



**Public  
Service  
Labour  
Relations  
Board**

**Commission des  
relations de  
travail dans la  
fonction  
publique**

P.S.L.R.B. File Number
FOR OFFICE USE ONLY

**Form 16**  
*(Section 57)*

**COMPLAINT UNDER SECTION 190 OF THE ACT**

*Public Service Labour Relations Act*

**NOTICE: The original and one copy of this complaint must be filed with the Executive Director of the Board.**

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**1. Complainant information:**

**CANADIAN FEDERAL PILOTS ASSOCIATION**

509 – 350 Sparks Street  
Ottawa, Ontario  
K1R 7S8

Telephone: (613) 230-5476  
Facsimile: (613) 230-2668

**Attention: Daniel Slunder, National Chair**

**Name of authorized representative:**

**SHIELDS & HUNT**

Barristers & Solicitors  
68 Chamberlain Avenue  
Ottawa, Ontario  
K1S 1V9

Telephone: (613) 230-3232  
Facsimile: (613) 230-1664

**Attention: Phillip G. Hunt**

## 2. Respondent information:

Transport Canada  
Civil Aviation  
330 Sparks Street  
Ottawa, Ontario  
K1A 0N5

Telephone: (613) 990-1322  
Facsimile: (613) 957-4208

**Attention: Martin Eley, Director General**

AND

Treasury Board Secretariat  
400 Cooper Street  
Ottawa, Ontario  
K1A 0R5

Telephone: (613) 952-3000  
Facsimile: (613) 952-3009

**Attention: H el ene Laurendeau, Assistant Secretary**

## 3. Paragraph of the *Public Service Labour Relations Act* on which the complaint is based:

- 190(1)(a) Failure to comply with section 56 (duty to observe terms and conditions).
- 190(1)(b) Failure to comply with section 106 (duty to bargain in good faith).
- 190(1)(c) Failure to comply with section 107 (duty to observe terms and conditions).
- 190(1)(d) Failure to comply with subsection 110(3) (duty to bargain in good faith).
- 190(1)(e) Failure to comply with section 117 (duty to implement provisions of the collective agreement) or 157 (duty to implement provisions of the arbitral award).
- 190(1)(f) Failure to comply with section 132 (duty to observe terms and conditions).
- 190(1)(g) Unfair labour practice within the meaning of section 185.

Where information on more than one person is required in a section or the space provided is not sufficient, please attach additional pages of same-sized paper.

**4. Concise statement of each act, omission or other matter complained of, including dates and names of persons involved:**

1. The Canadian Federal Pilots Association (the “CFPA” or the “Association”) is the certified bargaining agent for all employees in the Aircraft Operations Group, as described in the Canada Gazette Part I on March 27, 1999 and in the certificate issued by the Public Service Staff Relations Board (the former “Board”) on the eighteenth (18<sup>th</sup>) day of January 2001.
2. On April 1, 2005, the new *Public Service Labour Relations Act* (“PSLRA”), enacted by section 2 of the *Public Service Modernization Act* (“PSMA”), S.C. 2003, c. 22, was proclaimed in force. Pursuant to subsection 48(1) of the *PSMA*, the CFPA continues to be certified as the bargaining agent for the bargaining unit.
3. On or about August 14, 2009, a Collective Agreement was entered into between the parties. The Agreement between the Treasury Board and the Association expires January 25, 2011.
4. On or about April 26, 2010, approximately eight months after concluding the current collective agreement, Transport Canada (the “Employer”) announced that it was unilaterally undertaking program reductions in the Aircraft Services Directorate (“ASD”). In this regard, the Employer has undertaken to sell a substantial percentage of the department’s aircraft, starting in 2010. Attached hereto at Tab 1 is a copy of a letter from Transport Canada to the CFPA, dated April 26, 2010.
5. Marc Grégoire, Assistant Deputy Manager, announced that in 2011, flying on fixed-wing aircraft in Headquarters would no longer be available and that helicopter flying in Headquarters would be phased out shortly thereafter. The Employer acknowledged that the impact of the sale of aircraft will directly affect Ottawa-based pilot inspectors. Attached hereto at Tab 2 is a copy of Transport Canada’s announcement.

6. As a consequence, the Employer will require Ottawa-based pilot inspectors to maintain their qualifications exclusively through means other than flying aircraft, such as by the use of flight simulators.
7. Occasional recourse to alternate means of maintaining professional currency is permitted by Article 47 of the Collective Agreement, which provides:

#### ARTICLE 47 PROFESSIONAL AVIATION CURRENCY

47.01 The parties agree that the maintenance of Professional Aviation Currency is necessary for the Employer to fulfill its mandate and for employees to carry out their duties.

