

No. 686

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
CANADA**

Agreement for air services between and beyond their respective territories (with exchange of notes). Signed at Ottawa, on 19 August 1949

English official text communicated by the Secretary-General of the International Civil Aviation Organization. The registration took place on 29 November 1949.

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
CANADA**

Accord relatif aux services aériens entre leurs territoires respectifs et au-delà (avec échange de notes). Signé à Ottawa, le 19 août 1949

Texte officiel anglais communiqué par le Secrétaire général de l'Organisation de l'aviation civile internationale. L'enregistrement a eu lieu le 29 novembre 1949.

No. 686. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE GOVERNMENT OF CANADA FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES. SIGNED AT OTTAWA, ON 19 AUGUST 1949

The Government of Great Britain and Northern Ireland and the Government of Canada,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944,² and

Desiring to conclude an Agreement for the purpose of establishing air services between and beyond United Kingdom and Canadian territories,

Have agreed as follows : —

Article I

For the purpose of the present Agreement, unless the context otherwise requires : —

(a) the term “the Convention” means the Convention on International Civil Aviation opened for signature at Chicago on the seventh day of December, 1944, and includes any Annex adopted under Article 90 of that Convention and any amendment of the Annexes or Convention under Articles 90 and 94 thereof ;

(b) the term “aeronautical authorities” means, in the case of the United Kingdom, the Minister of Civil Aviation and any person or body authorized to perform any functions presently exercised by the said Minister or similar functions, and, in the case of Canada, the Minister of Transport, the Air Transport Board and any person or body authorized to perform any functions presently exercised by the said Minister or Board or similar functions ;

(c) the term “designated airline” means an airline which one contracting party shall have designated, by written notification to the other contracting

¹ Came into force on 19 August 1949, as from the date of signature, in accordance with Article XV.

² United Nations, *Treaty Series*, Volume 15, page 295 ; Volume 26, page 420 ; Volume 32, page 402 ; Volume 33, page 352.

party, in accordance with Article 3 of the present Agreement, for the operation of agreed services on the routes specified in such notification ;

(d) the term “change of gauge” means the operation of one of the agreed services by a designated airline in such a way that one section of the route is flown by aircraft different in capacity from those used on another section ;

(e) the term “territory” in relation to a State means the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or trusteeship of that State ; and

(f) the terms “air services”, “international air service”, “airline” and “stop for non-traffic purposes” have the meanings respectively assigned to them in Article 96 of the Convention.

Article II

(1) Each contracting party grants to the other contracting party the rights specified in the present Agreement for the purpose of establishing the air services to be operated by virtue of the said Agreement on the routes specified in the appropriate Section of the Schedule thereto (hereinafter called “the agreed services” and “the specified routes”).

(2) Subject to the provisions of the present Agreement, the airlines designated by each contracting party shall enjoy, while operating an agreed service on a specified route, the following privileges : —

- (a) to fly without landing across the territory of the other contracting party ;
- (b) to make stops in the said territory for non-traffic purposes ; and
- (c) to make stops in the said territory at the points specified for that route in the Schedule to the present Agreement for the purpose of putting down and taking on international traffic in passengers, cargo and mail coming from or destined for other points so specified.

(3) Nothing in paragraph (2) of this Article shall be deemed to confer on the airlines of one contracting party the privilege of taking up, in the territory of the other contracting party, passengers, cargo or mail carried for remuneration or hire and destined for another point in the territory of that other contracting party.

Article III

(1) Each contracting party shall have the right to designate in writing to the other contracting party one or more airlines for the purpose of operating the agreed services on the specified routes.

(2) Each contracting party shall have the right by written notification to the other contracting party to withdraw the designation of an airline and to substitute the designation of another airline.

(3) On receipt of the designation, the other contracting party shall, subject to the provisions of paragraphs (4) and (5) of this Article, without delay grant to the airline or airlines designated the appropriate operating authorization.

(4) The aeronautical authorities of one contracting party may require an airline designated by the other contracting party to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations normally and reasonably applied by them in conformity with the provisions of the Convention to the operation of international commercial air services.

(5) Each contracting party shall have the right to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the privileges specified in paragraph (2) of Article 2 of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the contracting party designating the airline or in nationals of the contracting party designating the airline.

(6) Subject to the provisions of Article 7 of the present Agreement, at any time after the provisions or paragraphs (1) and (3) of this Article have been complied with, an airline so designated and authorized may begin to operate the agreed services.

