



**CANADA-UNITED STATES AIR TRANSPORT AGREEMENT:  
QUESTIONS FOR STAKEHOLDERS**

Date of submission: 28 June 2005

**STAKEHOLDER INFORMATION:**

Name: Allan Baydala  
Title: Chair  
Organization: **Airline Industry Monitoring Consortium of British Columbia  
(AIM BC)**

Address: c/o The Council of Tourism Associations of BC,  
100-535 Thurlow St.  
Vancouver BC, V6E 3L2

Phone: (604) 685-5996  
Fax: (604) 685-5915  
E-mail: [abaydala@nfpa.ca](mailto:abaydala@nfpa.ca)



## General

**AIM BC is a consortium of key British Columbia tourism stakeholders** concerned with the direction of Canadian air transportation policy. The organization was created in August 2000 when the merger between Air Canada and Canadian Airlines International significantly reduced air service in British Columbia and threatened to dramatically reduce the level of competition in Canadian domestic, transborder and international air service.

Events such as Air Canada's restructuring, the terrorist attacks of September 11, 2001, increasing costs due to security fees, fuel surcharges and airport rents, war in Iraq, SARS, and concerns about small airport viability have combined to necessitate the continued work of AIM BC. Current members include

- the Council of Tourism Associations of BC,
- the B.C. Chamber of Commerce,
- B.C. Restaurant and Foodservices Association,
- B.C. and Yukon Hotels' Association,
- Tourism Kelowna,
- Tourism Vancouver,
- Tourism Victoria,
- Tourism Whistler, and
- Vancouver International Airport.

**AIM BC is concerned with the direction of Canadian air policy for a simple reason: economic prosperity.** The viability of Canada's \$52 billion tourism industry, and B.C.'s \$9.5 billion industry, as well as the many other industries reliant on effective and efficient air transportation, is at stake. An uncompetitive, unresponsive, high cost air transportation system not only harms Canadian travellers and shippers, it threatens the livelihood of the almost 117,500 tourism workers in British Columbia alone, as well as thousands more employed in accommodation and food services, transportation and retail trade.

***The AIM BC position on air policy matters is driven by the fundamental belief that the broad economic and social interests of Canadians are best served by a vibrant, competitive air transportation system that offers the broadest possible range of passenger services.*** In particular, Canadian tourism operates in a highly competitive global environment that absolutely requires Canada to have a world-class and competitive air transportation system.



In this context, AIM BC offers the following responses to the questions posed by the Air Policy Group of Transport Canada on the Canada-United States Air Transport Agreement.

28 June 2005

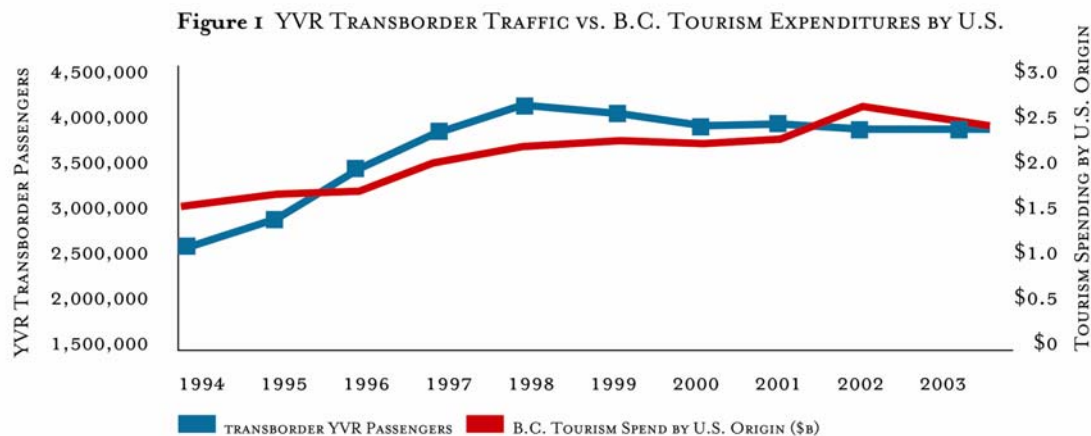


**1. Should the Government of Canada enter into negotiations with the U.S.A. to further liberalize the 1995 Agreement?**

**Answer: Absolutely.**

**The British Columbia tourism industry is counting on the Government of Canada achieving a new liberal air services agreement with the United States.**

