

taken to eliminate “all forms of discrimination or unfair competitive practices adversely affecting the competitive position of the airlines of the other Contracting Party”. Paragraph 4 states that a designated airline’s traffic may *not* be limited or restricted as to “capacity, frequency of service, aircraft type(s), aircraft configuration(s), or rights” by either government or by entities within their jurisdiction.

Capacities are often restricted in the route annexes of Canadian bilateral agreements even if they are not restricted in the body of the bilateral. The bilateral agreement between Canada and Thailand, for example, which does not have restrictive capacity provisions within the main body of the bilateral, specifically outlines permitted capacity levels within the route annex.²⁴ For example, on the trans-Atlantic route designated to a Thai carrier between Thailand and Canada, the carrier is restricted to three Boeing 747 or four DC 10 flights per week. The designated Canadian carrier is subject to the same restrictions.

Two of the Canadian bilaterals, with Israel²⁵ and Jordan²⁶, require commercial agreements among designated carriers on some or all of the routes covered by the agreements.²⁷ A commercial agreement, sometimes referred to as a “pooling” agreement, differs from a capacity

²⁴ Canada, Air Agreement Between the Government of Canada and the Government of the Kingdom of Thailand on Air Services (with Annexes), *Canada Treaty Series*, 1989, No. 16.

²⁵ Canada, “Air Agreement Between Canada and Israel (with Annex)”, *Canada Treaty Series*, 1987, No. 17.

²⁶ Canada, Agreement Between the Government of Canada and the Government of the Hashemite Kingdom of Jordan on Air Transport (with Annex), *Canada Treaty Series*, 1990, No. 9.

²⁷ A number of the bilaterals may also have had confidential commercial agreements. As noted above, Donna Mitchell reported that as of 1990, 20 of 60 Canadian agreements had confidential attachments; some of these including commercial agreements. See: Donna Mitchell, *op. cit.*, p. 41.