(7) Each contracting party shall have the right to suspend the exercise by an airline of the privileges specified in paragraph (2) of Article II of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those privileges in any case where the airline fails to comply with the laws or regulations of the contracting party granting those privileges or otherwise fails to operate in accordance with the conditions prescribed in the present Agreement ; provided that, unless immediate suspension or imposition of conditions is essential to prevent further infringements of laws or regulations, this right shall be exercised only after consultation with the other contracting party.

Article IV

Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores introduced into the territory of one contracting party, or taken on board aircraft in that territory, by or on behalf of the other contracting party or its designated airline or airlines and intended solely for use by or in the aircraft of those airlines shall be accorded by the first contracting party, in respect of customs duties, inspection fees and other similar national or local duties and charges, treatment not less favourable than that accorded to similar supplies introduced into the said territory, or taken on board aircraft in that territory, and intended for use by or in the aircraft of a national airline of the first contracting party, or of the most favoured airline of any other State, engaged in international air services.

Article V

(1) There shall be fair and equal opportunity for the airlines of both contracting parties to operate the agreed services on the specified routes between their respective territories.

(2) In operating the agreed services, the airlines of each contracting party shall take into account the interests of the airlines of the other contracting party so as not to affect unduly the services which the latter provide on the whole or part of the same routes.

(3) On any specified route the capacity provided by the designated airlines of one contracting party together with the capacity provided by the designated airlines of the other contracting party shall be maintained in reasonable relationship to the requirements of the public for air transport on that route.

(4) In the application of the principles stated in the preceding paragraphs of this Article : —

(a) The agreed services provided by a designated airline shall have as their primary objective the provision, at a reasonable load factor, of capacity adequate to the current and reasonably expected requirements of that airline for the carriage of traffic originating in or destined for the territory of the contracting party which has designated the airline.

- (b) The capacity provided under sub-paragraph (a) above may be augmented by supplementary capacity adequate for the carriage of international air traffic both originating at and destined for points on the specified routes in the territories of States other than that designating the airline. Such additional capacity shall be related to traffic demands of the areas through which the airline operates, after taking account of the air services established by airlines of the other contracting party and of the States referred to above insofar as they are carrying international air traffic originating in or destined for their territories.

(5) Nothing in this Article shall prevent unfilled space in any aircraft operated in accordance with this Article from being used for the carriage of any international air traffic offered.

Article VI

A designated airline of one contracting party may make a change of gauge at a point in the territory of the other contracting party only on the following conditions : —

- (i) that it is justified by reason of economy of operation ;
- (ii) that the aircraft used on the section on which less traffic is carried by the airline to and from the territory of the first contracting party are smaller in capacity than those used on the other section ;
- (iii) that the aircraft of smaller capacity shall operate only in connection with the aircraft of larger capacity and shall be scheduled so to do ; the former shall arrive at the point of change for the purpose of carrying traffic transferred from, or to be transferred into, the aircraft of larger capacity ; and their capacity shall be determined with primary reference to this purpose ;
- (iv) that there is an adequate volume of through traffic ; and
- (v) that the provisions of Article 5 of the present Agreement shall govern all arrangements made with regard to change of gauge.

Article VII

(1) The tariffs on any agreed service shall be established at reasonable levels, due regard being paid to all relevant factors, including cost of operation, reasonable profit, characteristics of service (such as standards of speed and accommodation) and the tariffs of other airlines for any part of the specified route. These tariffs shall be determined in accordance with the following provisions of this Article.

(2) The tariffs referred to in paragraph (1) of this Article shall, if possible, be agreed in respect of each route between the designated airlines of the contracting parties, in consultation with other airlines operating over the whole or part of that route, and such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association. The tariffs so agreed shall be subject to the approval of the aeronautical authorities of both contracting parties.

(3) In the event of disagreement between the designated airlines concerning the tariffs, the aeronautical authorities of the contracting parties shall endeavour to determine them by agreement between themselves.

(4) A designated airline of either contracting party shall file with the aeronautical authorities of both contracting parties any tariff determined under paragraph (2) of this Article which it proposes to establish, at least thirty days before the date on which it proposes that the tariff shall come into effect; provided that the aeronautical authorities of the contracting parties may in particular cases vary the period of thirty days.