British Columbia enjoyed significant increases in traffic when, back in 1995, Canada and the U.S. replaced what had been a very restrictive air services agreement with the current agreement. American tourism spending jumped nearly a billion dollars in the years following the 1995 agreement, as shown in the figure below. This increase alone represents a significant portion of the \$9.5 billion BC tourism industry.



**Positive though this move was, the current agreement still retains limitations, and the British Columbia tourism industry believes it would benefit significantly from further liberalization**, particularly the exchange of unrestricted fifth freedom rights, the liberalisation of charter regulations, the allowance of pricing freedom and the granting of right of establishment. Indeed, the tourism industry would consider such changes long overdue given the consolidation that has gone on within the Canadian airline industry over the years and the significant liberalization that has gone on elsewhere, particularly with respect to the U.S. success in negotiating open skies agreements with 70 nations to date. The U.S. is Canada's largest source of international tourists, and the



117,500 British Columbians employed by the tourism industry simply need an agreement that provides the most open access to this market as is possible.

28 June 2005



## Fifth freedoms rights

### 2. Should Canada negotiate unrestricted (i.e., capacity and points served) fifth freedom rights for scheduled passenger and all-cargo services with the U.S.A?

**Answer: Yes.**

Fifth freedom operations are expected to play a significant role in supporting the BC tourism industry, both from the perspective of Full Service Airlines and eventually from Low Cost Carriers.

Prior to the merger between Air Canada and Canadian Airlines International, American Airlines and other oneWorld air carriers, as well as a number of unaligned carriers, in conjunction with Canadian Airlines International, utilized Vancouver International Airport as a key gateway to Asia, jointly funnelling traffic between Asian markets and the U.S. via YVR. Air Canada similarly operated in alliance with Star Alliance carriers. This gave Vancouver higher levels of service than it otherwise would have received, and increased exposure of the market to both the U.S. and Asia.

With the merger of Air Canada and CAI, only the Star Alliance can operate in such a fashion at Canadian airports, and Canadians have lost an opportunity to reap the benefits of this international exposure. Of particular concern is the loss of affordable beyond-the-gateway access for carriers other than those aligned with Air Canada.

We have also seen a reduction in the number of Asian cities connected to Vancouver and a loss in capacity in a number of key Asian and European markets. For example, Vancouver is no longer connected to Bangkok with non-stop service, capacity to Taiwan has been greatly reduced, and Nagoya is now only operated seasonally. In its legitimate commercial interests, Air Canada has focussed on building its hub in Toronto. AIM is of the view that other carriers, including U.S. carriers, should be allowed to fill gaps in market access and capacity from British Columbia.

**One way of addressing the gaps in Asian and European Air Service from Vancouver would be to exchange unlimited fifth freedom traffic rights with the U.S.** With these fifth freedoms, U.S. carriers could operate Canadian airports as international gateways, transporting Asian and U.S. passengers through B.C. airports, improving the viability of our gateways by being able to pick up and drop off Canadian passengers as well. Particularly when combined with right of establishment, which would provide U.S. carriers with access to



behind the gateway markets, this would provide B.C. with enhanced access to both the U.S. and global tourist markets.

**As well, the Vancouver gateway has extremely limited service to Latin America and an exchange of 5<sup>th</sup> freedom rights with the U.S. could be a means to fill this gap.** Air Canada has expressed interest in serving Latin America from Canada utilising 5<sup>th</sup> freedom service rights via the U.S. This would improve the economics of marginal routes from Canada to Latin America, including the market from BC.

