

No. 2294

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

**Agreement (with annex, protocol and exchange of notes) for  
air services between and beyond their respective terri-  
tories. Signed at Havana, on 19 March 1948**

*Official texts: English and Spanish.*

*Registered by the United Kingdom of Great Britain and Northern Ireland on 13  
October 1953.*

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

**Accord (avec annexe, protocole et échange de notes) relatif  
aux services aériens entre leurs territoires respectifs et  
au-delà. Signé à La Havane, le 19 mars 1948**

*Textes officiels anglais et espagnol.*

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 13  
octobre 1953.*

No. 2294. AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE GOVERNMENT OF THE REPUBLIC OF CUBA FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES. SIGNED AT HAVANA, ON 19 MARCH 1948

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The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Cuba, desiring to conclude an Agreement for the purpose of establishing air services as soon as possible between and beyond United Kingdom and Cuban territories, have accordingly appointed the undersigned plenipotentiaries for this purpose, who, being duly authorised to that effect by their respective Governments, have agreed as follows :—

*Article 1*

Each Contracting Party grants to the other the rights specified in the Annex to this Agreement for the purpose of the establishment of the air services therein described (hereinafter referred to as the “agreed services”).

*Article 2*

(1) The agreed services may be inaugurated immediately or at a later date at the option of the Contracting Party to whom the rights are granted but not before

- (a) the Contracting Party to whom the rights have been granted has designated an airline or airlines for the specified route or routes, and
- (b) the Contracting Party granting the rights has given the appropriate operating permission to the airline or airlines concerned (which, subject to the provision of paragraph (2) of this Article and of Article 6, it shall do without delay).

(2) Every designated airline may be required to satisfy the aeronautical authorities of the Contracting Party granting the rights that it is qualified to fulfil the conditions prescribed under the laws and regulations normally applied by these authorities to the operations of commercial airlines.

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<sup>1</sup> Came into force on 28 May 1953 by the exchange of the instruments of ratification at Havana, in accordance with article 13a.

*Article 3*

(1) The charges which either of the Contracting Parties may impose, or permit to be imposed, on the designated airline or airlines of the other Contracting Party for the use of airports and other facilities shall not be higher than would be paid for the use of such airports and facilities by its national airlines engaged in similar international services.

(2) Fuel, lubricating oil and spare parts introduced into or taken on board aircraft in the territory of one Contracting Party by, or on behalf of, the other Contracting Party or its designated airlines and intended solely for use by the aircraft of the other Contracting Party shall be accorded, with respect to customs duties, inspection fees or other charges imposed by the former Contracting Party, treatment not less favourable than that granted to national airlines engaged in international air transport or the airline of the most favoured nation.

(3) Aircraft of the one Contracting Party operated on the agreed services and supplies of fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board such aircraft shall be exempt in the territory of the other Contracting Party from customs duties, inspection fees or similar duties or charges, even though such supplies be used by such aircraft on flights in that territory.

*Article 4*

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party and still in force shall be recognised as valid by the other Contracting Party for the purpose of operating the agreed services. Each Contracting Party reserves the right, however, to refuse to recognise, for the purpose of flight above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party or any other State.

*Article 5*

(1) The laws and regulations of one Contracting Party relating to entry into or departure from its territory of aircraft engaged in international air navigation or to the operation and navigation of such aircraft while within its territory shall apply to aircraft of the designated airline or airlines of the other Contracting Party.

(2) The laws and regulations of one Contracting Party relating to the entry into or departure from its territory of passengers, crews, or cargo of aircraft (such as regulations relating to entry, clearance, immigration, passports, customs and quarantine) shall be applicable to the passengers, crew or cargo of the aircraft

of the designated airline or airlines of the other Contracting Party, while in the territory of the first Contracting Party.

*Article 6*

Each Contracting Party reserves the right to withhold or revoke, after consultation with the other Contracting Party, the exercise of the rights specified in the Annex to this Agreement by an airline designated by the other Contracting Party in any case in which it is not satisfied that substantial ownership and effective control of such airline are vested in nationals of the Contracting Party designating the airline, or in case of failure by that airline to comply with the laws and regulations referred to in Article 5 hereof or otherwise to fulfil the conditions under which the rights are granted in accordance with this Agreement and its Annex.