(5) If the aeronautical authorities of one of the contracting parties are dissatisfied with a tariff filed in accordance with paragraph (4) of this Article they shall so notify in writing the aeronautical authorities of the other contracting party and any designated airline filing the tariff, within fifteen days of the date of filing of in particular cases within such other period as may be agreed by both authorities.

(6) After notification under paragraph (5) of this Article, the aeronautical authorities of both contracting parties shall endeavour to secure agreement on the tariff to be established.

(7) If the aeronautical authorities of the contracting parties cannot secure agreement, the dispute shall be settled in accordance with the provisions of Article X of the present Agreement.

(8) Each contracting party shall, within the limits of its legal powers, ensure that no tariff filed under paragraph (4) of this Article shall come into effect as long as the aeronautical authorities of either contracting party are dissatisfied with it.

(9) If notification is given under paragraph (5) of this Article, a tariff filed under paragraph (4) of this Article shall come into effect after the expiry of the period specified in paragraph (4) and shall remain in effect until

- (a) the expiry of any period for which the aeronautical authorities of either contracting party may have approved its effectiveness; or
- (b) a new or amended tariff shall have been established in accordance with the provisions of this Article in substitution therefor,

whichever is the earlier.

(10) (a) A new or amended tariff in substitution for an established tariff may be filed by a designated airline at any time, and the provisions of this Article shall apply thereto as if it were a first tariff; provided that the aeronautical authorities of the contracting parties may by agreement between them adopt procedures for the filing and establishment of amended tariffs within shorter periods than those specified in paragraphs (4) and (5) of this Article.

(b) The aeronautical authorities of one contracting party may, with the consent of the aeronautical authorities of the other contracting party, at any time require a designated airline to file a new or amended tariff, and the provisions of this Article shall apply thereto as if it were a first tariff.

Article VIII

The aeronautical authorities of either contracting party shall supply to the aeronautical authorities of the other contracting party at their request such periodic or other statements of statistics as may be reasonably required for the purpose of reviewing the capacity provided on the agreed services by the designated airlines of the first contracting party. Such statements shall include all information required to determine the amount of traffic carried by those airlines on the agreed services and the origins and destinations of such traffic.

Article IX

There shall be regular and frequent consultation between the aeronautical authorities of the contracting parties to ensure close collaboration in all matters affecting the fulfilment of the present Agreement.

Article X

(1) If any dispute arises between the contracting parties relating to the interpretation or application of the present Agreement, the contracting parties shall in the first place endeavour to settle it by negotiation between themselves.

(2) If the contracting parties fail to reach a settlement by negotiation,

(a) they may agree to refer the dispute for decision to an arbitral tribunal appointed by agreement between them or to some other person or body ; or

(b) if they do not so agree or if, having agreed to refer the dispute to an arbitral tribunal, they cannot reach agreement as to its composition, either contracting party may submit the dispute for decision to any tribunal competent to decide it which may hereafter be established within the International Civil Aviation Organization or, if there is no such tribunal, to the Council of the said Organization.

(3) The contracting parties undertake to comply with any decision given under paragraph (2) of this Article.

(4) If and so long as either contracting party or a designated airline of either contracting party fails to comply with a decision given under paragraph (2) of this Article, the other contracting party may limit, withhold or revoke any rights or privileges which it has granted by virtue of the present Agreement to the contracting party in default or to the designated airline or airlines of that contracting party or to the designated airline in default.

Article XI

(1) If either of the contracting parties considers it desirable to modify any provision of the present Agreement such modification, if agreed between the contracting parties, shall come into effect when confirmed by an Exchange of Notes.

(2) In the event of the conclusion of any general multilateral convention concerning air transport by which both contracting parties become bound, the present Agreement shall be amended so as to conform with the provisions of such convention.

Article XII

Either contracting party may at any time give notice to the other if it desires to terminate the present Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization. If such notice is given, the present Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other contracting party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other contracting party, notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

Article XIII

The present Agreement supersedes the following agreements between the contracting parties: the Agreement for Air Services signed at Bermuda, December 21, 1945¹, the Agreement and Exchange of Notes concerning the Establishment of Air Communications between the Territory of Canada and United Kingdom Territories in the West Atlantic and Caribbean Areas, signed at Ottawa, July 17, 1947²; the Exchange of Notes extending the latter Agreement to provide for a Canadian Air Service to the Bahamas, dated July 7, 1948²; the Exchange of Letters constituting an Agreement concerning the grant to Airlines of Traffic Rights in Fiji and Canton Island, dated January 31 and February 1, 1947, as amended by an Exchange of Letters dated March 31 and April 2, 1949.