The existing Full Service Airlines could make immediate use of fifth freedom operations to provide an enhanced level of service at Canadian airports. They currently have the equipment and the networks to provide Vancouver and B.C. with global access. In the near future, however, Low Cost Carriers may utilise fifth freedom traffic rights to build up international services, much in the same way that Low Cost Carriers built up transcontinental services by first linking up point to point services strung together as a “milk run.”

**It is important that Canada ensure the availability of fifth freedom rights so that they are available when carriers need them.** Negotiating for fifth freedom rights on an as needed basis is far too time-consuming and expensive, and may not provided the needed rights in the desired time frame. It is far better to have these rights in place at the outset and let the carriers use them as the market dictates. The availability of 5<sup>th</sup> freedom rights removes a marketing barrier for the Vancouver International Airport and other BC airports, enhancing the likelihood of winning attention from target air carriers.

Unrestricted fifth freedom rights would also give Canadian air carriers an opportunity to capitalize on the world’s largest aviation market, linking U.S. markets into thin routes to the Caribbean and Latin America. **Canadian carriers have already shown under the 1995 agreement that they are able to favourably compete with the U.S. aviation industry, and there is no reason to expect they could not prosper given this additional market access.**



**3. What are the benefits/risks of a regime of unrestricted fifth freedom rights?**

**Answer: Improved services.**

**The benefits are that new services by Full Service Airlines and Low Cost Carriers that might otherwise not be viable because of limited traffic volumes might be made viable by combining markets in this fashion.** Such rights could enable the provision of services from communities that would otherwise have no or limited direct international access. As such, it would provide travellers with an additional transportation option, and could improve service and lower transportation costs to the benefit of the tourism industry. Even in markets that currently support direct international service, fifth freedom services can inject additional competition, to the benefit of travellers, shippers, and the economy.

**While some might argue this poses a risk to Canadian carriers, the risk exists only if Canadian carriers choose not to make use of such rights themselves and idly stand by and watch U.S. carriers develop Canada to third country markets via their U.S. hubs.** The past behaviour of Canadian carriers indicates they have both the ability and the desire to compete, and we expect Canadian carriers to prosper under enhanced fifth freedom rights.



**4. Would Canadian and/or U.S. air carriers exercise fifth freedom rights beyond each other's markets? What are likely destinations for passenger and all-cargo services?**

**Answer: We expect 5<sup>th</sup> freedom rights would be developed for passenger services, with potential services to Asia and Europe by US carriers, and to Latin America by Air Canada and possibly a Canadian low cost carrier (e.g., to Mexico).**

We note that Air Canada currently uses 5<sup>th</sup> freedom rights from Vancouver to Australia, and its predecessor, Canadian Airlines, made extensive use of fifth freedom rights in the past to destinations such as Manila and Bangkok. WestJet's domestic route structure suggests fifth freedom operations as a natural way to expand into international markets from Vancouver, especially to Mexico. Air Transat's combining of Vancouver and Calgary on its London Gatwick service suggests that the use of fifth freedom rights might be compatible with its operations as well. The same could be said of other Canadian carriers as well.

Canadian air carriers would likely exercise fifth freedom operations linking Vancouver and the South Pacific via Hawaii, and to Latin America via the U.S. mainland, possibly as points beyond Los Angeles, San Francisco or other U.S. western points.

American Airlines has in the past used Vancouver as an international gateway to Asia. Given its tremendous locational advantages we can expect U.S. carriers to find fifth freedom operations through Vancouver an excellent way to service the Asian market. There is also an opportunity for U.S. carriers to provide service linking underserved second tier U.S. markets with secondary markets such as Victoria or Kelowna to Europe and eventually to Asia to make new international services viable.

