

No. 937

DENMARK
and
CANADA

Agreement for air services between the two countries (with annex and exchange of notes). Signed at Ottawa, on 13 December 1949

Official text: English.

Registered by the International Civil Aviation Organization on 5 October 1950.

DANEMARK
et
CANADA

Accord relatif aux services aériens entre les deux pays (avec annexe et échange de notes). Signé à Ottawa, le 13 décembre 1949

Texte officiel anglais.

Enregistré par l'Organisation de l'aviation civile internationale le 5 octobre 1950.

No. 937. AGREEMENT¹ BETWEEN DENMARK AND CANADA FOR AIR SERVICES BETWEEN THE TWO COUNTRIES. SIGNED AT OTTAWA, ON 13 DECEMBER 1949

The Government of Denmark and the Government of Canada (hereinafter called the contracting parties) having ratified the Convention² on International Civil Aviation signed at Chicago on December 7, 1944, and desiring to establish direct air communications between Denmark and Canada, agree as follows:

Article 1

Each contracting party grants to the other the rights specified in the Annex to this Agreement for the purpose of establishing the air services therein described (hereinafter called the agreed services). Such services may be inaugurated immediately or at a later date at the option of the contracting party to whom the rights are granted.

Article 2

Subject to Articles 3, 5 and 6 of this Agreement, each of the agreed services may be put into operation as soon as the contracting party to whom the rights have been granted has designated an airline or airlines (hereinafter called the designated airlines) for the operation of the agreed services. The contracting party granting the rights shall, subject to Articles 3, 5 and 6 of this Agreement, be bound to grant without delay the appropriate operating permission to the airline concerned.

Article 3

Each of the designated airlines may be required to satisfy the competent aeronautical authorities of the other contracting party that it is qualified to fulfil the conditions prescribed under the laws and regulations normally applied by those authorities to the operations of international commercial air services.

¹ Came into force on 13 December 1949, as from the date of signature, in accordance with article 12.

² United Nations, *Treaty Series*, Volume 15, page 295; Volume 26, page 420; Volume 32, page 402; Volume 33, page 352; Volume 44, page 346, and Volume 51, page 336.

Article 4

In order to prevent discriminatory practices and to ensure equality of treatment the contracting parties agree that:

(1) Each of them may impose or permit to be imposed on airlines of the other State just and reasonable charges for the use of public airports and other facilities on its territory provided that these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services;

(2) Fuel and oil, aircraft stores, spare parts and equipment introduced into the territory of one State by the other State or by nationals of the other State, and intended solely for use by aircraft of such other State shall be accorded national and most-favoured-nation treatment with respect to the imposition of customs and excise duties and taxes, inspection fees or other national duties or charges by the State whose territory is entered;

(3) The fuel and oil, aircraft stores, spare parts and equipment retained on board civil aircraft of the airlines authorized to operate the routes and services described in the Annex, shall, upon arrival in or leaving the territory of the other State, be exempt from the imposition of customs and excise duties and taxes, inspection fees or other national duties or charges even though such supplies be used or consumed by such aircraft on flights in that territory;

(4) Neither of them will give a preference to its own airlines against the airlines of the other State in the application of its customs, immigration, quarantine and similar regulations or in the use of airports, airways or other facilities.

Article 5

Notwithstanding the other provisions of this Agreement, if either contracting party is not satisfied that substantial ownership and effective control of a designated airline are vested in nationals of the other contracting party, such contracting party may withhold or revoke the rights conferred under this Agreement for such airline to operate the agreed services.

Article 6

Each contracting party reserves the right to withhold or revoke rights conferred under this Agreement for the operation of the agreed services by any designated airline of the other contracting party in case of failure by such airline to comply with the laws and regulations of the first contracting party or otherwise to fulfil the

conditions under which the rights are granted in accordance with this Agreement.

Article 7

If either of the contracting parties considers it desirable to modify any provision of this Agreement or its Annex, it shall notify the other contracting party of the desired modification and such modification may be made by direct agreement between the competent aeronautical authorities of both contracting parties to be confirmed by exchange of notes between the contracting parties.

Article 8

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

b) In the event of the contracting parties failing to reach a settlement by negotiation:--

- (1) 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
- (2) if they do not so agree or if having agreed to refer the dispute to an Arbitral Tribunal, they cannot reach an agreement as to its composition, either contracting party may submit the dispute for a 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.

c) The contracting parties undertake to comply with any decision given under paragraph b) above.

