

N° 3383.

ALLEMAGNE ET POLOGNE

Convention concernant la navigation
aérienne. Signée à Berlin, le 28
août 1929.

GERMANY AND POLAND

Convention regarding Air Naviga-
tion. Signed at Berlin, August
28th, 1929.

TEXTE POLONAIS. — POLISH TEXT.

N^o 3383. — UMOWA¹ MIĘDZY RZESZĄ NIEMIECKĄ A RZECZĄPOSPOLITĄ POLSKĄ O ŻEGLUDZE POWIETRZNEJ, PODPISANA W BERLINIE DNIA 29 SIERPNI 1929 r.

Textes officiels allemand et polonais communiqués par le délégué de la Pologne auprès de la Société des Nations. L'enregistrement de cette convention a eu lieu le 10 mars 1934.

PREZYDENT RZECZYPOSPOLITEJ POLSKIEJ

i

PREZYDENT RZESZY NIEMIECKIEJ

w jednakowym przeświadczeniu, że w interesie obustronnym Polski i Niemiec leży popieranie w duchu pokojowym międzynarodowych stosunków w zakresie żeglugi powietrznej, postanowili w tym celu zawrzeć umowę i mianowali swoimi pełnomocnikami :

PREZYDENT RZECZYPOSPOLITEJ POLSKIEJ :

Pana Romana KNOLLA, Posła Nadzwyczajnego i Ministra Pełnomocnego Rzeczypospolitej Polskiej w Berlinie, oraz
Pana Docenta Leona BABIŃSKIEGO, Radcę Prawnego w Ministerstwie Spraw Zagranicznych,

PREZYDENT RZESZY NIEMIECKIEJ :

Pana Dr. Gerharda KÖPKE, Dyrektora Ministerjalnego, Zastępcę Sekretarza Stanu w Urzędzie Spraw Zagranicznych,

Którzy, po wymianie swych pełnomocnictw, uznanych za dobre i sporządzone w należytej formie, zgodzili się na następujące postanowienia :

Artykuł 1.

Każda z Wysokich Umawiających się Stron udziela w czasie pokoju statkom powietrznym drugiej Umawiającej się Strony, prawidłowo tam zarejestrowanym, prawa żeglugi powietrznej na swoim obszarze, pod warunkiem przestrzegania postanowień, zawartych w umowie niniejszej.

Urządzenie oraz eksploatacja regularnych linii komunikacji powietrznej przez przedsiębiorstwo lotnicze jednej z Umawiających się Stron na obszar lub ponad obszarem drugiej Umawiającej się Strony, z międzyrządowaniem lub bez, podlegają osobnemu układowi naczelných władz lotniczych obydwu Umawiających się Państw.

Za obszar w rozumieniu umowy niniejszej uważa się obszar Rzeczypospolitej Polskiej z jednej strony, a—Rzeszy Niemieckiej z drugiej, w obu wypadkach łącznie z wodami terytorjalnymi.

¹ L'échange des ratifications a eu lieu à Varsovie, le 31 janvier 1934.

TEXTE ALLEMAND. — GERMAN TEXT.

N^o 3383. — ABKOMMEN¹ ZWISCHEN DEM DEUTSCHEN REICH UND DER REPUBLIK POLEN ÜBER DEN LUFTVERKEHR. GEZEICHNET IN BERLIN, AM 28. AUGUST 1929.

German and Polish official texts communicated by the Polish Delegate accredited to the League of Nations. The registration of this Convention took place March 10th, 1934.

DER PRÄSIDENT DER REPUBLIK POLEN
und

DER DEUTSCHE REICHSPRÄSIDENT,

In gleicher Weise davon überzeugt, dass es im beiderseitigen Interesse Polens und Deutschlands liegt, die internationalen Luftverkehrsbeziehungen in friedlichem Geiste zu fördern, haben beschlossen, zu diesem Zwecke ein Abkommen zu schliessen, und haben zu ihren Bevollmächtigten ernannt :

DER PRÄSIDENT DER REPUBLIK POLEN :

Den ausserordentlichen Gesandten und bevollmächtigten Minister der Republik Polen in Berlin, Herrn Roman KNOLL, und

Den Rechtsrat im Ministerium der auswärtigen Angelegenheiten, Privatdozent Herrn Leon BABIŃSKI ;

DER DEUTSCHE REICHSPRÄSIDENT :

Den stellvertretenden Staatssekretär im Auswärtigen Amt, Herrn Ministerialdirektor Dr. Gerhard KÖPKE ;

Die, nachdem sie ihre Vollmachten ausgetauscht und in guter und gehöriger Form befunden haben, über folgende Bestimmungen übereingekommen sind :

Artikel 1.