*Article 7*

This Agreement shall be registered with the Council of the International Civil Aviation Organisation set up by the Convention on International Civil Aviation opened for signature at Chicago on 7th December, 1944,<sup>1</sup> in accordance with Article 83 of the said Convention.

*Article 8*

If either of the Contracting Parties considers it desirable to modify the terms of the Annex to this Agreement, it may request consultation between the aeronautical authorities of the two Contracting Parties, such consultation to begin within a period of 60 days from date of the request. When these authorities agree to modifications to the Annex, these modifications will come into effect when they have been confirmed by an Exchange of Notes through the diplomatic channel.

*Article 9*

Any dispute between the Contracting Parties relating to the interpretation or application of this Agreement or of its Annex shall be referred for an advisory report to the Council of the International Civil Aviation Organisation, unless the Contracting Parties agree to settle the dispute by reference to an Arbitral Tribunal appointed by agreement between the Contracting Parties, or to some other person or body. The Contracting Parties will use their best efforts under the powers available to them to give effect to the opinion expressed in any such report.

<sup>1</sup> United Nations, *Treaty Series*, Vol. 15, p. 295; Vol. 26, p. 420; Vol. 32, p. 402; Vol. 33, p. 352; Vol. 44, p. 346; Vol. 51, p. 336, and Vol. 139, p. 469.

*Article 10*

If a general Multilateral Air Convention which is accepted by both Contracting Parties comes into force, this Agreement shall be amended so as to conform with the provisions of such Convention.

*Article 11*

For the purposes of this Agreement and its Annex, unless the context otherwise requires—

- (a) The term “aeronautical authorities” shall mean, in the case of the United Kingdom, the Minister of Civil Aviation for the time being, and any person or body authorised to perform any functions presently exercised by the said Minister or similar functions, and, in the case of the Republic of Cuba, the National Transportation Commission and any person or body authorised to perform the functions presently exercised by the said Commission or similar functions.
- (b) The term “designated airlines” shall mean the air transport enterprises which the aeronautical authorities of one of the Contracting Parties have notified in writing to the aeronautical authorities of the other Contracting Party as the airlines designated by it in accordance with Article 2 of this Agreement for the routes specified in such notification.
- (c) The term “territory” shall have the meaning assigned to it by Article 2 of the Convention on International Civil Aviation opened for signature at Chicago on 7th December, 1944.
- (d) The definitions contained in paragraphs (a), (b) and (d) of Article 96 of the Convention on International Civil Aviation opened for signature at Chicago on 7th December, 1944, shall apply.

*Article 12*

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 Council of the International Civil Aviation Organisation. If such notice is given this Agreement shall terminate 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 acknowledgment of receipt by the other Contracting Party notice shall be deemed to have been received fourteen days after the receipt of the notice by the Council of the International Civil Aviation Organisation.

*Article 13*

- (a) This Agreement shall be ratified and instruments of ratification shall be deposited at Havana as soon as possible. The Agreement shall come into force immediately on deposit of both instruments of ratification.
- (b) Pending the deposit of ratifications and the definitive entry into force of this Agreement, the Contracting Parties undertake, so far as their constitutional powers permit, to give effect to its provisions from the date of signature.

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Agreement and have affixed thereto their seals.

DONE this nineteenth day of March, nineteen hundred and forty-eight, in duplicate, at Havana, in the English and Spanish languages, both texts being equally authentic.

[L.S.]	JAMES LEISHMAN DODDS
[L.S.]	R. P. WILLOCK
[L.S.]	R. P. MUÑOZ
[L.S.]	A. CRUZ CASO

## ANNEX

For the purposes of operating air services on the routes specified in the Schedules to this Annex, the designated airlines of one of the Contracting Parties shall be accorded in the territory of the other Contracting Party the use on the said routes of airports designated for international air services (together with ancillary facilities) and rights of transit, of stops for non-traffic purposes and of commercial entry and departure for international traffic in passengers, cargo and mail subject to the observance of the following principles : —

