Submission of the Canadian Federal Pilots Association (CFPA)

In Response to the Treasury Board Submission of 9 June 2003

To the Honourable George W. Adams Q.C.

Regarding the application of his Award dated March 31, 2003

With regard to the Aircraft Operations Group

Submitted: June 12, 2003

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The CFPA retains the belief that the intention of the award provisions in question was to provide a benefit to employees in a uniform manner on a specific date. In our opinion, the award was not crafted out of thin air, but followed an exchange of detailed briefs and four days of intensive dialogue between the parties and the arbitrator. Whether our position was " warranted or justified" is not something that we are in any way proposing to reargue. We do believe however, that the arbitrator was provided with sufficient information to make a clear decision on the points in question and in fact did so.

We find it difficult to conclude that the decision was intended to stage retroactive wage increases in other ways, or over some longer period of time, other than clearly stated. If this had been the intention of the award, it would have contained language to explicitly outline how this was to be accomplished. In our opinion, "effective January 26, 2001, all classifications shall be modified by adding a step to the top and removing the bottom step" means that the pay scale is modified in such a way that it starts with a particular number of steps and ends with the same number of steps. There is no language in paragraphs 1(a) and 1(b) of the award indicating that an employee who is in a particular step on the effective date of the award should be moved to a lesser or higher step. It certainly bears no interpretation that this language " means" move the steps one year to the right, give a raise to those in Step 1, leave those in Step 2 in place, resulting in individuals in Step 1 and 2 being paid the same because there is no scale beneath Step 1.

More specifically, the result of the employer's proposed application means that employees, other than those in Step 1 and those in the maximum step for more than 12 months, move backward to a step lower in the scale at the end of the modification (i.e. CAI-2 Steps 2 to 6 end up in Steps 1 to 5). Paragraph 1(a) of the award applies to all classifications effective 26 January 2001; however, the effect of the employer's proposal is that for all of these intermediate step employees, the effective date is extended by a year.

The employer's submission makes reference to the settlement that resulted in the 1989 collective agreement and asserts that the pay notes "only provide for the immediate movement of employees who have been at the maximum of the structure for more than twelve months". This characterization does not recognize that the type of restructuring referenced was different in that there was an expansion of the scales to include additional steps not one where the number steps remained the same. Of particular note was the expansion of the CAI-2

…/2

scales in a manner that all employees received immediate benefit. Additionally, if one examines the entire pay table and notes, it can be seen that all employees receive increases on the effective dates and no employee is moved to a lower step in the scale of rates.

In the current award there are aspects that allow for different levels of benefit improvement for different employees. These aspects are not in dispute. There is also the addition of a step at the top of the CAI-3 pay scale, and the provisions for movement of employees to the new maximum rate are not in dispute either. We believe that the employer is confusing specific provisions in the award which provide differential wage increases between for various employees, and creating additional differential conditions within a classification and level that are without foundation.

Reviewing the bargaining background of our group was not meant to further justify a specific union proposal, but rather, to show a position, which we believe, was consistent with the terms of the arbitral award. We presented the example to demonstrate that the current interpretation by the employer is not the only methodology that they have used in similar situations in the past. We felt that it was particularly pertinent, as it was a solution derived from previous negotiations between the parties to the instant case. The employer's reference to the 1989 pay tables and notes provides a further example of the provision of increases to all employees on the date specified without any detrimental effect on employees in the intermediate steps.

Despite what the employer may uphold as a practice they may have used on other groups, in different circumstances, the staging of increases beyond the dates specified in this award, with out any reference to procedural language contained in the award, obviously effects the quantum of the award, and is unjustifiable. The employer may contend that it is their practice to do this under various circumstances; however, we do not believe that the language of the current award reflects this intention.

We find ourselves unable to agree with the employer's perspective that their application of paragraphs 1(a) and 1(b) of the award is consistent with the award's intention. We have difficulty accepting that the addition of staged increases requiring an additional period of one and two years beyond the specified effective dates is a true reflection of the award's language. We also find it difficult to believe that it was the arbitrator's intention to direct that employees in the intermediate steps be moved backward in their relative position in the wage

…/3

scales. It is felt that the provisions of the award were intended to have a material effect on employees on the specified effective date. We do not believe that it was intended for that effect to be a negative one.

We ask that the arbitrator provide clarification of his intention and we feel that the modification of the employer's pay note language, in a manner consistent with the pay notes in our existing contract, as proposed in our 30 May 2003 submission, would be the most efficient solution.

Greg Holbrook
National Chairman

June 12, 2003