Article XIV

The present Agreement and any Exchange of Notes in accordance with Article XI shall be registered by the Government of Canada with the International Civil Aviation Organization.

¹ United Nations, *Treaty Series*, Volume 27, page 155.

² United Nations, *Treaty Series*, Volume 23, page 3.

Article XV

The present Agreement shall come into force on the date of signature.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present Agreement in duplicate at Ottawa, this 19th day of August, 1949.

For the Government of the United Kingdom :

P. A. CLUTTERBUCK

For the Government of Canada :

Lionel CHEVRIER

SCHEDULE

SECTION I

Routes to be operated in both directions by the designated airline or airlines of Canada

<i>Points of Departure (Any one or more of the following)</i>	<i>Intermediate Points (Any one or more of the following, if desired)</i>	<i>Destination in United Kingdom Territory (Any one or more of the following, if desired)</i>	<i>Points beyond (Any one or more of the following, if desired)</i>
1. Toronto Montreal Gander	Azores Iceland Shannon	Prestwick London	
2. Toronto Montreal	Tampa St. Petersburg	Bermuda Bahamas Jamaica Antigua Barbados Trinidad British Guiana	Havana and other points beyond in the Caribbean and South America to be agreed between the Government of Canada and the United Kingdom
3. Vancouver	Honolulu Canton Island	Fiji	Australia New Zealand
4. Edmonton Vancouver	Whitehorse Alaska Aleutians Points in Japan Shanghai	Hong Kong	Points to be agreed between the Gov- ernments of Canada and the United Kingdom

SECTION II

Routes to be operated in both directions by the designated airline or airlines of the United Kingdom

<i>Points of Departure (Any one or more of the following)</i>	<i>Intermediate Points (Any one or more of the following if desired)</i>	<i>Destination in Canadian Territory (Any one or more of the following, if desired)</i>	<i>Points beyond (Any one or more of the following, if desired)</i>
1. London Prestwick	Shannon Iceland Azores	Gander	New York and beyond Bermuda and beyond
2. London Prestwick	Shannon Iceland Azores	Gander Montreal	
3. British Guiana Trinidad Barbados Antigua Jamaica British Honduras Bahamas Bermuda	Havana and other points in the Carib- bean to be agreed between the Gov- ernments of the United Kingdom and Canada	Montreal	Points in the United Kingdom
4. Fiji	Canton Island Honolulu San Francisco	Vancouver	
5. London Prestwick	Keflavik Goose	Either Churchill or The Pas, to be agreed between the Governments of the United King- dom and Canada	Alaska Aleutians Points in Japan Shanghai Hong Kong

EXCHANGE OF NOTES

I

Ottawa, August 19, 1949

No. 61

Sir,

In connexion with the Agreement between the Governments of Canada and the United Kingdom for Air Services signed today, I have the honour

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to propose that the following arrangements should be substituted for those applying until now to the Canadian service to the Caribbean : —

(1) The Government of the United Kingdom grants to the airline or airlines designated by the Government of Canada for route 2 in Section I of the Schedule to the Agreement the privilege of carrying cabotage traffic between, on the one hand, Bermuda and, on the other hand, the other British Colonies included in that route, but not between these latter Colonies themselves.

(2) The Government of the United Kingdom undertakes, in respect of Bermuda, the Bahamas, Jamaica, Antigua, Barbados, Trinidad and British Guiana, not to exercise before the 1st January, 1951 its reciprocal rights to operate agreed services on route 3 of Section II of the Schedule to the Agreement ; provided that, if the Government of any of the Colonies concerned is not satisfied that the service provided by the designated airline or airlines of Canada on route 2 of Section I of the Schedule is adequate to cater for the traffic offering, it may make direct representations to the Government of Canada, and, if satisfaction is not attained in this way, the Government of the United Kingdom shall have the right in turn to exercise its reciprocal rights in respect of that dissatisfied Colony.

