

NONSCHEDULED AIR SERVICE AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF CANADA

The Government of the United States of America 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

Desiring to conclude an Agreement for the purpose of promoting nonscheduled air services,

Recognizing that the geographic situation of the two countries, including the location of their main centers of population, and the close relationship between their two peoples create a situation unique in international civil aviation,

Desiring to ensure the continued development of a system of air transport free from discriminatory practices, based on an equitable exchange of economic benefits to the two countries, and able to accommodate the needs of the people of the two countries with a minimum of artificial restraint arising from the existence of their common border,

Desiring to ensure equitable opportunity for the air carriers of the two countries to participate in the development of this system and to make optimum use of modern equipment,

Recognizing the existence, continuing importance, and contribution to international aviation of the Air Transport Agreement³ for vital scheduled services, and of the Agreement on air transport preclearance⁴ of air travellers,

Believing furthermore that the Air Transport Agreement for scheduled air services between their territories and the Agreement on Air Transport Preclearance of air travellers should be complemented by an agreement covering nonscheduled air services between their territories, and

Desiring to ensure the orderly development of such nonscheduled air services consistent with their interests in maintaining a sound system of scheduled air services between their respective territories,

Have agreed as follows:

Article I. For the purpose of this Agreement:

(a) "Agreement" shall mean this Agreement, the annexes attached thereto, and any amendments thereto.

(b) "Aeronautical authorities" shall mean, in the case of the United States of America, the Federal Aviation Administration with respect to the technical permission and safety standards and requirements referred to in articles III and VI (2) respectively, otherwise the Civil Aeronautics Board, and in the case of

¹ Came into force on 8 May 1974 by signature, in accordance with article XVIII.

² United Nations, *Treaty Series*, vol. 15, p. 295. For the texts of the Protocols amending this Convention, see vol. 320, pp. 209 and 217; vol. 418, p. 161; vol. 514, p. 209; vol. 740, p. 21; and vol. 893, p. 117.

³ *Ibid.*, vol. 586, p. 151.

⁴ See p. 255 of this volume.

Canada, the Canadian Air Transportation Administration with respect to the technical permission and safety standards and requirements referred to in articles III and VI (2) respectively, otherwise the Canadian Transport Commission, or in both cases, any person or agency authorized to perform the functions exercised at present by those authorities.

(c) “Carrier” or “carriers” shall mean an air carrier or carriers designated by one Contracting Party in writing to the other Contracting Party to be a carrier which will operate any of the nonscheduled air services provided for in this Agreement.

(d) “Territory” in relation to a Contracting Party shall mean the land areas under the sovereignty, jurisdiction or trusteeship of the Contracting Party, and territorial waters adjacent thereto.

(e) “Traffic” shall mean such traffic as is specifically provided for in the annexes attached hereto.

(f) “Nonscheduled air service” shall mean such air service as is specifically provided for in the annexes attached hereto.

(g) “Enplane” shall mean the first taking on board of nonscheduled air service traffic on an aircraft of a carrier.

(h) “Deplane” shall mean any deboarding of nonscheduled air service traffic from an aircraft of a carrier but shall not include deboarding for nontraffic purposes.

(i) “Re-enplane” shall mean any taking on board on an aircraft of a carrier of nonscheduled air service traffic which has enplaned and deplaned.

(j) “Air Transport Agreement” shall mean the Air Transport Agreement between the Government of the United States of America and the Government of Canada signed on January 17, 1966, as amended,¹ or any agreement which may supersede it.

(k) “Rates” shall be deemed to include all tariffs, tolls, fares, and charges for transportation, and the conditions of carriage, classifications, rules, regulations, practices, and services related thereto.

Article II. 1. Each Contracting Party grants to the other Contracting Party the rights specified in the annexes attached hereto for the carriers of the other Contracting Party to enplane, deplane, and re-enplane nonscheduled air service traffic.

2. Nothing herein is intended to affect services not covered by this Agreement.

Article III. 1. Each Contracting Party shall have the right to designate, by diplomatic note to the other Contracting Party, a carrier or carriers to operate any of the nonscheduled air services provided in this Agreement.

2. Upon receipt of a designation made by one Contracting Party, and upon receipt from the carrier of an application or applications in the form and manner prescribed for such applications, the aeronautical authorities of the other Contracting Party shall grant to the carrier, subject to the provisions of articles IV and VI, and with a minimum of procedural delay, appropriate licensing

¹ United Nations, *Treaty Series*, vol. 586, p. 151, and p. 346 of this volume.

such as requirements concerning tariffs, traffic data, manifests, and similar matters.

Article VIII. The volume of nonscheduled air service traffic between the territories of the two Contracting Parties enplaned by the carriers of one Contracting Party in the territory of the other Contracting Party shall be reasonably related to the volume of such traffic enplaned by carriers of the first Contracting Party in its own territory and deplaned or re-enplaned in the territory of the other Contracting Party, taking into account the nature of the respective markets. Provisions to implement this article shall be established in the annexes to this Agreement.