Jeder der beiden Hohen Vertragschliessenden Teile gewährt in Friedenszeiten Luftfahrzeugen des anderen Vertragschliessenden Teiles, die in diesem ordnungsmässig eingetragen sind, bei Beachtung der in diesem Abkommen enthaltenen Bestimmungen das Recht zum Luftverkehr in seinem Gebiete.

Die Einrichtung und der Betrieb von regelmässigen Luftverkehrslinien eines Luftfahrtunternehmens des einen der Vertragschliessenden Teile in das Gebiet des anderen Teiles oder über dieses hinweg, mit oder ohne Zwischenlandung, unterliegen einer Sondervereinbarung zwischen den obersten Luftfahrtbehörden der beiden Staaten.

Als Gebiet im Sinne dieses Abkommens gilt das Gebiet der Republik Polen einerseits, des Deutschen Reichs andererseits, in beiden Fällen einschliesslich der Territorialgewässer.

¹ The exchange of ratifications took place at Warsaw, January 31st, 1934.

¹ TRANSLATION.

No. 3383. — CONVENTION BETWEEN THE GERMAN REICH AND THE POLISH REPUBLIC REGARDING AIR NAVIGATION. SIGNED AT BERLIN, AUGUST 28TH, 1929.

THE PRESIDENT OF THE POLISH REPUBLIC
and

THE PRESIDENT OF THE GERMAN REICH,

Being equally convinced that it is in the mutual interests of Poland and of Germany to promote international air traffic in a pacific spirit, have decided to conclude a Convention for that purpose and have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE POLISH REPUBLIC :

M. Roman KNOLL, Envoy Extraordinary and Minister Plenipotentiary of the Polish Republic at Berlin, and

M. Leon BABIŃSKI, Privat-docent, Legal Adviser at the Ministry of Foreign Affairs ;

THE PRESIDENT OF THE GERMAN REICH :

Dr. Gerhard KÖPKE, Ministerial Director, Acting Secretary of State at the Ministry of Foreign Affairs ;

Who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

Article 1.

Each of the two High Contracting Parties shall, in time of peace, grant the right of air navigation in its territory to the aircraft of the other Contracting Party which are duly registered in the territory of the latter, provided that the stipulations of the present Convention are observed.

The establishment and operation by an air navigation undertaking belonging to either of the High Contracting Parties of regular airways to the territory of the other Party or across that territory (with or without intermediate landing) shall be subject to a special agreement between the supreme air authorities of the two States.

The term " territory " shall, for the purposes of the present Convention, be held to mean the territory of the Polish Republic on the one hand and that of the German Reich on the other, including in both cases territorial waters.

The term " aircraft " shall, for the purposes of the present Convention, be held to mean private aircraft and also Government aircraft which are not used as military, Customs or police aircraft.

Military, Customs or police aircraft of one Contracting Party entering the territory of the other Party or flying over it, with or without intermediate landing, shall require a special permit in each individual case.

¹ Translated by the Secretariat of the League of Nations, for information.

Article 2.

The aircraft of either Contracting Party, their crews, passengers and cargoes, shall be subject, while in the territory of the other State, to the existing obligations arising out of the regulations in force in that State, especially those which concern air navigation in general, in so far as they are applicable to all foreign aircraft without distinction of nationality, and also to the regulations concerning Customs and other duties, export and import prohibitions, the carriage of passengers and goods, public safety and order, public health and passports. Unless otherwise provided in the present Convention, they shall furthermore be subject to such other obligations as may arise out of the existing national legislation.

Each of the Contracting Parties may reserve for its own aircraft the commercial transport of passengers and goods between two points in its own territory.

The fuel and lubricating oil on board an aircraft of either High Contracting Party on entry into the territory of the other Party shall be exempt from Customs duty, with the exception of such fuel and lubricating oil as the aircraft may dispose of in the territory of the other Contracting Party or use therein for wholly inland flights.

Article 3.

Each of the two Contracting Parties may prohibit air navigation over certain areas in its territory, provided that no distinction is made in this respect between national aircraft and those of the other State. This reservation shall not apply to national aircraft which are used for special purposes in the service of the Government administration.

The areas over which air traffic is prohibited shall be notified to the other Contracting State.

