



DETAILS AND PRINCIPLES REGARDING PROPOSED REVISED SERVICE CHARGES

OCTOBER 15, 2001

GENERAL

This document ("Details and Principles") provides additional details to expand upon the *Notice of Revised Service Charges* issued on October 15, 2001 (the "Notice"). Under Section 36 of the *Civil Air Navigation Services Commercialization Act*, S.C. 1996, c. 20 (the "ANS Act"), NAV CANADA is required to produce a document containing more details in relation to the proposed revised charges set forth in the Notice, including a justification in relation to the charging principles set out in Section 35 of the ANS Act.

Except for the revisions proposed in the Notice, all the existing charges and related terms and conditions, as set out in earlier Announcements pertaining to charges, remain in effect.

This document sets out the following: (1) a general overview of NAV CANADA, (2) supporting information for the proposed revisions, (3) a justification of the proposal in relation to the charging principles, and (4) information regarding the Notice and on making representations to NAV CANADA.

Persons interested in making representations in writing to NAV CANADA with regard to the Notice may do so by forwarding their submissions to the address set out in the Notice. Submissions must be received by NAV CANADA not later than December 13, 2001.

1. GENERAL OVERVIEW OF NAV CANADA

NAV CANADA is a non-share capital, private corporation which is responsible for the provision of civil air navigation facilities and services for aircraft in Canadian airspace or any other airspace for which Canada is responsible for providing air navigation services.

The system of governance at NAV CANADA is the result of a unique corporate structure intended to make the company a self-sustaining commercial enterprise that is accountable to its stakeholders. The Corporation is governed by a 15-member Board of Directors consisting of 10 directors nominated by stakeholders representing aviation users, bargaining agents and the federal government, 4 independent directors and the President & CEO. NAV CANADA also has an Advisory Committee elected by associate members, empowered to analyze and make reports and recommendations to the Board of Directors on any matter affecting the air navigation system.

The fundamental elements governing the mandate conferred on NAV CANADA by the ANS Act include the exclusive right to provide certain air navigation services, the ability to set and collect charges for air navigation services provided or made available by NAV CANADA or a person acting under the authority of the Minister of National Defence, and the obligation of the Corporation to provide these services. Rates of charges are set at levels sufficient to recover all costs (including debt servicing requirements and the repayment of principal), as determined in accordance with generally accepted accounting principles, to maintain a contingency reserve for unforeseen events, and to maintain appropriate credit ratings.

2. SUPPORTING INFORMATION FOR PROPOSED REVISIONS

2.1 TERMINATION OF THE EXISTING TEMPORARY ADJUSTMENTS IN CHARGES

The Announcement of Reduced Service Charges, dated August 16, 1999, provided for reduced base rates, as well as temporary one-year adjustments representing an additional decrease in charges. The reduced charges were effective September 1, 1999, except for the annual and quarterly charges, which were effective March 1, 2000.

The purpose of the temporary adjustments was to return to the customers revenues in excess of financial requirements generated as a result of cost reductions and higher than expected growth in traffic.

The temporary adjustments were extended to December 31, 2000, by the Announcement of Revised Service Charges dated August 18, 2000, and then further extended to December 31, 2001, by the Announcement of Revised Service Charges dated December 15, 2000. The corresponding extension for annual and quarterly charges was to February 28, 2002.

These extensions will have saved customers approximately \$66 million from September 1, 2000, to December 31, 2001.

With the expiration of these temporary adjustments on December 31, 2001, for terminal, enroute, oceanic and daily charges, and on February 28, 2002, for annual and quarterly charges, these charges will revert to the existing base rates on January 1, 2002, and on March 1, 2002, respectively. As noted above, these changes were provided for in the Announcement of Revised Service Charges, dated December 15, 2000.

The existing base rates date back to September 1, 1999, when they were reduced, and are set out in the Announcement of Reduced Service Charges, dated August 16, 1999, except for the International Communication Services Charge. The base rates for the latter charge are set out in the Announcement of New and Revised Service Charges, dated January 28, 2000. The existing base rates are also provided in the Customer Guide to Charges, as well as on the NAV CANADA invoices.

The tables below summarize the unit rates before and after the January 1, 2002, modification. It should be noted that there have been no changes in the rules regarding the application of the charges.