Article IX. 1. Nonscheduled air service traffic between the territories of the two Contracting Parties transported by the carriers of one Contracting Party shall not cause substantial impairment of the scheduled air services of the scheduled airlines of the other Contracting Party or of the nonscheduled air services of the carriers of the other Contracting Party.

2. Unless otherwise agreed, neither Contracting Party may impose: (a) any requirement that prior approval be obtained for any individual flight or series of flights by a carrier or carriers of the other Contracting Party which has qualified before the competent aeronautical authorities of the first Contracting Party; or (b) any restrictions on such carrier or carriers with respect to capacity, frequency or type of aircraft employed on nonscheduled air services provided for by this Agreement.

Article X. If, after review over a period of time, the laws or regulations of either Contracting Party or the operations by the carrier or carriers of one Contracting Party performed pursuant to this Agreement appear to the other Contracting Party to constitute substantial impairment of the scheduled or nonscheduled air services of the scheduled airlines or the carriers of the other Contracting Party, that other Contracting Party may request consultations in accordance with article XV.

Article XI. 1. The rates to be charged by the carriers of either Contracting Party for carriage to or from the territory of the other Contracting Party shall be reasonable, considering all relevant factors bearing upon the economic characteristics of prescribed nonscheduled air services provided for in this Agreement.

2. If the aeronautical authorities of one Contracting Party are dissatisfied with a proposed or existing rate of a carrier or carriers of the other Contracting Party, that other Contracting Party shall be so informed and the Contracting Parties shall exercise their best efforts to resolve the matter through prior consultations. Each Contracting Party shall retain the right to apply its laws and regulations with respect to such rates.

3. The aeronautical authorities of each Contracting Party shall exercise their best efforts to ensure that the rates charged and collected conform to the rates filed and in effect with each Contracting Party, and that no carrier rebates any portion of such rates by any means, directly or indirectly, including the payment of excessive sales commissions to agents.

Article XII. 1. Each Contracting Party shall exempt the carriers of the other Contracting Party to the fullest extent possible under its national law from

import restrictions, customs duties, excise taxes, inspection fees, and other national duties and charges on fuel, lubricants, consumable technical supplies, spare parts including engines, regular equipment, ground equipment, stores, and other items intended for use solely in connection with the operation, maintenance or servicing of aircraft of the carriers of the other Contracting Party. The exemptions granted by this paragraph shall apply to items:

- (a) introduced into the territory of one Contracting Party by or on behalf of the carriers of the other Contracting Party;
- (b) retained on board aircraft of the carriers of one Contracting Party upon arriving in or leaving the territory of the other Contracting Party;
- (c) taken on board aircraft of the carriers of one Contracting Party in the territory of the other Contracting Party and intended solely for use in international air services;

whether or not such items are consumed wholly within the territory of the Contracting Party granting the exemption.

2. The exemptions provided by this article shall also be available in situations where a carrier or carriers of one Contracting Party have entered into arrangements with one or more carriers or airlines to receive and use on loan or on transfer in the territory of the other Contracting Party the items specified in paragraph 1 above, provided that each such other carrier or airline is similarly entitled to such exemptions from the other Contracting Party.

Article XIII. 1. Each Contracting Party may impose or permit to be imposed just and reasonable charges for the use of public airports and other facilities under its control, provided that such charges shall not be higher than the charges imposed for the use of such airports and facilities by its national aircraft engaged in similar international services.

2. Neither Contracting Party shall give a preference to its own carriers over the carriers of the other Contracting Party in the application of its customs, immigration, quarantine, and similar regulations or in the use of airports, airways, and other facilities under its control.

Article XIV. Neither Contracting Party shall discriminate against a carrier or among carriers of the other Contracting Party providing the services covered by this Agreement.

Article XV. Either Contracting Party may at any time request consultations on the interpretation, application or amendment of this Agreement. Such consultations should commence as soon as practicable but not later than sixty days from the date of receipt of the request for consultations, unless otherwise agreed by the Contracting Parties.

Article XVI. 1. Any dispute with respect to matters covered by this Agreement not satisfactorily resolved through consultation shall, upon request of either Contracting Party, be submitted to arbitration in accordance with the procedures set forth herein.

2. Arbitration shall be by a tribunal of three arbitrators constituted as follows:

- (a) One arbitrator shall be named by each Contracting Party within two months of the date of delivery by either Contracting Party to the other of a request

ANNEX A

SPECIFIED RIGHTS

I. *Definitions*

For the purpose of providing the services covered by this Agreement and its annexes:

A. "Large aircraft" shall mean an aircraft having both:

- (1) a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds; and
- (2) a maximum authorized take-off weight on wheels greater than 35,000 pounds.

B. "Small aircraft" shall mean an aircraft which is not a "large aircraft" as defined above.

C. "Maximum passenger capacity" and "maximum payload capacity" shall have the meanings assigned to them in regulations of the Civil Aeronautics Board.

