

No. 15875

**UNITED STATES OF AMERICA
and
UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND**

Exchange of notes constituting an understanding concerning charter air services (with memorandum of understanding on passenger charter air services and related letters). London, 28 April 1976

Authentic text: English.

Registered by the United States of America on 25 August 1977.

**ÉTATS-UNIS D'AMÉRIQUE
et
ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD**

Échange de notes constituant un accord relatif aux services aériens affrétés (avec mémorandum d'accord relatif aux services aériens affrétés pour passagers et lettres connexes). Londres, 28 avril 1976

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 25 août 1977.

EXCHANGE OF NOTES CONSTITUTING AN UNDERSTANDING¹
BETWEEN THE UNITED STATES OF AMERICA AND THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN
IRELAND CONCERNING CHARTER AIR SERVICES

I

*The American Ambassador to the British Secretary of State for Foreign
and Commonwealth Affairs*

EMBASSY OF THE UNITED STATES OF AMERICA
LONDON

London, April 28, 1976

No. 12

Excellency:

I have the honor to refer to discussions which have taken place recently at London and at Washington between representatives of our two governments with regard to charter air services between the United States and the United Kingdom. These representatives initialed a Memorandum of Understanding on passenger charter air services, the text of which is enclosed as an annex to this Note.

I also have the honor to inform Your Excellency that the United States Government accepts the provisions of the Memorandum of Understanding referred to above and proposes, if the Government of the United Kingdom of Great Britain and Northern Ireland also accepts the terms of the Memorandum of Understanding, this Note and your reply to that effect together with the Memorandum of Understanding will constitute an understanding between our two governments in this matter which will enter into effect on the date of your reply.

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

ANNE ARMSTRONG

Enclosure:
US-UK Memo of Understanding
on Charter Air Services.

The Right Honorable Anthony Crosland
Secretary of State for Foreign and Commonwealth Affairs
London

¹ Came into force on 28 April 1976, the date of the note in reply, in accordance with the provisions of the said notes.

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF
THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND ON
PASSENGER CHARTER AIR SERVICES

A. CHARTERWORTHINESS

1. Both Parties will continue to strive for commonality of charterworthiness rules.
2. Except as otherwise provided in this Understanding, the aeronautical authorities of the United Kingdom will accept as charterworthy passenger charter air traffic originating in the United States and conforming with the rules currently set out in the *Economic Regulations and Special Regulations* of the Civil Aeronautics Board, or pursuant to waivers of such rules granted for exceptional reasons.* With regard to its acceptance of the substitution provisions of the travel group charter category, the United Kingdom reserves the right, after September 30, 1976, and following consultations, to withdraw its acceptance of such substitution provisions. The United States, willingness to enter into the present Understanding in no way implies that it is prepared to regard the foregoing United Kingdom reservation as an acceptable basis for subsequent charter air services understandings.
3. The aeronautical authorities of the United States will accept as charterworthy passenger charter air traffic originating in the United Kingdom and conforming with the rules currently set out in the *United Kingdom Civil Aviation Authority Official Record*, or pursuant to variations of such rules granted for exceptional reasons.
4. The United Kingdom's acceptance relates only to Great Britain and Northern Ireland.
5. The country of origin of the traffic is to be determined by reference to the point in the territory of either Party from which the group of passengers departs on a one-way trip or the outward portion of a round trip (including circle and open jaw).
6. Each Party reserves the right (a) not to accept traffic originating in the territory of the other Party where more than three categories of charters, as elected by the carrier, are commingled on the same aircraft; (b) to authorize only the commingling of advance booking charters, travel group charters, inclusive tour charters, one-stop inclusive tour charters, special event charters, and affinity group charters; and (c) to prohibit commingling of other than inclusive tour charters, one-stop inclusive tour charters, advance booking charters, and travel group charters when an aircraft's route includes a traffic stop or stops outside the territory of either Party.
7. All modifications of or additions to the charterworthiness rules of one Party will be promptly notified to the other Party. The second Party will accept traffic carried pursuant to such modifications or additions for at least 30 days after their issue. The second Party may, however, within the same 30-day period, request consultations and may then, if the matter is not resolved by consultation, withhold acceptance of charter traffic proposed to be carried pursuant to such modifications or additions after the end of this 30-day period. Unless consultation is requested within the 30-day period, the modifications or additions shall be deemed to have been accepted. Where possible, each Party will endeavor to give the other Party at least 30 days' notice before the effective date of modifications and additions which it considers substantial.