**We urge that the government not look at 5<sup>th</sup> freedom rights in terms of 2005 traffic flows, but rather in terms of the potential traffic flows which may materialize in the next ten or so years.** This treaty should provide opportunities for a decade or more, rather than simply look at what is needed this year.

The fact that unrestricted fifth freedom rights are a fundamental part of U.S. aviation policy suggests a strong potential for use by U.S. carriers. U.S. carriers have the needed foreign government 5<sup>th</sup> freedom rights for 70 nations, increasing the likelihood that these rights would actually be utilized.



## Seventh freedom rights

5. Should Canada negotiate unrestricted seventh freedom rights for all-cargo services with the U.S.A.? If so, what are the anticipated results?

**Answer:** The discussion of all-cargo policy issues are beyond the mandate of AIM BC, which serves the tourism interests of BC. However, air cargo issues should not become an impediment to the development of needed 5<sup>th</sup> freedom passenger services.

6. Alternatively, should Canada negotiate a more limited exchange of seventh freedom all-cargo rights? If so, which ones and why?

**Answer:** The discussion of all-cargo policy issues are beyond the mandate of AIM BC, which serves the tourism interests of BC. However, air cargo issues should not become an impediment to the development of needed 5<sup>th</sup> freedom passenger services.

7. Would Canadian/U.S. airlines exercise all-cargo seventh freedom rights beyond Canada and the U.S.A.? What are likely destinations?

**Answer:** The discussion of all-cargo policy issues are beyond the mandate of AIM BC, which serves the tourism interests of BC. However, air cargo issues should not become an impediment to the development of needed 5<sup>th</sup> freedom passenger services.

8. Should seventh freedom rights for passenger services be negotiated?

**Answer:** Yes.

Seventh freedom air services offer the potential for unserved or under-served markets to win air service and thereby stimulate inbound tourism to Canada.

Seventh freedom services are used in Australia/New Zealand (e.g., New Zealand carrier Pacific Blue's operations from Australia to Pacific Islands) and within the EU (e.g., many of the low cost carriers operate services within Europe that are 7<sup>th</sup> freedom routes – e.g., London to Carcassonne, Stockholm Skavska to Frankfurt Hahn), to the benefit of travellers. Given the geographic proximity of Canada and the U.S., and our distance from other markets, it is unclear whether LCCs would



take advantage of seventh freedom rights. We note, however, that with the introduction of longer range smaller capacity aircraft such as the 787 entering service, LCC seventh freedom operations might be introduced during the next ten years.

Beyond that, it may be that Full Service Airlines might wish to take advantage of underserved markets and operate such services. It may be, however, given the proximity of the two markets, they would instead prefer to operate on a fifth freedom basis to a third nation. Having said that, we note that it is not the role of government to decide whether fifth freedom or seventh freedom services best meet carrier and user needs. We would recommend that the respective governments make both rights available, and let the carriers respond to market demand with the type of services that best meet the needs of passengers.



## Pricing

**9. Should the ability for U.S. airlines to be price leaders in Canada-third country markets (operated via a connection in the U.S.A.) and for Canadian airlines to be price leaders in U.S.-third country markets (operated via a connection in Canada) be guaranteed?**

**Answer: Yes.**

The present air services agreement prevents 6<sup>th</sup> freedom carriers from offering prices below that of 3<sup>rd</sup>/4<sup>th</sup> freedom carriers. Thus, Air Canada cannot offer fares to Americans travelling to Europe via its Toronto and Vancouver hubs which are lower than the fares of the U.S. carriers. Similarly, a U.S. carrier such as Alaska cannot offer a fare from Mexico to Vancouver which is less than what Air Canada might charge.

The benefit from greater pricing freedom to travellers, and as a result, the tourism industry, is clear. Competition not only benefits current consumers, it stimulates traffic, increasing tourism to Canada from the key markets in Asia and the U.S., as well as other nations.