D. "Maximum authorized take-off weight on wheels" shall have the meaning assigned to it in regulations of the Canadian Transport Commission.

II. *United States of America*

Subject to the requirements of this and other annexes to the Agreement, a carrier or carriers of the United States of America, when providing the services prescribed in annex B to this Agreement for the movement of nonscheduled air service traffic between a point or points in the territory of one Contracting Party and a point or points in the territory of the other Contracting Party (including transportation by other modes on either an outgoing or return leg of a round-trip journey), shall be entitled to:

- A. Enplane (and subsequently deplane on return trips) at any point or points in the territory of Canada nonscheduled air service traffic which is to be deplaned or re-enplaned at any point or points in the territory of the United States.
- B. Deplane or re-enplane at any point or points in the territory of Canada nonscheduled air service traffic which has been enplaned at any point or points in the territory of the United States.

III. *Canada*

Subject to the requirements of this and other annexes to the Agreement, a carrier or carriers of Canada, when providing the services prescribed in annex B to this Agreement for the movement of nonscheduled air service traffic between a point or points in the territory of one Contracting Party and a point or points in the territory of the other Contracting Party (including transportation by other modes on either an outgoing or return leg of a round-trip journey), shall be entitled to:

- A. Enplane (and subsequently deplane on return trips) at any point or points in the territory of the United States nonscheduled air service traffic which is to be deplaned or re-enplaned at any point or points in the territory of Canada.
- B. Deplane or re-enplane at any point or points in the territory of the United States nonscheduled air service traffic which has been enplaned at any point or points in the territory of Canada.

IV. *Directional balance of enplanements*

A. The number of flights* of each carrier of one Contracting Party, which have enplaned nonscheduled air service traffic in the territory of the other Contracting Party, shall not have exceeded by more than one-third the number of flights by such carrier

* For the purposes of this provision, any flight, either one-way or round-trip (including circle tour and open-jaw as round-trip), shall be counted as one flight.

which have enplaned nonscheduled air service traffic in the territory of the first Contracting Party during the period of time beginning with the first quarter year (ending on March 31, June 30, September 30, and December 31) in which such carrier first performed any flight transporting nonscheduled air service traffic under this Agreement and ending with the most recently completed quarter year. The aeronautical authorities of that other Contracting Party may withhold approval of a flight, series of flights or part of a series of flights proposed to be operated by a carrier of the first Contracting Party if such carrier has, at the end of any quarter year, other than the first quarter year of its operations under this Agreement, exceeded the above directional balance relationship. Any such withholding of approval shall not extend beyond the last day of the quarter year after the quarter year in which such conformity has been restored.

B. Paragraph A above shall be applied separately for each carrier to:

- (1) large aircraft flights for the movement of traffic in passengers;
- (2) large aircraft flights for the movement of traffic in property;
- (3) small aircraft flights for the movement of traffic in passengers; and
- (4) small aircraft flights for the movement of traffic in property.

C. The provisions of paragraph A above shall not be applicable to the following flights, but such flights shall be subject to the provisions of annex C to the extent specified therein:

- (1) round-trip flights performed in charter air service as single entity passenger charters to a parent or affiliate of the carrier solely for land sales purposes, and where no charge or other financial obligation is imposed directly or indirectly on the passenger as a condition of carriage or accommodation during the trip;
- (2) flights utilizing aircraft having a maximum authorized take-off weight on wheels not greater than 18,000 pounds;
- (3) flights by carriers, which are also airlines performing scheduled air services under the Air Transport Agreement, which enplane nonscheduled air service traffic at a terminal or terminals of the international route in the territory of the other Contracting Party, for which that carrier is a designated or otherwise authorized airline under the Air Transport Agreement and which deplane or re-enplane such traffic at the terminal or terminals of the route in the territory of the Contracting Party of which the carrier is a national, or at the intermediate point or points named in the license issued to that carrier by the aeronautical authorities of the other Contracting Party;
- (4) flights by United States carriers, which are also airlines performing scheduled air services under the Air Transport Agreement, which enplane nonscheduled air service traffic in passengers at a terminal or terminals in the territory of Canada of an international route having a terminal or terminals in the State of Hawaii, California, Nevada, Arizona, Florida, Puerto Rico or the U.S. Virgin Islands for which that carrier is designated under the Air Transport Agreement and which deplane or re-enplane such traffic at any point or points on the route system of that carrier also lying within one or more of the above-named areas in which the route terminal or terminals lie; and
- (5) flights by United States carriers, which are not carriers falling under subparagraph 3 or 4 above, which enplane nonscheduled air service traffic in passengers at a point or points in the territory of Canada and deplane or re-enplane such traffic at any point or points in the State of Hawaii, California, Nevada, Arizona, Florida, Puerto Rico or the U.S. Virgin Islands.