47.02 The Employer shall provide each medically fit Civil Aviation Inspector (CAI) with the opportunity to maintain his/her Professional Aviation Currency through the use of Departmental aircraft or an approved alternate professional currency program.

47.03 Professional Aviation Currency is deemed to have been met as a minimum, by the possession and maintenance of the Airline Transport Pilot Licence (ATPL) and Group 1 or Group 4 Instrument Rating/Pilot Proficiency Check or a Commercial Helicopter Pilot Licence and Group 4 Instrument Rating/Pilot Proficiency Check.

47.04 The Employer shall assign each employee in accordance with the criteria and procedures established between the Employer and the Union to a Professional Aviation Currency Program.

47.05 With the exception of 47.04 above all changes to the Transport Canada Professional Aviation Currency Policy for Civil Aviation Inspectors and the TSB policy on CAI Professional Aviation Currency shall be accomplished by means of mutual agreement between the parties.

**Where information on more than one person is required in a section or the space provided is not sufficient, please attach additional pages of same-sized paper.**

Attached hereto at Tab 3 is Article 47 of the Collective Agreement.

8. In accordance with the Collective Agreement, the Professional Aviation Currency Program (“PACP”) was developed by mutual agreement between the parties, in an attempt to provide civil aviation inspectors with an opportunity to maintain their Professional Aviation Currency when exceptional circumstances prevented them from undertaking a Regular Flying Program. The wholesale elimination of flying was never contemplated by the Program.
9. Additionally, the PACP requires an element of “in-airplane flight exposure,” an objective that will no longer be met once the Employer’s planned reductions have taken place. Attached hereto at Tab 4 is a copy of the Professional Aviation Currency Program.
10. Despite an admission by the Employer that the proposed sale of aircraft has been planned since 2008, no disclosure was made and no discussions whatsoever in this regard took place at the bargaining table during the recent negotiation of the current Collective Agreement. Attached hereto at Tab 5 are excerpts of comments made by Marc Grégoire at a meeting held April 29, 2010.
11. The Employer’s actions in this regard constitute a clear breach of the statutory duty to bargain in good faith as set out in section 106 of the *Act*.
12. There is an ongoing duty to consult and deal with a trade union where the Employer introduces a change of fundamental importance, particularly where the change and its impact were not contemplated by the parties upon entering the agreement. This is especially so when the change comes on the heels of the conclusion of a collective agreement, and where the intention to proceed with the change was known to the employer in advance of the collective bargaining session.

13. Apart from collective bargaining, the Union was not consulted with respect to the proposed reductions and their impact on its members and the PACP as a whole.

14. The Employer's unilateral decision to sell Transport Canada's aircraft and ground Ottawa-based aviation safety inspectors constitutes a rejection of the CFPA's status as bargaining agent and amounts to an interference with the formation, selection or administration of a trade union contrary to subsection 186(1) of the *Act*.

**5. Date on which the complainant knew of the act, omission or other matter giving rise to the complaint:**

On or about April 29, 2010

*Complete sections 6 and 7 only if the complaint alleges an unfair labour practice prohibited by paragraph 188(b) or (c) of the Public Service Labour Relations Act and if the employee organization has established a grievance or appeal procedure.*

**6. Date on which a grievance or appeal was presented in accordance with any procedure that has been established by the employee organization:**

\_\_\_\_\_  
(dd/mm/yyyy)

**7. Date on which the employee organization has provided the complainant with a copy of a decision to the grievance or appeal referred to in section 6:**

\_\_\_\_\_  
(dd/mm/yyyy)

**8. Steps that have been taken by or on behalf of the complainant for the resolution of the action, omission or other matter giving rise to the complaint:**

**9. Corrective action sought under subsection 192(1) of the *Public Service Labour Relations Act*:**

The CFPA requests the following relief:

- a. a declaration that the Treasury Board of Canada and Transport Canada have failed to comply with section 106 of the Act, specifically the requirement to bargain in good faith;

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- b. a declaration that the Treasury Board of Canada and Transport Canada have interfered with the formation, selection or administration of a trade union contrary to subsection 186(1) of the *Act*;
- c. that an order be issued requiring the Treasury Board of Canada and Transport Canada to forthwith cease and desist from selling the department's aircraft and requiring that pilot inspectors maintain their qualifications though the use of simulator alone;
- d. such further and other relief as to the Board may seem just.

**10. Other matters relevant to the complaint:**

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I, the undersigned, (duly authorized representative of the complainant,) hereby file this *Complaint under Section 190 of the Act*.

Date: May 17, 2010

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**Phillip G. Hunt**  
Solicitors for the Applicant CFPA

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