Canadian air carriers are well positioned to be leaders on international markets to/from the U.S. The successful performance of Canadian carriers on transborder services, the high regard in which Canadian international carriers are held, their low cost of operation and the successful restructuring of Air Canada (at a time when U.S. Full Service Airlines are still struggling) suggest that Canadian carriers should welcome the opportunity for sixth freedom pricing leadership.

We note that Air Canada has successfully restructured itself and dramatically lowered its cost of operations. It is the availability of new traffic rights and new pricing freedoms which will allow it to utilize its new lower cost structure to expand its services, increase employment, and stimulate Canada's tourism industry.



## Flight numbering

**10. Should Canada allow a single flight number to be used for a Canadian air carrier offering U.S.-third country service (operated via a connection in Canada) or for a U.S. air carrier offering a Canada-third country service (operated via a connection in the U.S.A.)?**

**Answer: Yes.**

Currently, a U.S. carrier may not use the same flight number for an aircraft flying from Canada, through the U.S. and onward to a third country, such as Mexico. Similarly, Air Canada may not operate an aircraft from a U.S. city through Canada and onward to Europe or Asia.

Single flight numbers makes consumer access to air services simpler. As a result, this would have positive impacts on tourism, particularly as increasing numbers of consumers conduct their own research on the Internet to determine their best travel options (even if Asian consumers still tend to use travel agents to actually make the arrangements). Any mechanism, such as single flight numbering that can simplify the process, should be welcomed by the Government of Canada.



## Co-terminalization

**11. Should Canada lift the prohibition on all-cargo courier co-terminalization? If so, what would be the anticipated results? Can you quantify these results?**

**Answer:** The discussion of all-cargo policy issues are beyond the mandate of AIM BC, which serves the tourism interests of BC. However, air cargo issues should not become an impediment to the development of needed 5<sup>th</sup> freedom passenger services.

**12. Do you believe that Canadian/U.S. all-cargo courier carriers would take advantage of the removal of the co-terminalization prohibition? If so, can you identify specific city-pairs where co-terminalization is more likely to be exercised by U.S. or Canadian carriers?**

**Answer:** The discussion of all-cargo policy issues are beyond the mandate of AIM BC, which serves the tourism interests of BC. However, air cargo issues should not become an impediment to the development of needed 5<sup>th</sup> freedom passenger services.

AIM has not researched air cargo issues and offers no comments on these questions.

However, AIM urges the Government to not let air cargo policy issues become an impediment to obtaining an open skies treaties which allows needed 5<sup>th</sup> freedom traffic rights for passenger services and removal of restrictions on 6<sup>th</sup> freedom pricing.



## Charter issues

**13. In a scenario where scheduled rights are unrestricted, is there a need to have a regulatory distinction between charter and scheduled services?**

**Answer: No.**

Charter services have been used in the past to enable some new services, primarily tourist focussed, to take place that could not take place under the scheduled services agreement. Under an open skies arrangement, any duly licensed carrier wishing to provide a service could do so. As a result, there is no longer an economic rationale for a separate regulatory regime between Canada and the US for charter services.



**14. What are the implications for Canada of liberalizing charter operations for U.S. air carriers in Canada-third country markets? Are there benefits for Canadian air carriers in U.S.-third country markets? If so, what are they?**

**Answer: Greater consumer choice.**

Liberalizing charter operations for U.S. air carriers in Canada-third country markets could potentially provide consumers with service choices that otherwise would not exist. New competitive charter services by U.S. carriers would open a door to more budget conscious travellers that would stimulate tourism travel to Canada. Similarly, the ability of Canadian air carriers to offer charter services from the U.S. to third country markets may create opportunities for these carriers.

Although some might be concerned that Canada-third country traffic could be lost to Canadian carriers, we note that they have considerable experience and expertise providing charter services, and should be able to not only compete on their home turf, but find and exploit market niches to and from the U.S. and third countries. Further, the U.S. represents a large market in both directions, and Canadian carriers could benefit significantly from the U.S. opportunities, if they choose to do so.