V. *Conditions and interpretations*

A. Transportation under this Agreement of traffic having a prior, subsequent or intervening movement by any mode of air transportation to or from territories other than those

III. *Prescribed service types — small aircraft*

A. The charterworthiness of enplanements with small aircraft in the territory of the United States by carriers shall be established by conformity with the definition in section I (C) of this annex, provided that each aircraft has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such group.

B. The charterworthiness of enplanements with small aircraft in the territory of Canada by carriers shall be established by conformity with: (1) the definition in section I (C) of this annex; and (2) a charter type specified in section II (B) of this annex, applicable to such aircraft.

IV. *Conditions and requirements*

A. The aeronautical authorities of the Contracting Party in which the traffic is to be enplaned may withhold approval with respect to charterworthiness of a flight, series of flights or part of a series of flights proposed to be operated by a carrier of the other Contracting Party if the charterworthiness criteria, conditions and requirements established by the first Contracting Party are not met, provided, however, that:

- (1) notification of any withholding of such approval is given to the carrier within (a) 30 days of the initial filing in the case of other than single entity charters, or (b) 10 days of the initial filing in the case of single entity charters;
- (2) Any such withholding of approval shall be withdrawn if the charterworthiness criteria, conditions, and requirements are subsequently met; and
- (3) Approval may be revoked at any time if the charterworthiness criteria, conditions, and requirements are not met.

B. Charterworthiness criteria, conditions, and requirements shall be applied by the aeronautical authorities of the Contracting Party in which the traffic is to be enplaned on an objective and non-discriminatory basis to the carriers of both Contracting Parties.

ANNEX C

SPECIAL PROVISIONS FOR UNIDIRECTIONAL MARKETS

I. *Application*

This annex applies to the types of nonscheduled air service specified in the schedules attached hereto, within the market areas defined therein, such markets having been identified as being unidirectional in enplanements in the territory of one or the other Contracting Party for reasons related to climate, geography, availability of particular recreational facilities at the point or points of deplanement or other largely natural conditions.

II. *Governing provisions*

The volume of nonscheduled air service seats offered collectively by the carriers of each Contracting Party in each market area defined in the schedules attached hereto shall be governed by the following provisions:

A. The aeronautical authorities of the Contracting Party in which the traffic is enplaned shall, on or before March 1 of each calendar year, make and announce at the same time to all carriers preliminary forecasts of the number of seats in each schedule to which the percentages specified therein will be applied for the operating year beginning on April 1 of that calendar year and ending on the following March 31. Not later than June 30 of each operating year, the aeronautical authorities of the Contracting Party in which the traffic is enplaned shall make and announce at the same time to all carriers final forecasts of the number of seats in each schedule to which the percentages specified therein

will be applied for the operating year in progress. The final forecast for each Schedule shall not be less than the preliminary forecast for each corresponding schedule, and no forecast shall be less than the number of seats actually flown, or, in the case of the preliminary forecasts, projected to have been flown, by all carriers in each schedule during the first previous calendar year, modified in proportion to the rate of change experienced from the second previous calendar year to the first previous calendar year as follows:

- (1) one percent, for each full percent of the actual change, for that part of the change up to and including 15 percent, and
- (2) three-quarters of one percent, for each full percent of the actual change, for that part of the change from 16 up to and including 35 percent, and
- (3) one-half of one percent, for each full percent of the actual change, for that part of the change from 36 up to and including 70 percent, and
- (4) one-quarter of one percent, for each full percent of the actual change, for that part of the change over 70 percent;

with fractions of percentages rounded to the nearest whole number.

B. Any seat, either one-way or round-trip (including circle tour and open-jaw as round-trip), shall be counted as one seat.

C. Each carrier shall submit at the same time to the aeronautical authorities of both Contracting Parties any statements, documents or information required, prior to the organization of traffic, by the rules of the Contracting Party in which the traffic is proposed to be enplaned.

D. The aeronautical authorities of the Contracting Party in which the traffic is to be enplaned may withhold approval of a flight, series of flights or part of a series of flights proposed to be operated by a carrier of the other Contracting Party to the extent that the number of seats on such flight or flights, when added to the number of seats previously approved for operations by all carriers of that Contracting Party in a schedule, would exceed their percentage, as set forth in that schedule, of the preliminary or final forecast for that schedule. However, if the carriers of the first Contracting Party have received approval for the operation of a total number of seats in a schedule in excess of their percentage, as set forth in that schedule, of the preliminary or final forecast for that schedule, approval may be withheld with respect to carriers of the other Contracting Party only to the extent that the excess of such carriers would be greater than the excess of the carriers of the first Contracting Party by more than the proportion of the respective percentages in that schedule. If approval for a flight or flights has been withheld pursuant to this paragraph, such flight or flights shall subsequently be approved to the extent that the conditions specified in this paragraph may later become inapplicable.

E. Applications involving proposed operations during the upcoming operating year submitted prior to the announcement of the preliminary forecast for that operating year shall be acted upon when that forecast is announced.