B. PRICE SURVEILLANCE

In the event that either Party believes that a charter rate of a carrier of the other Party for charter traffic under this Understanding is uneconomical, unreasonable, or

* This includes "buy in" sales incentive charters where waivers of the single entity or mixed charter rules have been granted.

unjustly discriminatory, taking into account all relevant costs, it shall so notify the other Party as soon as possible and in any event within 30 days of receiving notification of the rate. The other Party may request consultation and such consultation, if requested, will be held as soon as necessary. In the event that the matter is not resolved by consultation, the objecting Party may take appropriate action to prevent the use of such charter rate.

C. ADMINISTRATION AND ENFORCEMENT

1. Each Party will minimize the administrative burdens of filing requirements and enforcement procedures on carriers and organizers and will collaborate with the other Party on enforcement questions.

2. With regard to charters originating in the territory of one Party and operated by carriers of that Party, the other Party may require for each charter program no more than the following: a declaration of conformity with the relevant rules of the country of origin and information relating to the proposed date, time, and routing of each flight; the identity of the travel organizer; the number of seats contracted for; and the proposed rates.

3. Each Party will ensure that its aeronautical authorities transmit, on request, to the aeronautical authorities of the other Party passenger lists and other appropriate documents to facilitate the conduct of spot checks of advance listed flights.

4. Neither Party will require the filing with it by the carriers of passenger lists of charter traffic originating in the territory of the other Party and organized and operated pursuant to the rules of that Party, except that:

- (a) should the aeronautical authorities of the country of origin not require that passenger lists be filed with them at least 30 days before the flight date of each affinity charter group, the aeronautical authorities of the country of destination may require such filing. Only passengers so listed will be accepted for carriage on such flights. However, such aeronautical authorities will consider authorizing limited exceptions for compassionate reasons, up to the date of such flight, drawn from other eligible members of the affinity organization; and
- (b) where traffic which is not subject to an advance listing requirement is commingled with advance listed traffic, the aeronautical authorities of the country of destination may require from the carrier a list of those passengers not otherwise advance listed to reach them a minimum of five working days before the arrival of the flight.

5. Each Party will rely primarily on the aeronautical authorities of the country in which the charter originates for the enforcement of charterworthiness rules. This does not preclude enforcement action by the aeronautical authorities of the country of destination.

6. Each Party will transmit to the aeronautical authorities of the other Party, for appropriate enforcement action, evidence obtained of possible rule violations on flights operated pursuant to the charter rules of that other Party rather than interrupt the flight and cause inconvenience to or stranding of the traveling public.

7. Each Party will take such steps as it considers necessary to conduct spot checks from time to time, to conduct post-flight reviews of charter flights operated pursuant to its rules, to take appropriate action when violations are detected, and to regulate the conduct of charter organizers operating in its territory.

8. Each Party will apply its passenger charterworthiness rules and their administration and enforcement in a nondiscriminatory manner.

D. OPERATING RIGHTS

Except as otherwise provided in this Understanding, neither Party will deny or withhold its approval of charter traffic to be flown by carriers of the other Party when, on

any flight leg of the total movement,* points in the territories of both Parties are served, provided, however, that should either Party decide to deny or withhold such approval, it may do so only after consultations with the other Party and only with regard to flights the initial movement of which is to take place more than 120 days after it has notified the other Party of its objections and requested consultations.

E. CONSULTATIONS

Except as otherwise provided in this Understanding, consultations between the Parties will be held within 60 days of receipt of a request by either Party, or at such shorter notice as circumstances may require.

F. ENTRY INTO EFFECT

This Understanding will come into effect upon an exchange of diplomatic notes confirming its acceptance by both Parties and will terminate on December 31, 1976, unless it is extended by a further Understanding between the Parties.

II

FOREIGN AND COMMONWEALTH OFFICE LONDON

28 April 1976

Your Excellency,

I have the honour to acknowledge receipt of your Note No. 12 of today's date concerning passenger charter air services, which reads as follows:

[See note I]

I have the honour to inform Your Excellency that the Government of the United Kingdom of Great Britain and Northern Ireland accept the provisions of the Memorandum of Understanding annexed to your Note, and confirm that your Note and this reply, together with the Memorandum of Understanding, will constitute an understanding between our two Governments on this matter, which will enter into effect on today's date.