**15. Should Canada agree to give the choice to Canadian and U.S. air carriers to operate under the charter regulations of either country in the Canada-U.S., Canada-third country, and U.S.-third country markets? What would be the advantages of such an initiative?**

**Answer: Yes.**

If an open skies agreement is in place, there would be no need for charter regulations for Canada-U.S. travel. In the case of third countries, operating under the rules of the country of origin would have all carriers on a level playing field.



**16. Does a potential reduction in Canada's economic oversight of Canadian originating charters operated by U.S. and Canadian carriers pose a problem for stakeholders?**

**Answer: No.**

Economic oversight is not required in a mature and competitive industry, and indeed tends to limit the ability of the industry to maximize its economic contribution to the tourism industry. The key role for government is to provide safety and security oversight and Canadian oversight of these should continue.



## Wet leasing

**17. In the absence of restrictions, would there be opportunities for Canadian air carriers to wet lease to U.S. air carriers for domestic U.S. or U.S.-international air services?**

**Answer: AIM BC does not have a specific position on the wet lease of aircraft, other than to note that if wet leasing provides carriers with a cost-effective option for the provision of service, the federal government should make such an option available.**

AIM BC notes that this question is one sided, and does not consider whether U.S. carriers should be allowed to wet lease aircraft services to Canadian carriers. Wet leasing privileges should be treated symmetrically in Canada and the U.S.

AIM BC supports Right of Establishment. This would allow a U.S. airline or other investors to establish a Canadian based air carrier. This carrier would then have the ability to fly domestic services in its own name, or to provide wet lease services to another Canadian air carrier.

AIM notes as a general position it supports initiatives which reduce the operating costs of carriers. Wet leasing may be a means to lower cost, but it is a complicated issue which we have not studied at this time.



## Code-sharing

**18. Should Canada accept the U.S. “Open Skies” approach to code-sharing? What would be the anticipated results?**

**Answer: Yes, the U.S. approach to code sharing would create more competitive options.**

We understand that the U.S. “Open Skies” approach to code sharing allows airlines of either party to code share with airlines of third countries, and with surface transport providers, subject to having the necessary authorities and meeting the normal requirements. This is supported by AIM BC. This approach would provide consumers with a greater range of service options and would make information search easier. A consumer or travel agent in a third country could search the website of their home airline and see Canadian tourism destinations as code share services. Of course, consumers must be provided with information on which carrier will be providing the service so as to be able to make informed choices.



## Facilitation issues

**19. In the context of a further liberalization of the Agreement, which aspects of facilitation do you believe are the most important?**

The most important issues are

- Expedited border processing of passengers.
- Staffing levels for U.S. customs preclearance.
- Hours of operation for U.S. customs preclearance.
- Expansion of U.S. customs preclearance sites.
- Airports should not be required to pay for border services – they should be financed from the public treasury

Border processing can become a major impediment to Canada's ability to attract U.S. tourists. As traffic volumes grow, and as security concerns require new border processing elements, priority must be given to expediting the movement of passengers across the Canada-U.S. border. Many of the members of the AIM-BC consortium (e.g., the Council of Tourism Industry Associations of B.C., the Vancouver International Airport Authority) are members of the Perimeter Clearance Coalition, which seeks to improve and enhance border processes between Canada and the U.S.

AIM-BC is aware of five major border processing issues.

First, with increasing volumes of traffic, expedited processes for low risk travellers must be implemented and expanded in scope. The recent NEXUS-Air pilot program at the Vancouver International Airport must be made permanent. It should also be expanded at U.S. airports to expedite the arrival clearance of passengers originating at a B.C. airport without pre-clearance, and should eventually be made available to other B.C. airports.

Second, we are advised that the Vancouver International Airport has faced challenges due to inadequate staffing of U.S. inspectors, something which must be addressed.