F. If approval for a flight or flights of a carrier has been withheld, pursuant to paragraph D above, such carrier may submit an application to the aeronautical authorities of the Contracting Party withholding the approval requesting that such flight or flights be approved as required by the public convenience and necessity if such Contracting Party is Canada or the public interest if such Contracting Party is the United States of America. Such applications shall be processed under the laws and regulations of the Contracting Party withholding the approval.

G. In order to assure that the foregoing provisions operate equitably and do not serve to restrict the market artificially, the aeronautical authorities of the Contracting Parties will maintain close and frequent contact as necessary to resolve such questions of implementation as may arise.

such carrier enplaned in the territory of the Contracting Party of which it is a national, substantially exceeds the relationship set forth in paragraph A of section IV of annex A, the Contracting Parties shall consult promptly at the request of either, in order to decide what corrective action should be taken to avoid the continuation of the imbalance.

C. The aeronautical authorities of one Contracting Party may, with respect to nonscheduled air service traffic enplaned in the territory of the other Contracting Party and deplaned in the territory of the first Contracting Party, require that carriers of both Contracting Parties transmit a notification in advance of all flights utilizing aircraft having a maximum authorized take-off weight on wheels greater than 18,000 pounds, to the aeronautical authorities of the first Contracting Party, provided, however, that such transmittal shall not be required more than 48 hours in advance of the flight, except that in cases where contracting takes place less than 48 hours in advance of the flight, transmittal shall be as soon as possible, if necessary by telegram or telephone. The information required to be provided in any such notification shall be limited to the type of charter, routing, date or dates of operation, aircraft type, and number of seats or volume of space contracted for.

II. *Enforcement cooperation*

To minimize the administrative burdens of enforcement procedures on carriers and organizers with respect to advance booking and travel group charters, and at the same time to coordinate enforcement procedures with respect to such charters, the aeronautical authorities of the Contracting Party in which the traffic is enplaned shall, on request, transmit to the aeronautical authorities of the other Contracting Party as soon as practicable, passenger lists and other appropriate documents to facilitate the conduct of spot checks of flights. The aeronautical authorities of that other Contracting Party shall not require the routine filing with them of passenger lists and other documents for advance booking and travel group charters which enplane traffic in the territory of the first Contracting Party. The aeronautical authorities of that other Contracting Party shall transmit to the aeronautical authorities of the first Contracting Party, for appropriate enforcement of the latter's regulations, evidence obtained of possible violations on flights operated pursuant to such regulations, rather than interrupt the flight and cause inconvenience to the travelling public.

III. *Reporting requirements*

In addition to reasonable reporting requirements which either Contracting Party may impose, each carrier shall be required to report flights utilizing aircraft having a maximum authorized take-off weight on wheels greater than 18,000 pounds on Canadian Transport Commission Statement 40 on a monthly basis to the aeronautical authorities of each Contracting Party.

IV. *Impairment of scheduled air services*

In view of the nature of the air transportation markets between Canada and the State of Hawaii and between Canada and Florida, and in view of the interest of both Contracting Parties in avoiding substantial impairment of the scheduled air services operated in these markets under the Air Transport Agreement, both Contracting Parties will consult at any time, at the request of either and pursuant to article IX (1) of the present Agreement, to review the situation in these markets and to determine whether special arrangements should be adopted to avoid substantial impairment.

EXCHANGES OF NOTES — ÉCHANGES DE NOTES

I a

[TRADUCTION — TRANSLATION]

EMBASSY
OF THE UNITED STATES OF AMERICA
OTTAWA

AMBASSADE
DES ÉTATS-UNIS D'AMÉRIQUE
OTTAWA

May 8, 1974

Le 8 mai 1974

No. 78

N° 78

Sir:

Monsieur le Secrétaire d'Etat,

I have the honor to refer to the Nonscheduled Air Service Agreement between the Government of the United States of America and the Government of Canada signed on this date, and to express the reservation of my Government that, notwithstanding article VII (2) of that Agreement, the performance by any carrier of Inclusive Tour Charter flights enplaned in Canada by any carrier shall, in addition to meeting the requirements of the Canadian Transport Commission regulations applicable thereto, also be conditional upon the land portion of the tour providing overnight hotel accommodations at a minimum number of places other than the point of origin, each place a minimal distance from the other, each such minimum to be the minimum permitted by the Civil Aeronautics Board for any United States-Canada Inclusive Tour Charter by any United States carrier; provided, however, that any Canadian carrier (other than a Canadian carrier also designated under the Air Transport Agreement for service on any route having a terminal or coterminal in Florida or the State of Hawaii) may, in lieu of the above minimums, meet only the minimal stop requirements extant July 30, 1973, prior to the amendment of subparagraph 41 (g) (i) of Air Carrier Regulations SOR/72-145