Furthermore, each of the Contracting Parties reserves the right, in exceptional circumstances, temporarily to restrict or prohibit, wholly or partially, with immediate effect, air navigation over its territory in time of peace, provided that no distinction be made between aircraft of the other Contracting State and aircraft belonging to other foreign States.

Article 4.

Every aircraft which flies above a prohibited area shall give the signal of distress provided by the air navigation regulations of the State flown over and shall land as soon as possible at the nearest aerodrome of that State situated outside the prohibited area.

The same obligation shall be incumbent upon every aircraft flying over a prohibited area whenever its attention is drawn to this fact by special signals.

Article 5.

Aircraft shall be provided with distinctive and clearly visible marks enabling them to be identified in flight (nationality and registration marks). They shall also bear the name and residence of their respective owners.

Aircraft shall carry certificates of registration and airworthiness, and in addition any other documents required for air navigation in their home country.

Article 6.

The members of the crew who perform duties in an aircraft for the exercise of which a special permit is required in their home country shall carry the certificates prescribed for air navigation in that country, and in particular the requisite certificates of proficiency and licences.

The other members of the crew shall carry certificates stating their duties on board the aircraft and their occupation, identity and nationality.

The crew and passengers shall be provided with the documents required for crossing the frontier of the State to the territory of which they are proceeding, or for a stay in that territory, unless the two Contracting States jointly make other arrangements for the purpose.

Article 7.

Certificates of airworthiness, certificates of proficiency and licences, issued or approved by one of the Contracting Parties for the aircraft or the crew, shall have the same validity in the other Contracting State as the corresponding documents issued or approved in the latter State, except that the certificates of proficiency and licences held by the crew shall be valid only for the service of aircraft belonging to their own country. Exceptions to this rule shall be subject to the approval of the supreme air navigation authorities of the other country.

Each of the two Contracting Parties reserves the right to refuse to recognise as valid for air navigation within its own territory certificates of proficiency and licences issued to its own nationals by the other Contracting State.

Article 8.

Aircraft may not be provided with wireless transmitting apparatus unless they hold a special permit for the purpose issued by their home country. The employment of this apparatus over the territory of either Contracting Party shall be governed by the relevant regulations in force in the State in question. Further, such apparatus may be used only by members of the crew holding a special licence from their home authorities.

The two Contracting States reserve the right to issue, on grounds of safety, regulations regarding the compulsory equipment of aircraft with wireless transmitting apparatus.

Article 9.

Aircraft and their crews and passengers may not carry arms, ammunition, poisonous gases, explosives, or carrier pigeons without special permission from the State in the territory of which the aircraft is situated. Signalling apparatus and ammunition therefor shall not be deemed to be arms or ammunition for the purposes of this clause. A special licence shall be required for the transport of photographic apparatus if it is carried in such a way that it may be used during flight.

Either Contracting State may also, on grounds of public order and safety, impose restrictions on the transport or the carrying within its territory of articles other than those specified in the first paragraph, provided that no distinction be made in this respect between national aircraft and the aircraft of the other Contracting State.

Article 10.

Aircraft carrying passengers and cargo shall be provided with a list of the passengers' names and a manifest showing the nature and quantity of the cargo, together with the necessary Customs declarations.

Article 11.

The transport of mail shall be regulated by special agreements to be concluded direct between the postal administrations of the two Contracting States.

Article 12.

Each of the Contracting States may, in its own territory, order the aircraft of the other Contracting State to be inspected on departure or landing by its competent authorities and the prescribed certificates and other documents to be examined.

Article 13.

Every aerodrome which is open for public air traffic in the territory of either Contracting State shall be open to the aircraft of either State. The meteorological, wireless and air safety services may also be used by the aircraft of either Contracting State. Any charges (landing charge, charge for stay, etc.) shall be the same for national aircraft and the aircraft of the other State.

Article 14.

Aircraft of either Contracting State entering or leaving the territory of the other State may only land at or depart from aerodromes provided with a Customs office and facilities for the inspection of passports ; no intermediate landing may be made between the frontier and such aerodromes.

In particular cases, the competent authorities may on application authorise an aircraft entering or leaving the territory of the other Contracting State to land at or depart from other aerodromes, at which the Customs and passport formalities are to be carried out. In such cases, the costs of Customs and passport inspection shall be borne by the applicant. The prohibition of landing before the frontier and the aerodrome shall also apply in such special cases.