I have the honour to be, with the highest consideration, Your Excellency's obedient Servant,

(for the Secretary of State):

[Signed]

A. C. BUXTON

H. E. Mrs. Anne Armstrong
Embassy of the United States of America
Grosvenor Square
London

* Total movement is understood to include movements of the same traffic to or from third countries, provided the traffic originates in either the United States or the United Kingdom and provided further that, if it originates in the territory of the Party of which the carrier is not a national, it stops over in the homeland of that carrier for at least two nights.

RELATED LETTERS

I a

DEPARTMENT OF TRADE
SHELL MEX HOUSE STRAND
LONDON

28 April, 1976

Dear Mr. Styles,

UNITED KINGDOM/UNITED STATES MEMORANDUM OF UNDER-
STANDING, ON PASSENGER CHARTER AIR SERVICES, 1976

When we discussed paragraph C(3) of the above Understanding, I explained that the United Kingdom aeronautical authorities would wish to receive passenger lists and other appropriate documents to facilitate the conduct of spot checks on all types of United States originating advance listed flights. However, we both recognized the desirability of minimizing administrative burdens. The United Kingdom aeronautical authorities are, therefore, prepared to make working arrangements with their United States counterparts for the provision of passenger lists only to the extent necessary.

You said that requests for such documentation on your side were likely to be infrequent and it was on this basis that I agreed that my Charter Section would provide such material rather than the carriers.

I should be grateful for your confirmation that this is your understanding of the matter.

Yours sincerely,

[Signed]

G. T. ROGERS

Mr. Michael H. Styles
Director, Office of Aviation
Department of State
Washington, D.C.
USA

II a

DEPARTMENT OF STATE
WASHINGTON, D.C.

April 28, 1976

Dear Mr. Rogers:

Thank you for your letter of April 28, 1976, concerning the implementation of paragraph C(3) of the Memorandum of Understanding on Passenger Charter

Air Services. I am pleased to confirm the understanding set forth in your letter on this matter.

Sincerely,

[Signed]

MICHAEL H. STYLES
Director
Office of Aviation

Mr. G. T. Rogers
Under Secretary
Department of Trade
London

I b

DEPARTMENT OF STATE
WASHINGTON, D.C.

April 28, 1976

Dear Mr. Rogers:

I confirm that paragraph D of the Memorandum of Understanding on Passenger Charter Air Services is intended to apply, *inter alia*, to the so-called uplift ratio condition of the United States aeronautical authorities. In this connection, my Government wishes to note that its willingness to accept paragraph D, insofar as it applies to the uplift ratio, reflects the overall characteristics of the United States–United Kingdom charter traffic market and is not to be construed as reflecting a change in United States policy with regard to directional balance.

In implementing the provisions of paragraph D, insofar as the uplift ratio is concerned, it is the intention of the United States aeronautical authorities to utilize a waiver mechanism, rather than to rescind uplift ratio conditions.

In determining whether the United States may wish to invoke the consultation provisions of paragraph D with respect to any request of a United Kingdom carrier for such a waiver, it would be the intention of the United States aeronautical authorities to take into account (1) whether the United Kingdom carrier is excessively relying on the United States originating market; (2) the extent to which the United Kingdom carrier has developed the United Kingdom originating market; (3) whether United Kingdom carriers, taken as a whole, are excessively relying on the United States originating market; and (4) any major shift in the relation of United States originating to United Kingdom originating charter traffic.

It is understood, of course, that none of the foregoing in any way modifies or detracts from the obligations undertaken in paragraph D.

Sincerely,

[Signed]

MICHAEL H. STYLES
Director
Office of Aviation

Mr. G. T. Rogers
Under Secretary
Department of Trade
London

II b

DEPARTMENT OF TRADE
SHELL MEX HOUSE STRAND
LONDON

28 April 1976

Dear Mr. Styles:

Thank you for your letter of 28 April, 1976, about paragraph D of the Memorandum of Understanding on Passenger Charter Air Services.

As I am sure you appreciate, our view of the policy issues you have mentioned differs from yours. I am glad that, despite this, we were able to reach agreement and I note that nothing stated in your letter is intended to modify or detract from the obligations undertaken in paragraph D.

Yours sincerely,

[Signed]

G. T. ROGERS

Mr. Michael H. Styles
Director, Office of Aviation
Department of State
Washington, D.C.