J'ai l'honneur de me référer à l'Accord relatif aux services aériens non réguliers signé ce jour par le Gouvernement des Etats-Unis d'Amérique et le Gouvernement du Canada, et d'exprimer la réserve de mon Gouvernement selon laquelle, nonobstant les dispositions du paragraphe 2 de l'article VII dudit Accord, l'exécution par un transporteur de vols d'affrètement pour voyage tout compris avec embarquement au Canada doit, en plus d'être conforme aux dispositions des règlements applicables établis par la Commission canadienne des transports, prévoir dans la partie terrestre du voyage des nuits d'hôtel en un nombre minimal de points autres que le point d'embarquement séparés par une distance minimale, des minimums étant ceux qui sont permis par le Civil Aeronautics Board pour tous les vols d'affrètement pour voyages tout compris entre les Etats-Unis et le Canada organisés par tout transporteur des Etats-Unis; étant entendu toutefois que tout transporteur canadien (autre qu'un transporteur également désigné aux termes de l'Accord relatif aux transports aériens pour exploiter toute route ayant un aéroport terminal ou coterminal en Floride ou dans l'Etat de Hawaii) peut, au lieu de respecter les minimums ci-dessus respecter uniquement les minimums relatifs aux escales en

as set forth in Canadian Transport Commission General Order No. 1973-1 Air of July 31, 1973.

I would appreciate receiving confirmation from you that the Government of Canada acknowledges the above reservation.

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

WILLIAM J. PORTER

The Honorable Mitchell Sharp
Secretary of State
for External Affairs
Ottawa

vigueur au 30 juillet 1973, avant que ne soit modifié l'alinéa 41, g, i, du règlement SOR/72-145 relatif aux transports aériens stipulés dans l'Ordonnance générale n° 1973-1 Aviation de la Commission canadienne des transports en date du 31 juillet 1973.

Je vous saurais gré de bien vouloir confirmer que le Gouvernement du Canada prend acte de la réserve exprimée ici.

Veillez agréer, etc.

WILLIAM J. PORTER

Son Excellence
l'Honorable Mitchell Sharp
Secrétaire d'Etat
aux affaires extérieures
Ottawa

II a

DEPARTMENT
OF EXTERNAL AFFAIRS

MINISTÈRE
DES AFFAIRES EXTÉRIEURES
CANADA

Ottawa, May 8, 1974

Excellency,

I have the honour to refer to your note of this date concerning a reservation expressed by your Government with respect to the Nonscheduled Air Services Agreement.

The Government of Canada acknowledges this reservation. In turn, I wish to express the reservation of my Government that it will not:

- (1) apply the provisions of subparagraphs (4) and (5) of paragraph C of section IV of annex A to the

DEPARTMENT
OF EXTERNAL AFFAIRS

MINISTÈRE
DES AFFAIRES EXTÉRIEURES
CANADA

Ottawa, le 8 mai 1974

Excellence,

J'ai l'honneur de me reporter à votre Note de ce jour relative à une réserve exprimée par votre Gouvernement au sujet de l'Accord relatif aux services aériens non réguliers.

Le Gouvernement du Canada note cette réserve. A mon tour, je désire exprimer la réserve de mon Gouvernement selon laquelle :

- (1) il n'appliquera pas les dispositions des alinéas 4 et 5 du paragraphe C de la section IV de

said Agreement in so far as deplanements in Hawaii or Florida are concerned;

- (2) implement the second phases defined in Schedules 1, 2, and 3 of annex C to the said Agreement but will continue to apply the percentages shown for the first phase in any operating year after the first phase;
- (3) implement section II (A) and (B) of annex B to the said Agreement with respect to travel group charter and advance booking charter services;
- (4) implement footnote No. 2 in schedule 3 of annex C to the said Agreement.

This reservation will terminate when the Government of Canada receives notice from the Government of the United States of America that the reservation set forth in the note referred to above has been terminated, except that the percentages shown for the second phases specified in schedules 1, 2, and 3 of annex C to the said Agreement will not be applied until April 1 of the third operating year after the date of said notice and the percentages shown for the final phases defined in the same schedules will be applied two years thereafter. The Government of Canada will, however, review the possibility of removing that part of its reservation set forth in numbered paragraph 3 above, in whole or in part, without regard to termination by the Government of the United States of America of its reservation.

I would appreciate receiving confirmation that the Government of the United States acknowledges the reservation of the Government of Canada

l'annexe A dudit Accord, en ce qui concerne les débarquements à Hawaii ou en Floride;

- (2) il n'appliquera pas la deuxième phase définie dans les listes 1, 2 et 3 de l'annexe C dudit Accord, mais continuera à appliquer les pourcentages indiqués pour la première phase lors de toute année d'exploitation faisant suite à la première phase;
- (3) il n'appliquera pas la section II, A et B, de l'annexe B dudit Accord en ce qui concerne les services d'affrètement pour voyages en groupe et les services d'affrètement avec réservation anticipée;
- (4) il n'appliquera pas le renvoi n° 2 de la liste 3 de l'annexe C dudit Accord.