(3) In connexion with paragraph (2) above, the Government of Canada undertakes that : —

- (a) the service operated to and from the Bahamas by the designated airline or airlines of Canada shall be fully adequate to carry the traffic offering and shall provide not less than forty seats weekly ;
- (b) the designated airline or airlines of Canada shall, subject to operational contingencies, assure air passage to any passenger travelling between the Bahamas and Canada who shall obtain a reservation a week in advance ;
- (c) in accordance with normal policy, the International Air Transport Association tariffs for the service to the Bahamas will be adopted. In the unlikely event that these are not comparable with the tariffs at present prevailing on the route Montreal-New York-Nassau, the Government of Canada will be prepared to review them in consultation with the United Kingdom and Bahamas authorities.

2. I should be grateful to learn whether the Government of the United Kingdom agrees with those proposals. In that event I suggest that this Note and your reply should constitute an Agreement to that effect between our two Governments which should come into force from to-day.

3. I also have the honour to inform you that, in accordance with paragraph (1) of Article 3 of the Agreement, the Government of Canada designates Trans-Canada Airlines for route 2 of Section I of the Schedule to the Agreement.

I have the honour to be, Sir, your obedient servant,

(Signed) A. D. P. HEENEY
for the Secretary of State
for External Affairs

Hon. Sir Alexander Clutterbuck, K.C.M.G., M.C.
High Commissioner for the United Kingdom
Earnscliffe, Ottawa

II

19th August, 1949

No. 27

Sir,

I have the honour to acknowledge receipt of your Note No. 61 of 19th August, 1949, proposing that the following arrangement should be substituted for those applying until now to the Canadian service to the Caribbean:—

[See note I]

2. I have the honour to inform you that the Government of the United Kingdom agrees with these proposals and with your suggestion that your Note and this reply should constitute an agreement to that effect between our two Governments which should come into force from today.

3. I also have the honour to inform you that the Government of the United Kingdom accepts the designation of Trans-Canada Airlines for route 2 of Section I of the Schedule of the Agreement and that the aeronautical authorities of the United Kingdom hereby grant Trans-Canada Airlines the

appropriate operating authorisation for that route, as provided in paragraph (3) of Article 3 of the Agreement.

I have the honour to be, Sir, your most obedient servant,

(Signed) P. A. CLUTTERBUCK

The Honourable L. B. Pearson, O.B.E., M.P.
Secretary of State for External Affairs
Ottawa

III

19th August, 1949

No. 28

Sir,

In connexion with the Agreement for Air Services signed today between the Government of Canada and the Government of the United Kingdom and the Notes concerning new arrangements for the Canadian service to the Caribbean exchanged today, I have the honour to state that my signature on behalf of the Government of the United Kingdom is, in respect of Bermuda and the Bahamas, subject to subsequent approval by the legislatures of those Colonies. It is, however, understood that, pending this approval, no objection will be raised by the authorities concerned to the exercise at Bermuda and the Bahamas of the privileges granted under the Agreement and the Exchange of Notes to the airline or airlines designated by the Government of Canada for route 2 in Section I of the Schedule to the Agreement.

2. If this arrangement is acceptable to the Government of Canada, I have the honour to suggest that this Note and your reply should constitute an agreement to that effect between our two Governments.

I have the honour to be, Sir, your most obedient servant,

(Signed) P. A. CLUTTERBUCK

The Honourable L. B. Pearson, O.B.E., M.P.
Secretary of State for External Affairs
Ottawa

IV

Ottawa, August 19, 1949

No. 62

Sir,

I have the honour to acknowledge receipt of your note No. 28 of August 19, 1949, stating that, in connexion with the Agreement for Air Services signed to-day between the Government of the United Kingdom and the Government of Canada and the Notes concerning new arrangements for the Canadian service to the Caribbean exchanged to-day, your signature on behalf of the Government of the United Kingdom is, in respect of Bermuda and the Bahamas, subject to subsequent approval by the legislatures of those Colonies. It is, however, understood that, pending this approval, no objection will be raised by the authorities concerned to the exercise at Bermuda and the Bahamas of the privileges granted under the Agreement and the Exchange of Notes to the airline or airlines designated by the Government of Canada for route 2 in Section I of the Schedule to the Agreement.

2. I have the honour to inform you that this arrangement is acceptable to the Government of Canada, and that your note and this reply will constitute an agreement to that effect between our two Governments.

I have the honour to be, Sir, your obedient servant,

(Signed) A. D. P. HEENEY
for the Secretary of State
for External Affairs

Hon. Sir Alexander Clutterbuck, K.C.M.G., M.C.
High Commissioner for the United Kingdom
Earnscliffe
Ottawa