- (a) The capacity provided shall be maintained in close relationship with the traffic offering.
- (b) There shall be a fair and equal opportunity for the airlines of the two Contracting Parties to operate on the routes specified in the Schedules.
- (c) The services provided under the Agreement and its Annex by a designated airline shall retain as their primary objective the provision of capacity adequate to the traffic demands between the country by which such airline has been designated and the country of ultimate destination of the traffic.
- (d) The right to embark or disembark international traffic destined for and coming from third countries at a point or points on the routes specified in the Schedules to this Annex shall be applied in accordance with the general principles of orderly

development to which both Governments subscribe and shall be subject to the principle that capacity should be related—

- (i) to traffic requirements between the country of origin and the countries of destination ;
  - (ii) to the requirements of through airline operation ; and
  - (iii) to the traffic requirements of the area through which the airline passes after taking account of local regional services.
- (e) The aeronautical authorities of the Contracting Parties will consult together periodically, and at any other time at the request of either of them, to determine whether the principles set forth in this Annex are being complied with by the airlines designated by the Contracting Parties. To this end the aeronautical authorities of each Contracting Party shall supply to the aeronautical authorities of the other Contracting Party at their request—
- (i) such traffic statistics as may be appropriate for the purpose of reviewing the frequency and capacity of the agreed services ; and
  - (ii) such periodic statements as may be reasonably required, relating to the traffic carried by its designated airlines on services to, from or through the territories of that other Contracting Party, including information concerning the origin and destination of such traffic.
- (f) The expression “change of gauge” shall mean the operation of one of the agreed services by a designated airline in such a way that the section of the route nearer the terminal in the territory of the Contracting Party designating the airline is flown by aircraft different in capacity from those used on the more distant section. A designated airline of one Contracting Party may only make a change of gauge at a point in the territory of the other Contracting Party on the following conditions :—
- (i) that it is justified by reason of economy of operation ;
  - (ii) that the aircraft used on the section more distant from the terminal in the territory of the former Contracting Party are smaller in capacity than those used on the nearer section ;
  - (iii) that the aircraft of smaller capacity shall operate only in connexion 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 paragraphs (a), (b), (c) and (d) above shall govern all arrangements made with regard to change of gauge.
- (g) Tariffs to be charged for the carriage of passengers and freight by the airlines referred to in this Annex shall be agreed in the first instance between them in consultation with other airlines operating on the same routes or any section thereof. Such agreement shall, where possible, be reached through the rate-fixing machinery of the International Air Transport Association. Any tariffs so agreed shall be subject to the approval of the Contracting Parties. In the

event of disagreement between the airlines the Contracting Parties themselves shall endeavour to reach agreement. If the Contracting Parties should fail to agree, the matter in dispute shall be referred to arbitration as provided for in Article 9 of this Agreement.

- (h) The tariffs to be agreed in accordance with (g) above shall be fixed at reasonable levels, due regard being paid to all relevant factors, including economical operation, reasonable profit, differences of characteristics of service (including standards of speed and accommodation) and the tariffs charged by any other air carriers on the route.

#### SCHEDULE I

##### ROUTES TO BE OPERATED BY THE AIRLINE OR AIRLINES DESIGNATED BY THE AUTHORITIES OF THE UNITED KINGDOM

1. From London via Lisbon and/or the Azores, Bermuda, Nassau to Havana and thence to Belize and/or Mexico City ; in both directions.
2. From Nassau to Havana and thence to Belize ; in both directions.
3. Any two of the following routes, at the option of the Aeronautical Authorities of the United Kingdom :—
  - (a) From Trinidad (via Carácás, Curaçao, Barranquilla and Jamaica) or from Jamaica, to Camaguey and thence to Miami ; in both directions.
  - (b) From Trinidad (via Carácás, Curaçao, Barranquilla and Jamaica) or from Jamaica, to Havana and thence to New Orleans ; in both directions.
  - (c) From Trinidad (via Carácás, Curaçao, Barranquilla and Jamaica) or from Jamaica, to Havana and thence to Houston ; in both directions.
  - (d) From Trinidad (via Carácás, Curaçao, Barranquilla and Jamaica) or from Jamaica, to Havana and thence to Brownsville; in both directions.