Cette réserve prendra fin lorsque le Gouvernement du Canada sera avisé par le Gouvernement des Etats-Unis d'Amérique que la réserve énoncée dans la Note susmentionnée a pris fin. Toutefois, les pourcentages indiqués pour la deuxième phase précisée dans les listes 1, 2 et 3 de l'annexe C dudit Accord ne seront pas appliqués avant le 1^{er} avril de la troisième année d'exploitation faisant suite à la date dudit avis et les pourcentages indiqués pour les phases finales définies dans les mêmes listes seront appliqués deux années plus tard. Toutefois, le Gouvernement du Canada examinera la possibilité de supprimer cette partie de sa réserve, énoncée au paragraphe 3 susmentionné, en totalité ou partiellement, indépendamment de l'annulation de la réserve du Gouvernement des Etats-Unis.

Je vous saurais gré de confirmer que le Gouvernement des Etats-Unis note la réserve du Gouvernement du Canada exprimée dans la présente

da, as set forth in this note, equally authentic in English and in French.

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

MITCHELL SHARP
Secretary of State
for External Affairs

His Excellency
the Honourable William J. Porter
Ambassador
of the United States of America
Ottawa

Note, dont les versions anglaise et française font également foi.

Veillez agréer, Excellence, les assurances renouvelées de ma très haute considération.

MITCHELL SHARP
Le Secrétaire d'Etat
aux Affaires extérieures

Son Excellence
l'Honorable William J. Porter
Ambassadeur
des Etats-Unis d'Amérique
Ottawa

III a

[TRADUCTION — TRANSLATION]

EMBASSY
OF THE UNITED STATES OF AMERICA
OTTAWA

May 8, 1974

No. 79

Sir:

I have the honor to refer to your note of this date which acknowledges the reservation of my Government regarding the performance of Inclusive Tour Charter flights and expresses a reservation of your Government. The Government of the United States of America acknowledges the reservation of the Government of Canada set forth in your note, equally authentic in English and in French.

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

WILLIAM J. PORTER

The Honorable Mitchell Sharp

Secretary of State
for External Affairs
Ottawa

AMBASSADE
DES ÉTATS-UNIS D'AMÉRIQUE
OTTAWA

Le 8 mai 1974

N° 79

Monsieur le Secrétaire d'Etat,

J'ai l'honneur de me référer à votre note en date de ce jour dans laquelle vous prenez note de la réserve exprimée par mon Gouvernement à propos des vols d'affrètement pour voyages tout compris et vous faites part de la réserve exprimée par votre Gouvernement. Le Gouvernement des Etats-Unis d'Amérique prend acte de la réserve du Gouvernement du Canada exprimée dans votre note, dont les versions anglaise et française font également foi.

Veillez agréer, etc.

WILLIAM J. PORTER

Son Excellence
l'Honorable Mitchell Sharp
Secrétaire d'Etat
aux affaires extérieures
Ottawa

I b

DEPARTMENT
OF EXTERNAL AFFAIRS

MINISTÈRE
DES AFFAIRES EXTÉRIEURES
CANADA

Ottawa, May 8, 1974

Excellency,

I have the honour to refer to the Nonscheduled Air Service Agreement between the Government of Canada and the Government of the United States of America signed on this date and to your note of the same date concerning a reservation expressed by your Government with respect to the said Agreement.

In order to facilitate the movement of traffic under the Agreement and to avoid the necessity of cancelling contracts in force between carriers and charterers, I propose, on behalf of my Government, that the following interim arrangements be applied on the coming into force of the Agreement until carriers are issued new or amended licenses pursuant to article III of the Agreement:

1. Any carrier designated by the Government of the United States shall, pending application for, and issuance of, an appropriate license under the Agreement, be deemed to have obtained such a license and to have been authorized to operate nonscheduled air services between the respective territories of Canada and the United States as provided for in the Agreement, provided such carrier (a) holds a valid class 9-4 license issued by the Air Transport Committee of the Canadian Transport Commission, or (b) appears on the current eligible list of the said Committee on the date of the coming into force of the Agreement.

DEPARTMENT
OF EXTERNAL AFFAIRS

MINISTÈRE
DES AFFAIRES EXTÉRIEURES
CANADA

Ottawa, le 8 mai 1974

Excellence,

J'ai l'honneur de me référer à l'Accord relatif aux services aériens non réguliers entre le Gouvernement du Canada et le Gouvernement des Etats-Unis d'Amérique signé aujourd'hui et à votre Note de ce jour qui exprime une réserve de votre Gouvernement à l'endroit dudit Accord.

