

No. 13226

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
(BERMUDA)**

and

UNITED STATES OF AMERICA

Agreement on preclearance (with annex). Signed at Hamilton, Bermuda, on 15 January 1974

Authentic text: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 11 April 1974.

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
(BERMUDES)**

et

ÉTATS-UNIS D'AMÉRIQUE

Accord relatif au contrôle préalable (avec annexe). Signé à Hamilton (Bermudes) le 15 janvier 1974

Texte authentique : anglais.

Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 11 avril 1974.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF BERMUDA ON PRECLEARANCE

The Government of the United States of America and the Government of Bermuda;

Considering that preclearance, the procedure of conducting in Bermuda inspection by United States inspection agencies required for entry into the United States of passengers destined nonstop to the United States on flights of aircraft, facilitates travel between the two countries; and

Considering that the laws of the two countries in respect to merchandise or articles the entry of which is prohibited are sufficiently similar to enable U.S. inspection agencies to carry out their missions, subject to provision of facilities adequate to enable them to use their manpower efficiently and to insure proper security safeguards for passengers, aircraft, crew, baggage and aircraft stores entering the United States;

Agree as follows:

Article I. The Government of Bermuda shall:

(a) Permit United States inspectors to carry out preclearance of passengers, aircraft, crew, baggage and aircraft stores destined nonstop to the United States.

(b) Provide the following facilities as set forth in the annex to this Agreement in accordance with the indicated time schedule:

- (i) by August 1, 1974 the interim facility; and
- (ii) by February 28, 1977 the permanent facility.

(c) Permit the installation and operation of such communications and other modern inspection aids as required by the United States inspection agencies.

(d) Furnish appropriate law enforcement assistance to the United States inspectors, including, upon request of a United States inspector, search by a Bermudian law enforcement officer in the presence of a United States inspection officer of any person subject to preclearance in accordance with this Agreement to determine if such person is seeking to carry into the United States:

- (i) anything the possession of which is prohibited under the law of Bermuda; or
- (ii) documents relevant to his immigration status which are fraudulent or misused.

Further, the Bermudian law enforcement official, if so requested by a United States inspector, shall prevent such person from boarding an aircraft destined for the United States. If it appears that there is at the airport an accomplice who is assisting such a person, and that he may have in his possession something falling in the categories described in (i) or (ii) above, such accomplice shall also be subject to search if such search is requested by the United States inspector.

¹ Came into force on 15 January 1974 by signature, in accordance with article VI.

- (e) Upon the request of a United States inspection agency:
- (i) seize and confiscate articles or merchandise if such articles or merchandise are falsely declared or not declared at the time of preclearance and if the possession or exportation of such articles or merchandise is prohibited under the laws of Bermuda; or
 - (ii) if possession or exportation of such articles or merchandise falsely declared or not declared is not prohibited under the laws of Bermuda, submit to prosecution within its Constitutional authority the alleged offender for knowingly making a false declaration.
- (f) In coordination and cooperation with the United States Government, seek to add to the articles prohibited for possession or exportation as may be deemed necessary and, if required by the exigencies of the then applicable situation, seek such other legal sanctions as may be deemed desirable.
- (g) Grant to all United States citizen employees of the Government of the United States of America assigned to duties in Bermuda in connection with the Agreement, and their families, the same privileges and immunities as are accorded to administrative and technical personnel of a diplomatic mission or the families of such personnel, respectively, under the Vienna Convention on Diplomatic Relations of 1961,¹ as given effect in the Consular Relations Act, 1971, of the Government of Bermuda.
- (h) Permit the United States inspection agencies to determine procedures for carrying out inspections and utilization of their manpower.

Article II. The Government of the United States of America shall:

(a) Provide sufficient inspectors to carry out preclearance of all passengers, crew, baggage and aircraft stores on flights of aircraft (scheduled or charter) in air transportation as defined in the United States Federal Aviation Act of 1958, as amended, destined nonstop to the United States with reasonable speed and efficiency and with care to avoid undue inconvenience to travelers from Bermuda to the United States.

(b) Conduct preclearance under this procedure unless the officers in charge of the United States federal inspection agencies after consultation with the Bermudian authorities and the air carriers concerned, determine that adequate manpower is not available or that the accumulation of passengers will overtax the facilities. It is anticipated that the facilities will accommodate up to 700 passengers per hour under normal circumstances. If, after such consultation, it is necessary for United States inspection agencies to require post-clearance on arrival in the United States instead of, or in addition to, preclearance in Bermuda, the United States inspection agencies will select flights for such post-clearance on a reasonable and non-discriminatory basis.

Article III. It is understood that the United States may extend the application of any of its customs, immigration, agriculture and public health laws and regulations to aircraft, passengers, aircraft crew, baggage, cargo and aircraft stores in Bermuda which are subject to preclearance, for the purpose of establishing and enforcing penalties for violations of these laws and regulations upon arrival in the United States.

Article IV. Any person wishing to defer United States Customs inspection until his arrival in the United States may do so either (a) by traveling on any post

¹ United Nations, *Treaty Series*, vol. 500, p. 95.

cleared flight or (b) by sending his luggage as unaccompanied baggage to any port of entry in the United States where there are full customs facilities, and submitting his person and carried on items to preclearance procedures.

Article V. Either Government may at any time request consultations concerning the interpretation, application or amendment of this Agreement, including the Facilities Annex attached thereto. Such consultations shall begin within 60 days from the date the other Government receives the request.

Article VI. This Agreement shall enter into force upon signature. It shall remain in force for eight years and shall continue in force thereafter until terminated as provided herein. Either party may, by giving one year's written notice, terminate this Agreement at the end of the initial eight year period or at any time thereafter.

DONE in duplicate at Hamilton, Bermuda, this 15th day of January 1974.

[Signed]

DONALD B. McCUE
United States Consul General
for the Government
of the United States of America

[Signé]

F. J. BARRITT
Minister for Marine
and Air Services
For the Government of Bermuda

FACILITIES ANNEX TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF BERMUDA ON PRE-CLEARANCE

I. Interim facilities shall include the installation of "H" system inspection counters in accordance with U.S. Customs standards and additional facilities as described in III below.

II. Permanent facilities shall include sterility of passengers and baggage from initial inspection through boarding of aircraft with additional facilities as described in III below.

III. The following additional facilities will be provided:

- (a) Provide for such passenger comforts as a central climatic control device that includes air conditioning.
- (b) Provide suitable seating accommodations in the sterile hold area that will be conducive to passenger comforts.
- (c) Provide for adequate janitorial services in the pre-clearance area, as well as perform any necessary repairs or maintenance.
- (d) Construct two search rooms that provide approximately 80 square feet per room.
- (e) Construct a cashier's booth of sufficient size to accommodate two teller/cashiers, if requested.
- (f) Provide hooded baggage conveyor systems that will insure adequate security as directed by the United States Secretary of the Treasury for the transport of the pre-cleared baggage to a segregated baggage make-up area.
- (g) Provide baggage make-up areas that will be secured by mutually acceptable fences. The gates used to secure these enclosures shall be equipped with adequate locking mechanisms.
- (h) Provide office space to house adequately the Customs Officer-in-Charge, a Supervisor of Customs, a Supervisor of Immigration and Agriculture Officer as well as interview rooms

and clerical support staff; and toilet facilities in the sterile area, which shall be constructed in such a manner as to preclude contact with non-precleared passengers and the general public.

- (i) Provide that precleared air passengers are not allowed to commingle with other arriving or departing passengers.
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