In the event of a forced landing or of a landing such as is provided for in Article 4 — in the country of departure, after the Customs and passport inspection, or in the country of destination before the Customs and passport inspection — the pilot, crew and passengers of the aircraft shall observe the regulations in force in the country in question in regard to Customs and passport inspection.

The two Contracting Parties shall communicate to each other the lists of aerodromes open to public use. These lists shall specify in particular which aerodromes are Customs aerodromes and have facilities for passport inspection. Any changes in these lists and any restriction, even temporary, of the right to utilise any of these aerodromes must be notified without delay to the other Contracting Party.

Article 15.

The common frontiers of the two Contracting Parties may be crossed by dirigible aircraft only between points fixed by mutual agreement between the competent authorities. Frontiers not common to the two Parties shall be crossed between points to be fixed by the Contracting Party concerned.

Any zone in which one Contracting Party has authorised its own aircraft or foreign aircraft to cross its frontiers shall also be open to the aircraft of the other Contracting Party.

Article 16.

No ballast other than fine sand or water may be dropped.

Article 17.

No articles or substances other than ballast may be dropped or otherwise ejected from an aircraft in flight unless special permission has been given for this purpose by the State flown over, or if the dropping of such articles or substances is necessary to prevent imminent danger.

When refuse is dropped from aircraft in flight, the regulations issued on the subject by the State the territory of which is being flown over shall be observed.

Article 18.

Whenever questions of nationality arise in connection with the carrying out of the present Convention, it shall be understood that aircraft possess the nationality of the State on the register of which they are duly entered.

No aircraft may be entered on the register of either Contracting State unless it belongs wholly to nationals of the State. If the owner is a company of any kind, such company must fulfil the conditions prescribed by the existing Polish laws or German laws, as the case may be, in order to be recognised as a Polish or a German company respectively.

Article 19.

Aircraft entering or passing over the territory of either Contracting State and making therein only such landings and stoppages as are reasonably necessary shall be exempt from any seizure on the ground of infringement of patent, registered design or trade mark, subject to the deposit of security, the amount of which in default of amicable agreement shall be fixed with the least possible delay by the competent authority of the place of seizure.

Article 20.

The aircraft of either Contracting State, on landing in the territory of the other Contracting State, particularly in the case of a forced landing, shall be entitled to the same measures of assistance as national aircraft.

The salvage of aircraft in distress at sea shall, in the absence of agreement to the contrary between the Parties, be governed by the principles of maritime law.

Article 21.

The two Contracting Parties shall communicate to each other all regulations governing air navigation in their respective territories.

Article 22.

The details relating to the execution of the present Convention, and in particular Customs formalities, shall be settled, in so far as is necessary and possible, by direct agreement between the various competent administrations of the two Contracting Parties.

Article 23.

Any disputes which may arise concerning the interpretation and application of the present Convention, if they are not settled through the diplomatic channel, shall at the request of either Contracting Party be submitted for decision to an arbitral tribunal. The decision of such tribunal shall be binding upon both Contracting Parties.

The arbitral tribunal shall be composed of three members. The manner in which it shall be constituted is that each Contracting Party shall freely appoint an arbitrator of its own choice within a period of one month after a request has been made by one of the Parties for the constitution of an arbitral tribunal.

The president of the tribunal shall be appointed by mutual agreement between the Contracting States during the following month. The president must be an expert in aviation, must be a national of a third State, must not be domiciled in the territory of either Contracting State and must not be in the service of either of those States.

If either Contracting State fails to appoint its arbitrator within one month, or if during the following month the president has not been chosen by mutual agreement, the President of the Swiss Federal Council shall be requested to make the necessary appointments.

The seat of the arbitral tribunal shall be fixed by the president.

The decisions of the arbitral tribunal shall be taken by a majority of votes. The procedure shall be prescribed by the tribunal itself ; it may be in writing if neither of the Contracting Parties objects.

Each Contracting State shall be responsible for paying the remuneration due to its arbitrator and for half the remuneration due to the president. Each Contracting State shall pay half the costs of the proceedings.

Article 24.

Either High Contracting Party may denounce the present Convention at any time at twelve months' notice.

Article 25.

The present Convention shall be ratified ; the instruments of ratification shall be exchanged as soon as possible at Warsaw. It shall come into force on the thirtieth day after the exchange of the instruments of ratification.

In faith whereof the Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done in duplicate, in the Polish and German languages, in Berlin, on April 28th, 1929.

(L. S.) ROMAN KNOLL.

(L. S.) KÖPKE.

(L. S.) LEON BABIŃSKI.