Afin de faciliter le mouvement du trafic aux termes dudit Accord et d'éviter de devoir résilier des contrats en vigueur entre les transporteurs et les affrêteurs, je propose, au nom de mon Gouvernement, que les arrangements transitoires suivants soient mis en application au moment de l'entrée en vigueur dudit Accord jusqu'à ce que les transporteurs aient reçu des licences nouvelles ou modifiées, en conformité avec l'article III de l'Accord :

1. Tout transporteur désigné par le Gouvernement des Etats-Unis, en attendant de présenter sa demande de permis et de recevoir aux termes de l'Accord ledit permis pertinent sera considéré comme ayant obtenu un tel permis et étant autorisé à exploiter des services aériens non réguliers entre les territoires respectifs du Canada et des Etats-Unis comme il est précisé dans l'Accord, pourvu que le transporteur a) détienne un permis valide de la classe 9-4 délivré par le Comité des transports aériens de la Commission canadienne des transports ou b) qu'il figure dans la liste d'admissibilité en cours dudit Comité à la date de l'entrée en vigueur de l'Accord.

2. Any carrier designated by the Government of Canada shall, pending issuance of an amended foreign air carrier permit under the Agreement, be allowed to operate nonscheduled air services between the respective territories of the United States and Canada as provided for in the Agreement to the maximum extent the Civil Aeronautics Board is legally empowered to do so (e.g. by waiver of its regulations), provided such carrier holds a valid foreign air carrier permit.

3. Any carrier designated by the Government of Canada (other than a carrier also designated under the Air Transport Agreement for service on any route having a terminal or coterminal in Florida or the State of Hawaii), with respect to inclusive tour charter flights by such carriers which are to enplane traffic in Canada and which have been approved by the Air Transport Committee of the Canadian Transport Commission prior to the coming into force of the Agreement, shall be permitted to operate such flights under the Agreement without applicability of the reservation of the Government of the United States.

I would appreciate receiving confirmation from you that the above interim arrangements set forth in this note equally authentic in English and in French are acceptable to your Government.

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

MITCHELL SHARP
Secretary of State
for External Affairs

His Excellency
the Honourable William J. Porter
Ambassador
of the United States of America
Ottawa

2. Tout transporteur désigné par le Gouvernement du Canada, en attendant la délivrance d'un permis modifié pour les transporteurs aériens étrangers aux termes de l'Accord, pourra exploiter des services aériens non réguliers entre les territoires respectifs des Etats-Unis et du Canada comme il est précisé dans l'Accord, dans la mesure maximale où le Civil Aeronautics Board y est autorisé de par la loi (par ex. : par la dérogation à ses règlements), pourvu que le transporteur détienne un permis pour les transporteurs étrangers valide.

3. En ce qui concerne les vols d'affrètement voyage tout compris par des transporteurs qui embarqueront du trafic au Canada et auront été approuvés par le Comité des transports aériens de la Commission canadienne des transports avant la date de l'entrée en vigueur de l'Accord, tout transporteur désigné par le Gouvernement du Canada (autre qu'un transporteur également désigné aux termes de l'Accord relatif aux transports aériens pour exploiter toute route ayant un aéroport terminal ou coterminal en Floride ou dans l'Etat de Hawaii) pourra assurer cesdits vols aux termes de l'Accord sans que soit appliquée la réserve exprimée par le Gouvernement des Etats-Unis.

Je vous saurais gré de me confirmer que les arrangements transitoires exprimés dans cette note, dont les versions anglaise et française font également foi, rencontrent l'agrément de votre Gouvernement.

Veillez agréer, Excellence, les assurances renouvelées de ma très haute considération.

MITCHELL SHARP
Le Secrétaire d'Etat
aux Affaires extérieures

Son Excellence
l'Honorable William J. Porter
Ambassadeur
des Etats-Unis d'Amérique
Ottawa

II b

[TRADUCTION — TRANSLATION]

EMBASSY
OF THE UNITED STATES OF AMERICA
OTTAWA

AMBASSADE
DES ÉTATS-UNIS D'AMÉRIQUE
OTTAWA

May 8, 1974

Le 8 mai 1974

No. 80

N° 80

Sir:

Monsieur le Secrétaire d'Etat,

I have the honor to refer to your note of this date proposing interim arrangements to be applied on the coming into force of the Nonscheduled Air Service Agreement until carriers are issued new or amended licenses pursuant to article III of the Agreement and to confirm that the proposals set forth in your note, equally authentic in English and in French, are acceptable to my Government.

J'ai l'honneur de me référer à votre note en date de ce jour dans laquelle vous proposez que des arrangements transitoires soient mis en application au moment de l'entrée en vigueur de l'Accord relatif aux services aériens non réguliers jusqu'à ce que les transporteurs aient reçu des licences nouvelles ou modifiées, en conformité avec l'article III de l'Accord, et de confirmer que les propositions formulées dans votre note, dont les versions anglaise et française font également foi, rencontrent l'agrément de mon Gouvernement.

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

Veillez agréer, etc.

WILLIAM J. PORTER

WILLIAM J. PORTER

The Honorable Mitchell Sharp

Son Excellence

Secretary of State
for External Affairs
Ottawa

l'Honorable Mitchell Sharp
Secrétaire d'Etat
aux affaires extérieures
Ottawa