Movement Based Charges

Charge	Unit Rates before January 1, 2002		Unit Rates effective
	Base Rate	Temporary Adjustment (Reduction)	January 1, 2002 Base Rate
Terminal Charge	\$13.38	-\$0.75	\$13.38
Enroute Charge	\$0.03204	-\$0.00178	\$0.03204
North Atlantic	\$77.44	-\$4.40	\$77.44
International Com			
HF Voice	\$46.33	-\$2.38	\$46.33
Datalink	\$23.43	-\$2.38	\$23.43

Daily Charges

Category and Weight Group (in metric tonnes)	Unit Rates before January 1, 2002		Unit Rates effective January 1, 2002
	Base Rate	Temporary Adjustment (Reduction)	Base Rate
<i>Propeller Aircraft</i>			
Over 3.0 up to 5.0	\$29	-\$2	\$29
Over 5.0 up to 6.2	\$58	-\$3	\$58
Over 6.2 up to 8.6	\$240	-\$14	\$240
Over 8.6 up to 12.3	\$580	-\$32	\$580
Over 12.3 up to 15.0	\$870	-\$49	\$870
Over 15.0 up to 18.0	\$1,060	-\$59	\$1,060
Over 18.0	\$1,450	-\$81	\$1,450
Maximum for Helicopters	\$58	-\$3	\$58
<i>Small Jet Aircraft</i>			
Over 3.0 up to 6.2	\$145	-\$8	\$145
Over 6.2 up to 7.5	\$240	-\$14	\$240

Annual Charges*

Weight Group (in metric tonnes)	Unit Rates before March 1, 2002		Unit Rates effective March 1, 2002
	Base Rate	Temporary Adjustment (Reduction)	Base Rate
0.617 up to 2.0	\$58	-\$3	\$58
Over 2.0 up to 3.0	\$195	-\$11	\$195

*For foreign-registered aircraft, the corresponding quarterly charge is equal to 25% of these amounts.

The charge for Airport Surface Detection Equipment at L.B. Pearson International Airport remains unchanged at the unit rate of \$0.45, as the temporary adjustments did not apply to this charge.

NAV CANADA has reviewed its costs and taken a number of initiatives to reduce and/or defer expenses and increase non-aviation revenues, wherever feasible, in light of the unprecedented problems in the air transport industry caused by the terrorist attacks in the United States on September 11, 2001. However, after taking

these initiatives into account, the potential reduced revenues for the Company resulting from the major cutbacks in capacity announced by the air carriers are still such that:

- The Rate Stabilization Account, created to help in circumstances such as these, will be fully drawn down;
- The reductions provided by the existing temporary adjustments can no longer be sustained; and
- Reverting to the existing base rates, with no further temporary adjustments, effective January 1, 2002, as already announced, will unfortunately be necessary.

Due to the uncertainty regarding air travel demand in the short term, it will also be necessary to continue to closely monitor developments. We estimate that each 1% reduction in overall flying activity will cause a \$9 million reduction in our annual revenues. Should circumstances require further initiatives to address this exceptional situation, an increase in base rates some time in 2002 may be necessary. Any such proposal would be subject to the normal consultation process with customers, air transport organizations and other interested parties.

While there is a need to rebaseline the charges, it would be prudent to delay considering such a proposal for the time being until traffic trends become clearer.

2.2 MODIFICATION IN THE APPLICATION OF THE ENROUTE CHARGE TO FLIGHTS BETWEEN TWO POINTS IN THE UNITED STATES TRANSITING CANADIAN-CONTROLLED AIRSPACE

It is proposed to extend the application of the Enroute charge to overflights by turbojet aircraft, with maximum permissible take-off weight (MTOW) of 20 metric tonnes or more and providing commercial service between two points in the United States, which operate in Canadian domestic airspace east of 95⁰ W longitude, and enter and exit Canadian-controlled airspace south of 49⁰ N latitude.

This modification will formalize an arrangement that has been in place since June 1, 2001, with the concurrence of the major carriers affected. In response to requests from U.S. air carriers, NAV CANADA provides extra service primarily in the Toronto flight information region for flights between two points in the U.S. seeking alternative routing through Canada, to avoid weather and air traffic control capacity problems in the Northeastern U.S.

The modification is also necessary to ensure balance in the arrangement between the U.S. Federal Aviation Administration (FAA) and NAV CANADA regarding Enroute charges for flights between two points in the U.S. overflying Canada and flights between two points in Canada overflying the U.S. An imbalance has developed in recent years.

At the time of the development of the original NAV CANADA ANS charges in 1997, an arrangement was adopted whereby:

- Flights between two points in Canada have been charged the NAV CANADA enroute fee for the full great circle distance, *regardless of whether they operated solely in Canadian airspace or transited U.S. airspace*; and
- Flights between two points in the U.S. overflying Canada were exempted from the NAV CANADA enroute fee (as long as the FAA provided a reciprocal exemption from the U.S. overflight fee).

This arrangement ensured that charges would not influence the efficient flow of traffic, was consistent with the way the U.S. domestic air transportation tax applies (i.e., the tax is the same whether the flight goes through Canadian airspace or not), and simplified the administration of the enroute charge.