Article 9

In the event of the conclusion of any general multilateral convention concerning air transport to which both contracting parties adhere, this Agreement shall be amended so as to conform with the provisions of such convention.

Article 10

Either contracting party may at any time give notice to the other if it desires to terminate this Agreement. Such notice shall be simultaneously communicated to the International Civil Aviation Organization. If such notice is given, the Agreement will 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 11

This Agreement and all contracts connected therewith shall be registered by the Government of Canada with the International Civil Aviation Organization.

Article 12

This Agreement shall come into force on the date of signature.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

SIGNED in duplicate at Ottawa this 13th day of December, 1949.

For the Government of Denmark:
(Signed) G. HOLLER

For the Government of Canada:
(Signed) LIONEL CHEVRIER

ANNEX

TO THE AIR AGREEMENT BETWEEN DENMARK AND CANADA

1. The designated airline of the Government of Canada is granted the privileges to fly across the territory of Denmark without landing, to land in Denmark for non-traffic purposes, and to put down and take on passengers, mail and cargo from and for Canada in the territory of Denmark in Europe.
2. The route to be operated by the designated airline of Canada shall be Canada via intermediate points to Copenhagen and to points in countries beyond in both directions.
3. The designated airline of the Government of Denmark is granted the privileges to fly across the territory of Canada without landing, to land in Canada for non-traffic purposes, and to put down and take on passengers, mail and cargo from and for Denmark in Canada.
4. The route to be operated by the designated airline of Denmark shall be Denmark via intermediate points to Gander and to points in countries beyond in both directions.
5. Either contracting party may permit its designated airlines reasonable discretion as regards the amount of capacity to be offered on the initiation of an international air service and for a reasonable period thereafter.
6. Tariffs to be charged by the designated airlines shall be agreed in the first instance between them having due regard to the rates fixed by any tariff Conference of airlines operating in the area. Any tariff so agreed will be subject to the approval of the competent aeronautical authorities of the contracting parties. In the event of disagreement between the designated airlines, the competent aeronautical authorities of the contracting

parties shall endeavour to reach an agreement. Should the competent aeronautical authorities, or, subsequently, the contracting parties themselves, fail to agree, the matter in dispute will be referred to arbitration as provided for in Article 8 of this Agreement.

EXCHANGE OF NOTES

I

ROYAL DANISH LEGATION

Ottawa, December 13th, 1949

Sir,

With reference to the Agreement between Denmark and Canada for Air Services between the two countries of December 13, 1949, Article 2, I have the honour to inform you that Det Danske Luftfartselskab A/S as a partner in the Scandinavian Airlines System has been designated by the Danish Government to exercise the rights granted under this Agreement. As the Canadian Government is aware, The Scandinavian Airlines System is an organization operated jointly by Det Danske Luftfartselskab A/S, Det Norske Luftfartselskap A/S and Svensk Interkontinental Lufttrafik A.B. in accordance with Articles 77–79 of the Convention on International Civil Aviation signed at Chicago on December 7, 1944.

It is understood that the jointly-operated organization will be recognized by the Canadian Government and that appropriate authority will be granted for the operation of the Services in accordance with the Agreement.

It is further understood that you will accept Norwegian and Swedish participation in the Scandinavian Airlines System as equivalent to the Danish participation for the purpose of meeting the requirements of national ownership and effective control of the designated airline under Article 5 of the Agreement.

I avail myself of this opportunity of renewing to you, Sir, the assurances of my highest consideration.

(Signed) G. HOLLER

The Honourable
The Secretary of State for External Affairs
Department of External Affairs Ottawa

II

DEPARTMENT OF EXTERNAL AFFAIRS
CANADA

Ottawa, December 13, 1949

Excellency,

I have the honour to refer to your Note of December 13th, 1949, in which you state that Det Danske Luftfartsselskab A/S, a partner in the Scandinavian Airlines System, has been designated by the Danish Government to exercise the rights granted under the Air Transport Agreement between Canada and Denmark of December 13th, 1949.

In this connection I would inform you that the Canadian Government is willing to recognize the jointly-operated organization referred to in your Note for the operation of the services provided for in the Agreement.

I would further advise you that the Canadian Government is prepared to accept the present Norwegian and Swedish participation in the Scandinavian Airlines System as equivalent to Danish participation for the purpose of meeting the requirements of national ownership and effective control of the designated airline under Article 5 of the Agreement.

Accept, Excellency, the renewed assurances of my highest consideration.

(Signed) L. B. PEARSON
Secretary of State for External Affairs

His Excellency G. B. Holler
Minister of Denmark
107 Sparks Street
Ottawa