#### SCHEDULE II

##### ROUTES TO BE OPERATED BY THE AIRLINE OR AIRLINES DESIGNATED BY THE AUTHORITIES OF THE REPUBLIC OF CUBA

1. From Havana via Nassau, Bermuda, the Azores, Lisbon to London, and thence to such point or points beyond in Europe as may be subsequently agreed but which shall be on a reasonably direct route between point of first arrival in Europe and ultimate destination ; in both directions.
2. From Havana via Nassau, Bermuda, the Azores, Lisbon to Madrid, and thence to a point or points beyond in Europe (excluding London) ; in both directions.
3. From a point or points in Cuba to Jamaica and/or via intermediate points to Trinidad and beyond ; in both directions.
4. From a point in Cuba to Belize and beyond ; in both directions.
5. From Havana to Nassau ; in both directions.



## P R O T O C O L

At the time of signing the Civil Air Transport Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Cuba, the undersigned, being duly authorised thereto, have agreed as follows:—

1. The Government of the United Kingdom understand that at present certain airports in Cuba are owned and controlled by certain airlines, which therefore pay no charges for the use of those airports and their facilities. Accordingly, the Government of the United Kingdom agree that, whenever their designated airline or airlines use such privately owned airports or facilities, the provisions of paragraph 1 of Article 3 of the Agreement shall not apply, provided that—

- (a) in no circumstances shall the designated airline or airlines of the United Kingdom be called upon to pay charges higher than those imposed upon any third airline for similar use of such airports or facilities ; and
- (b) whenever the Cuban Government assumes ownership or control of the aforesaid airports, the provisions of paragraph 1 of Article 3 of the Agreement shall at once apply.

2. The Government of the United Kingdom further understand that, in cases where the Cuban Government enter into a mail contract with a national or foreign airline, they grant, under Decree Law No. 249, and dated 18th September, 1935, certain exemptions from customs duties to such airline. Accordingly, the Government of the United Kingdom, in applying paragraph 2 of Article 3 of the Agreement, will not take into account such customs privileges accorded to any airline which has, or may enter into, a mail contract with the Cuban Government, provided that—

- (a) these customs privileges form part of the consideration for the carriage of mails under the contract ; and
- (b) there will be no discrimination in respect of these customs privileges against an airline designated by the authorities of the United Kingdom.

3. In connexion with Article 6 of the Agreement—

- (a) It is not the intention of the Government of the United Kingdom to withhold or revoke operating permission in respect of an airline designated by the Government of Cuba and operated *bona fide* in the development of the interests of Cuban civil aviation, merely on the ground that substantial ownership and effective control of the designated airline are not for the time being vested in Cuban nationals.
- (b) It is the intention of the Cuban Government, for their part, that effective ownership and control of any airline designated by them shall be progressively vested in the Government of Cuba or Cuban nationals in as short a time as possible.

4. The Government of the United Kingdom and the Cuban Government place on record that they consider that the procedure for constituting the Arbitral Tribunal which may be appointed by the Contracting Parties under Article 9 of the Agreement should be as follows :—

- (a) The Tribunal will consist of three arbitrators, of whom one will be nominated by each of the Contracting Parties and the third will be appointed by agreement by the two arbitrators thus nominated, it being understood that such third arbitrator shall not be a national of either of the Contracting Parties.
- (b) Upon receipt by one Contracting Party of a diplomatic note from the other requesting arbitration on any dispute, each Contracting Party will, within two months, nominate its arbitrator. The third arbitrator will be appointed within a further period of one month.
- (c) If agreement on the appointment of the third arbitrator cannot be reached within the period specified, the President of the Council of the International Civil Aviation Organisation shall be requested to designate a third arbitrator. In the event of the International Civil Aviation Organisation maintaining a list of persons available to act as arbitrators, the President of the Council of that organisation shall be requested to nominate the third arbitrator from such list.

IN WITNESS WHEREOF the undersigned plenipotentiaries have drawn up this Protocol, which shall have the same force and the same validity as if the provisions thereof had been inserted in the text of the Agreement to which it belongs.

DONE this nineteenth day of March, nineteen hundred and forty-eight, in duplicate at Havana, in the English and Spanish languages, both texts being equally authentic.

