upon air transportation services can enjoy the best services at the best prices possible.

3.2 Future Coverage:

Question B-1: “What existing foreign impediments (legal, regulatory, etc.) would need to be removed in order for you to exploit any international air service opportunities that you have identified? Please describe the impediments and the affected international opportunities.” (p. 20)

As described in our comments in response to Transport Canada’s international scheduled air policy review, the main impediment is not “foreign” per se, but rather the restrictive nature of the air-bilateral system.

Air cargo is a good example. In an era of globalization, all modes of transportation must be based primarily on the needs of both shippers and consumers. Attempts to bargain off all-cargo versus passenger services can result in no service being provided, despite the fact that they are two different products. There should be no linkage, so as to avoid past situations where one community has been denied needed all-cargo service in an attempt to obtain passenger benefits for some other community.

Question B-2: “How are the impediments that you have identified dealt with at present (e.g. provisions of a bilateral agreement, some other form of international agreement, industry practices)?” (p. 20)

They are addressed through an outmoded bilateral-agreement procedure that worked well in the days before today’s accelerated globalization of trade. Open Skies with the United States was a huge step forward and a boon for our Canadian airlines, and substantially liberalized agreements with the United Kingdom and Germany are also welcome. More such agreements are needed with other countries.

Question B-3: “In your opinion, is the existing means of seeking to remove or constrain such impediments satisfactory? Would coverage in a general international agreement, such as GATS, be preferable? Please explain.” (p. 20)

The current means are unsatisfactory. Multilateral arrangements are the logical step in meeting the future needs of our travellers, shippers and communities. The world is moving towards trading blocs, and all transportation modes must follow in support. This is why Alberta’s **Overall Position Paper for Consideration by the CTA Review Panel** called for an initial “push to include air-cargo traffic rights under the General Agreement on Trade in Services” (p. 18) – recognizing that global political realities are such that it should be possible to proceed **now** with air-cargo and follow **later** with passenger.

There are three specific advantages in pushing for multilateral arrangements instead of liberalization bilateral by bilateral: (i) better service for our travellers and shippers, more quickly; (ii) less expensive and time consuming administration, to meet fast-changing circumstances; and (iii) a chance for our carriers to use their comparative advantages to succeed in the new environment.

An important caveat always applies to agreements such as GATS: they must feature effective administrative and dispute resolution mechanisms, and the management of individual agreement sectors must not be constrained by the desire for results in other sectors. In other words, liberalizing air-transportation services must not become entangled in wider trade issues under GATS, or itself be bargained off against progress in other sectors.

Question B-4: “In particular, do you have any opinion on whether air passenger or air cargo services should be included in the GATS?” (p. 20)

As just mentioned above, we suggest that all-cargo services be brought under GATS in the near future, with passenger services to follow as a longer term goal.

Question B-5: “Are you prepared to accept the consequences of the reciprocal removal of Canadian restrictions on foreign service providers in Canada through any form of multilateral international trade agreement?” (p. 20)

Liberalization of trade always carries risks. There were many opponents of the North American Free Trade Agreement (NAFTA) and Canada-U.S. Open Skies, but the consensus is that, despite irritants with the former and continuing restrictions with the latter (namely the absence of cargo co-terminalization and open exchange of fifth-freedoms), both have worked extremely well.

The more relevant question is this: Can Canada thrive in a globalized world without opening up its markets on a reciprocal basis? Presumably, this is the reasoning behind strong federal government support for GATS in general, and for its recent liberalization of international air passenger and cargo service policy – not to mention Transport Canada’s current scheduled international air service review with its goal of **further** liberalization. Moving to multilateral trade agreements is the logical next step.

3.3 Other Issues:

Question C-1: “Are there any other aspects of air services (e.g. route authorities, “freedoms of the air”) that you believe should be brought under the GATS system? If so, what are they, and why do you think GATS would be an effective means of regulating them?” (p. 21)

Under GATS, the only need to “regulate” route authorities, freedoms, and so on would be with countries not participating in the agreement.

Question C-2: “Conversely, what aspects of air transport services do you believe are best regulated by the existing system of the Chicago Convention and bilateral air agreements? Please indicate why you believe this to be so.” (p. 21)

Please see answer to Question C-1.

4.0 SPECIALTY AIR SERVICES:

Question D-1: “Has the coverage of SAS [Specialty Air Services] under the NAFTA and CCFTA [Canada-Chile Free Trade Agreement] provided your company with new or expanded commercial opportunities in the United States, Mexico or Chile? Please describe.” (p. 21)

The eight specific questions under this heading are directed more at companies than governments or purchasers of specialty aviation services.

As stated earlier, we support GATS as a means of enabling Canadian companies providing services to become more efficient, which in turn helps the domestic purchasers of their services to be more competitive. The Agreement also would give Canadian companies opportunities to capitalize on their expertise abroad.

The only caveat is that Canadian companies should receive true reciprocal access from other signatories to GATS, and that mechanisms exist to deal with situations in which they do not.

Question D-2: “Have certification issues (e.g. the requirement to have a Canadian Operations specification and an authorization from the other country’s Civil Aviation Authority) proved to be a continued barrier to entry under NAFTA and the CCFTA?” (p. 21)

Mechanisms must be available to ensure that such certifications are not used to prevent legitimate access to another country.

Question D-3: “In light of certification constraints, what are your views on bringing SAS explicitly within the ambit of the GATS?” (p. 21)

The overall benefits of GATS must not be foregone because of any such difficulties. Otherwise, we would never have entered into NAFTA or other agreements.

Question D-4: “Have immigration issues proven to be a continued barrier to entry under NAFTA and the CCFTA?” (p. 21)

Please see answers to questions above.

Question D-5: “What are your views on bringing SAS activity(ies) within the scope of GATS? Would it be meaningful, if there were immigration constraints similar to those in the NAFTA and the CCFTA? (p. 21)

Please see answers to questions above.

Question D-6: “Do you support any particular SAS activity(ies) within the scope of GATS? If so, please specify which one(s).” (p. 21)

Please see answers to questions above.

Question D-7: “What limitations, if any, should Canada place on its commitments to any SAS that subsequently might be covered under GATS?” (p. 21)

Please see answers to questions above.

Question D-8: “If SAS are brought under the ambit of GATS, how should this occur? Should all covered SAS be subject to a common time-table, or not? Please explain your views.” (p. 21)

Please see answers to questions above.

5.0 BUSINESS AVIATION:

Question E-1: “Do you support the abolition of existing Canadian restrictions on cabotage in cases of foreign-registered company aircraft used solely for carrying company employees? Please explain the reasons for your opinion.” (p. 22)

Current restrictions on business-aviation cabotage seem heavy handed and out of sync with the globalization of business. They may place foreign companies – or Canadian companies with foreign operations and aircraft registered outside of the country – at a disadvantage by forcing them to sometimes use commercial air services for travel between Canadian-based facilities or on other legitimate business. They send a negative signal to companies thinking about locating here.

Question E-2: “How should Canada deal with instances of Canadian participation in fractionally-owned aircraft registered outside Canada?” (p. 22)

In an era of globalized business, restrictions on innovative travel solutions, such as fractional ownership, make little sense, and could hurt Canada’s attractiveness as a place in which to do business. Furthermore, there should be no reason to prevent Canadian entrepreneurs from becoming leaders themselves in offering such innovations.

Question E-3: “Do you support the inclusion of business aviation within the scope of the GATS? Should special rules be made to apply to fractional ownership when the operational base is in one country but owners may also come from other countries?” (p. 22)

Yes to the first question; no to the second.