Originally, it was estimated that the additional enroute charging units from the flights between two points in Canada overflying the U.S. were sufficient to approximately offset the exempted enroute charging units for flights between two points in the U.S. overflying Canada. However, an imbalance has developed. The June 1, 2001, modification to the application of the enroute charge restores the balance.

This broadened application of the Enroute charge will add approximately 1.5% to the enroute charging units, representing in the order of \$7 million per year at current traffic volumes and the existing enroute charge.

It is important to note that this modification will not result in a level of enroute revenue that is higher than it should be. As only total enroute costs are to be recovered by the Enroute charge, the larger charging unit base will simply result in a breakeven rate that will be lower than it would otherwise have been.

2.3 MODIFICATIONS TO THE TERMS AND CONDITIONS

The proposed modifications provides NAV CANADA with more flexible and effective collection measures for the service charges, consistent with commercial practice.

2.3.1 Interest Charges

The provision concerning the demand for immediate payment in respect of delinquent accounts, set out in Subsection 2.1 of the Announcement of Revised Service Charges, dated August 18, 2000, is revoked.

The existing provision becomes superfluous with the modification to the credit security arrangements proposed below.

2.3.2 Credit Security Arrangements

The provision concerning the Credit Security Arrangements, set out in Subsection 2.4 of the *Announcement of Revised Service Charges*, dated August 18, 2000, is revoked, and the following substituted therefor:

“Where an aircraft operator has significant and/or overdue charges or where NAV CANADA, acting reasonably and in good faith, is of the opinion that NAV CANADA charges will not be paid when due, NAV CANADA may seek credit security arrangements from the operator in a form and substance satisfactory to NAV CANADA.”

This modification provides for a more general formulation of the circumstances under which credit security arrangements may be sought.

2.3.3 Withholding of Service

The following provision is included:

“Where an aircraft operator has overdue charges owed to NAV CANADA or where NAV CANADA, acting reasonably and in good faith, is of the opinion that NAV CANADA charges will not be paid when due, NAV CANADA shall have the right, on 24 hours' notice to the operator, to terminate or reduce (withhold) its services, except in an emergency situation, until such time as applicable charges have been paid or until such time as credit security arrangements have been made by the operator in a form and substance satisfactory to NAV CANADA.

Notice, as described in the above preceding paragraph, shall be sent by registered mail or by electronic means and will be considered to have been received (a) in the case of electronic means, on actual receipt and (b) in the case of registered mail, on the date of delivery.”

This new provision will allow a more graduated escalation of measures to ensure collection of charges. There are circumstances where withholding service would be sufficient to effect payment or appropriate credit security, thus limiting the cases where the more drastic measure of seizing and detaining aircraft would need to be considered.

Any withholding of service will be administered in such a way that aviation safety will not be affected.

3. PRINCIPLES GOVERNING NAV CANADA'S SERVICE CHARGES

The principles governing the establishment of new charges or the revision of existing charges by NAV CANADA are set out in Section 35 of the ANS Act. Each of the principles is presented below in italics, followed by an explanation of how the Notice complies with that particular principle.

- 35 (1) (a) *Charges must be in accordance with a methodology established and published by the Corporation that is explicit and that also includes the terms and conditions affecting charges;*

The Notice, required under Section 36 of the ANS Act, has been placed on the Internet and sent to aviation associations. On the basis of this information, any person subject to NAV CANADA's charges can calculate the amount that would be payable for a given flight.

- 35 (1) (b) *Charges must not be structured in such a way that a user would be encouraged to engage in practices that diminish safety for the purpose of avoiding a charge;*

For any given flight, NAV CANADA's charges are not structured in such a manner that safety may be affected. For example, any flight involving a jet aircraft of a given weight between two points (e.g., Ottawa and Québec City) is subject to the same Terminal Services Charge and Enroute Charge, regardless of whether the flight is IFR or VFR.

- 35 (1) (c) *Charges for the same services must not differentiate between domestic and international flights of air carriers;*

There is no differentiation in the proposed revised charges between domestic and international flights.

- 35 (1) (d) *Charges for the same services must not differentiate among Canadian air carriers or among foreign air carriers;*

There is no differentiation in the proposed revised charges for a flight based on which domestic or foreign carrier provides the flight.

- 35 (1) (e) *Charges must differentiate between the provision of services in relation to the landing and take-off of aircraft and the provision of services in relation to aircraft in flight, and must reflect a reasonable allocation of the costs of providing the services in those circumstances;*

The charges are based on an allocation of costs among the enroute, terminal and oceanic services. The rules for the attribution of costs to the services were arrived at by considering work loads, statistics based on activity reports, management judgment and ICAO guidelines.