Third, related to this is the challenge of expanding U.S. preclearance services to longer hours at Vancouver. We are advised, for example, that it is not possible to preclear 'redeye' flights to U.S. destinations. Such flights are popular, as witnessed by the large number of flights to a wide range of U.S. destinations from major U.S. west coast airports.



Fourth, Victoria and Kelowna airports have growing transborder traffic volumes, and it would be desirable for these and other B.C. airports to obtain preclearance services at some point in the future.

Fifth, we also note that border processing services should be provided where needed. These services are a general issue in national security and national commerce, and airports should not be required to pay for such services.



## Fly America Act

**20. Have the constraints imposed by the Fly America Act had a material effect on Canadian air carriers? If so, what are they?**

**Answer: The impact of the provisions of the Fly America Act on Canadian air carriers is beyond the mandate of AIM BC.**

**21. Should Canada seek to have restrictions imposed by the Fly America Act removed?**

***Answer: Yes, but this should not become an impediment to obtaining an agreement with the U.S. which allows needed 5<sup>th</sup> freedom services.***

In general, AIM BC supports the removal of economic restrictions on air carriers, and would support Canada seeking to have these restrictions removed. However, at present it may be difficult for the U.S. Congress to revise or repeal this Act. AIM BC recommends that removal of the Fly America restrictions should be a low priority and should not become an impediment to achieving an Open Skies agreement.



## General

**22. Are there any other issues/additional items that you would like to raise that pertain to the potential liberalization of the Agreement?**

**Answer: Yes. Canada should seek Right of Establishment and/or replacement of the home country ownership and control clause in the air service agreement with ICAO's recommended Principle Place of Business clause.**

While an open skies agreement is the most pressing need, and needs to be accomplished in short order, there are some other elements we see as very beneficial, even though they may not be achievable in the short time frame for the open skies negotiations. These issues should be pursued and the immediate negotiations should seek to obtain a commitment to continue their negotiation.

AIM BC has supported Right of Establishment for domestic only air carriers. We are supportive of obtaining an agreement with the U.S. whereby each country agrees to right of establishment for Canadian or U.S. investors, including potential airline investors.

As well, the International Civil Aviation Organisation has recommended that nations replace the home country ownership and control requirement (which limits foreign ownership of air carriers) with a clause that requires a carrier designated by a nation for international service to have its principle place of business in that country. This is consistent with AIM BC support for right of establishment and extends the services which can be offered by a carrier with a higher degree of foreign ownership to the transborder market.

Finally, we note that in the era of major financial restructuring of air carriers, some carriers emerge from restructuring with very high foreign ownership percentages as foreign held debt is converted to new equity. Such carriers may 'get around' the foreign ownership limits by limiting foreign equity voting rights. However, carriers which have not had the need to convert debt to equity, or new air carriers, should also be allowed to have higher access to foreign equity capital. Right of establishment would level the competitive playing field for all carriers operating within and from Canada.



## **Longer-term issues for the Canada-U.S. air transport relationship**

**23. Is an integration of the Canadian and U.S. air transportation markets in Canada's overall transportation interests?**

**Answer: Yes.**

The objective for the tourism industry would be an integrated air transportation market that makes it as easy for an American in Texas to consider a trip to Vancouver, Kelowna, the East Kootney all seasons resorts, Vancouver Island, and all the other BC tourism destinations, as it is to consider a trip to Dallas, Jackson Hole Las Vegas or any other U.S. tourism destination.

Given the high level of integration between the Canadian and U.S. economies, integration of the air transportation market is the logical next step. If the Europeans, Australians and New Zealanders can accomplish this, surely Canada and the U.S. can as well.

The AIM-BC coalition supports Right of Establishment as a first, important step in this regard, along with unlimited 5<sup>th</sup> and 7<sup>th</sup> freedom rights for carriers on both sides of the border.