For the United Kingdom of Great  
Britain and Northern Ireland :

James LEISHMAN DODDS  
His Britannic Majesty's Minister

R. P. WILLOCK  
Air Vice-Marshal (Retired)

## EXCHANGE OF NOTES

## I

*Her Majesty's Ambassador at Havana to the Cuban Minister of State*

BRITISH EMBASSY

Havana, May 28, 1953

Your Excellency,

I have the honour to refer to the Agreement between the Government of the United Kingdom and the Government of Cuba for the establishment of air services between and beyond their respective territories which was signed at Havana on March 19, 1948, and to propose to your Excellency, on behalf of my Government, that the word "deposited" in Article 13 (a) of the Agreement should be interpreted as "exchanged," because this will be in conformity with other air agreements signed by both the United Kingdom and Cuba and also in accordance with established international law and practice.

Likewise, in order to correct a discrepancy between the English and Spanish texts of paragraph 3 of Schedule I to the Annex to the Agreement, my Government suggest that the beginning of paragraph 3 of Schedule I, the present Spanish text of which is :

"3. Cualquiera de las dos rutas..."

should be replaced, in order to translate correctly the English text, by the following :

"3. Cualesquiera dos de las siguientes rutas..."

If your Excellency's Government are agreeable to the above proposals, I have the honour to suggest that the present Note and your reply to that effect shall be regarded by our two Governments as integral parts of the Agreement.

I avail, &c.

Adrian HOLMAN

## II

*The Cuban Minister of State to Her Majesty's Ambassador at Havana*

[SPANISH TEXT — TEXTE ESPAGNOL]

[TRANSLATION<sup>1</sup> — TRADUCTION<sup>2</sup>]

MINISTERIO DE ESTADO

MINISTRY OF STATE

La Habana, 28 de mayo de 1953

Havana, 28th May, 1953

Señor Embajador :

Mr. Ambassador,

Tengo la honra de acusar recibo a vuestra Excelencia de la Nota de esta

I have the honour to acknowledge your Excellency's Note of to-day's date

<sup>1</sup> Translation by the Government of the United Kingdom.

<sup>2</sup> Traduction du Gouvernement du Royaume-Uni.

fecha, mediante la cual se propone a mi Gobierno por el de Su Majestad Británica, que el Artículo 13, inciso (a), del Acuerdo firmado entre el Gobierno del Reino Unido y el de Cuba para servicios aéreos entre sus respectivos territorios y más allá de los mismos, se interprete en el sentido de que la palabra “depositado” se entienda como “canjeado,” no sólo porque en los otros convenios aéreos firmados así se dice, sino porque de acuerdo con las prácticas tradicionales del Derecho Internacional es la costumbre.

Asimismo, a fin de obviar la discrepancia entre el texto inglés y español del párrafo tercero, de la Lista I del Anexo al Convenio, el Gobierno de Su Majestad Británica propone al de Cuba que el texto en español sea el siguiente :

“cualesquiera dos de las siguientes rutas...”,

en lugar del actual texto español que es :

“cualquiera de las dos rutas...”.

Me es muy grato expresar a Vuestra Excelencia que mi Gobierno está conforme con las anteriores sugerencias y en estimar vuestra Nota y la presente contestación como partes integrantes del Acuerdo.

Aprovecho, etc.

Miguel Angel CAMPA

in which Her Britannic Majesty's Government propose to my Government that the word “deposited” in Article 13 (a) of the Agreement between the Government of the United Kingdom and the Government of Cuba for the establishment of air services between and beyond their respective territories, which was signed at Havana on March 19, 1948, should be interpreted as “exchanged,” because this will be in conformity with other air agreements signed by both Cuba and the United Kingdom and also in accordance with established international law and practice.

Likewise, in order to correct the discrepancy between the English and Spanish texts of the third paragraph of Schedule I to the Annex to the Agreement, Her Britannic Majesty's Government propose to the Government of Cuba that the text in Spanish should be as follows :

“cualesquiera dos de las siguientes rutas...”,

instead of the present Spanish text, which is :

“cualquiera de las dos rutas...”.

I am happy to inform your Excellency that my Government is agreeable to the foregoing suggestions and to regarding your Note and the present reply as integral parts of the Agreement.

I avail, &c.

Miguel Angel CAMPA