The accounting firm of KPMG has provided an opinion that the allocation methodology adopted by NAV CANADA reasonably reflects the way in which services are provided, is consistent with approaches used by other air navigation service providers, and is appropriate for use as a basis for establishing the costs of these services. A copy of this opinion is available upon request from NAV CANADA.

- 35 (1) (f) *Charges in respect of recreational and private aircraft must not be unreasonable or undue;*

The charges reflect the need for recreational and private aircraft to contribute, along with other users, to the costs of operating the Canadian civil air navigation system. NAV CANADA believes the charges are neither unreasonable nor undue.

- 35 (1) (g) *Charges for designated northern or remote services and for services directed to be provided under subsection 24(1) must not be higher than charges for similar services utilized to a similar extent elsewhere in Canada;*

Since NAV CANADA's charges are uniform throughout Canada, northern or remote services are subject to the same charges as services utilized elsewhere in Canada.

- 35 (1) (h) *Charges must be consistent with the international obligations of the Government of Canada; and*

The most relevant international obligations are the Convention on International Civil Aviation of 1944 (the “Chicago Convention”) and bilateral air services agreements between Canada and other states.

Article 15 of the Chicago Convention deals with charges for air navigation facilities, and establishes the principle that fees charged for the use of airport and air navigation services not be higher for foreign compared to domestic users engaged in similar international air services. The charges comply with Article 15 because: (i) the charges in respect of international air services are not higher for foreign air carriers than they are for Canadian carriers engaged in similar international air services (i.e., the charges do not differentiate according to the flag of the carrier), and (ii) the charges relate to the availability or provision of air navigation services and are not imposed for the right of entry into Canadian airspace.

The charges are also consistent with bilateral air services agreements between Canada and other states.

- 35 (1) (i) *Charges must not be set at a level that, based on reasonable and prudent projections, would generate revenues exceeding the Corporation’s current and future financial requirements in relation to the provision of civil air navigation services.*

NAV CANADA’s charges are set to recover the corporation’s costs, including expenses determined according to Generally Accepted Accounting Principles (GAAP) and the costs of complying with certain financial requirements, as described in detail in Subsection 35(5) of the ANS Act.

- 35 (2) *The charging methodology may recognize that the value of the services differs among users.*

NAV CANADA’s charging methodology does recognize that the value of the services differs among users.

- 35 (3) *Where the Corporation's charging methodology recognizes the value of the services and aircraft weight is used as a measure of the value of the services, the principle referred to in paragraph (1)(a) is deemed not to have been observed if aircraft weight is taken into account either directly proportionally or greater than directly proportionally.*

The International Communication Services Charges and the North Atlantic Enroute Facilities and Services Charge are levied on a per flight basis and do not take weight into account.

The Enroute and Terminal Services charges take weight into account, but less than proportionally. The Enroute Charge is based on a unit rate multiplied by the square root of aircraft weight multiplied by the distance in Canadian airspace. The Terminal Services Charge is based on a unit rate multiplied by aircraft weight raised to the 0.9 power. The Airport Surface Detection Equipment Charge is based on the same formula as that for the Terminal Services Charge (but with a different unit rate).

Pursuant to Subsection 35(7), Subsection 35(3) does not apply to flat fees. The Annual and Daily Charges represent flat fees.

- 35 (4) *For the purpose of subsection (3), "weight", in relation to an aircraft, means the maximum permissible take-off weight specified in the aircraft's certificate of airworthiness or in a document referred to in that certificate.*

Weight calculations are based on the maximum permissible take-off weight specified in the aircraft's certificate of airworthiness or in a document referred to in that certificate. For more information, please refer to the September 2000 *Customer Guide to Charges*.

4. INFORMATION REGARDING THE NOTICE AND ON MAKING REPRESENTATIONS TO NAV CANADA.

The Notice and this document are available on-line and a copy may be downloaded from NAV CANADA's Internet site (www.navcanada.ca).

Information on the existing charges is provided in the *Customer Guide to Charges*, which is also available on the Internet site.

Additional copies of the Details and Principles document may be obtained by contacting NAV CANADA:

in writing: NAV CANADA
P.O. Box 3411, Station "D"
Ottawa, Ontario
CANADA K1P 5L6
Attention: Director, Customer Relations

by e-mail: service@navcanada.ca
by facsimile: 1 - 613 - 563 - 3426
by telephone: 1 - 800 - 876 - 46934 (within North America, disregard the last digit)

Pursuant to Section 36 of the ANS Act, persons interested in making representations in writing to NAV CANADA with regard to the Notice may do so in writing to the following address:

NAV CANADA
P.O. Box 3411, Station "D"
Ottawa, Ontario
CANADA K1P 5L6
Attention: Director, Rates and Revenues

By facsimile: 1 - 613 - 563 - 7994.

Note: Representations must be received by NAV CANADA not later than the close of business on December 13, 2001.