**24. Should Canada be prepared to allow U.S. air carriers (operating under U.S. rules) to serve the domestic Canadian market and vice-versa? What would be the anticipated results?**

**Answer: Our preference is to grant right of establishment.**

AIM BC prefers granting of right of establishment to the granting of cabotage rights, as the former addresses the same competition and behind the gateway access issues, but provides a higher level of benefits by preserving Canadian airline jobs.



**25. Should U.S. entities be allowed to establish or acquire an air carrier in Canada, making it entirely U.S. owned and controlled but certified and licensed in Canada and compelled to operate under the same rules as Canadian carriers (right of establishment)? What would be the anticipated results?**

**Answer: Yes, right of establishment should be allowed.**

This would provide consumers with greater choice as well as provide access to behind the gateway markets to carriers other than those in the Star Alliance. This would open up our tourism market to countries where other airline alliances dominate, and would create a generally more competitive environment.

We would like to stress, however, that AIM BC does not view this as an issue to only be considered in the long term, and strongly recommends that the Government of Canada pursue this as part of the pending negotiations with the U.S. If Canada is unsuccessful in obtaining an exchange of right of establishment now, and it appears this is not achievable even in the medium term, it should grant right of establishment unilaterally.



**26. If rights of establishment did become possible, should they apply to air carriers operating domestic services exclusively or to air carriers operating domestic and international air services?**

**Answer: This depends on how quickly Canada and its bilateral partners adopt the ICAO “principal place of business” clause as a replacement for the current ownership and control clause.**

**AIM supports implementation of the ICAO recommended Principle Place of Business clause in all its air service treaties.**

AIM BC supports right of establishment for a carrier operating domestic air services. The impediment to allowing such a carrier to operate services to the U.S. or other international destinations is the standard home country ownership and control clause in the Canada-U.S. and Canada-other nations bilateral air services agreements.

As discussed in our response to Question 22, ICAO has recommended that nations replace the home country ownership and control clause with a principle place of business clause. As such clause replacements are made, Canadian based carriers with higher foreign equity investments could be allowed to be designated for services to the U.S. and other international markets.

Consider the following example. Assume Canada allows right of establishment, and a U.S. carrier, such as Alaska establishes a Canadian domiciled air carrier. Further assume that Canada and Mexico replace the domestic ownership and control clause in its air services agreement with the ICAO recommended Principle Place of Business clause. At such time, Alaska should be allowed to fly from Canada to Mexico, just as Air Canada would be allowed to fly from Mexico to the United States.

AIM supports implementation of the ICAO recommended Principle Place of Business clause in all its air service treaties.



**27. From your perspective, what are some of the other key issues pertaining to the further integration of the Canadian and U.S. air transportation markets?**

**Answer: The need to address airport issues.**

AIM BC commissioned a study that looked at the viability of regional airports. That study found that a number of regional airports are not economically viable for the long term. We have also noted in the past issues concerning rents paid by NAS airports.

Given the huge amount of support U.S. airports get from the U.S. federal treasury, and conversely the payments Canadian airports are required to provide to Canada's general revenues, this inequity must be addressed. If left unaddressed, an integrated market would tend to favour service to subsidised U.S. airports rather than more costly Canadian airports. Canada needs to re-examine and correct its financial support for regional airports. As well it must address the imbalance for NAS airports which must contribute to the Federal general treasury versus the draw on the U.S. Federal Treasury which all U.S. airports enjoy.



**Please send your answers to the questionnaire by mail, fax or e-mail to:**

Brigita Gravitis-Beck  
Director General, Air Policy  
Transport Canada  
Place de Ville, Tower C  
330 Sparks Street, 27th Floor  
Ottawa ON K1A 0N5  
Facsimile: (613) 991-6445  
[gravitb@tc.gc.ca](mailto:gravitb@tc.gc.ca)

**Thank you!**

28 June 2005