

CANADA

TREATY SERIES, 1947

No. 17

Signed at Ottawa, July 17, 1947

AGREEMENT

BETWEEN

CANADA

AND

THE UNITED KINGDOM

CONCERNING

THE ESTABLISHMENT OF AIR COMMUNICATIONS

BETWEEN

THE TERRITORY OF CANADA AND UNITED
KINGDOM TERRITORIES IN THE WEST
ATLANTIC AND CARIBBEAN AREAS

(Together with an Exchange of Notes)

Signed at Ottawa, July 17, 1947

Effective July 17, 1947



OTTAWA
EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
KING'S PRINTER AND CONTROLLER OF STATIONERY
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CANADA

TREATY SERIES, 1947

No. 11

1. An airline designated by the Government of Sweden may operate a service originating in Sweden and terminating in or passing through Canada on the route specified below, and may take on and put down at Montreal passengers, mail and cargo for and from Sweden.

2. The route to be operated by the designated airline of the Government of Sweden shall be:—

AGREEMENT

Stockholm via intermediate points to Montreal and to points in territories beyond in both directions

3. An airline designated by the Government of Canada may operate a service originating in Canada and terminating in or passing through Sweden on the route specified below and may take on and put down at Stockholm passengers, mail and cargo for and from Canada.

CANADA

4. The route to be operated by the designated airline of the Government of Canada shall be:—

THE UNITED KINGDOM

Montreal via intermediate points to Stockholm and to points in territories beyond in both directions

SUMMARY

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7. Tariffs to be charged by the airlines shall, in the first instance, be between them. Any tariffs so agreed shall be subject to the approval of the competent aeronautical authorities of the contracting parties, and, in the event of disagreement, settlement shall be made in accordance with the provisions of Article 9 of this Agreement.



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(3) Aircraft of the one Contracting Party operated on the agreed services and supplies of fuel, lubricating oils, spare parts, regular equipment and other stores on board such aircraft shall be exempt from the taxes and duties levied on such aircraft.

AGREEMENT BETWEEN CANADA AND THE UNITED KINGDOM CONCERNING THE ESTABLISHMENT OF AIR COMMUNICATIONS BETWEEN THE TERRITORY OF CANADA AND UNITED KINGDOM TERRITORIES IN THE WEST ATLANTIC AND CARIBBEAN AREAS.

Signed at Ottawa, July 17, 1947

The Government of Canada and the Government of the United Kingdom of Great Britain and Northern Ireland,

Desiring to conclude an Agreement for the purpose of establishing air communications as soon as possible between the territory of Canada and United Kingdom territories in the West Atlantic and Caribbean areas,

Have accordingly appointed the undersigned plenipotentiaries for this purpose, who, being duly authorized 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, subject to the provisions of the Annex to this Agreement, 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.

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 aircraft engaged in similar international services.

(2) Fuel, lubricating oils 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 recognized 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 recognize, for the purpose of flight above its own territory, certificates of competency and licences granted to its own nationals by another 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, crew, 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 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 other Contracting Party, 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 International Civil Aviation Organization set up by the Convention on International Civil Aviation signed at Chicago on December 7, 1944.

ARTICLE 8

If either of the Contracting Parties considers it desirable to modify the terms of this Agreement or its Annex, 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 this Agreement or its Annex, these modifications will come into effect when they have been confirmed by an Exchange of Notes between the Contracting Parties.

ARTICLE 9

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

(2) In the event of the Contracting Parties failing to reach a settlement by negotiation

(a) They may agree to refer the dispute for decision to an Arbitral Tribunal appointed by agreement between them, or to some other person or body;

or
(b) If they do not so agree or if having agreed to refer the dispute to an Arbitral Tribunal, they cannot reach agreement as to its composition, either Contracting Party may submit the dispute for a decision to any tribunal competent to decide it which may hereafter be established within the International Civil Aviation Organization or, if there is no such tribunal, to the Council of the said Organization.

(3) The Contracting Parties undertake to comply with any decision given under paragraph 2 above.

ARTICLE 10

If a general multilateral air transport 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 authorized to perform any functions presently exercised by the said Minister or similar functions, and in the case of Canada the Minister of Reconstruction and Supply and any person or body authorized to perform the functions presently exercised by the Minister of Reconstruction and Supply or similar functions.

(b) The term "designated air lines" 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 air lines 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 signed at Chicago on December 7, 1944.

(d) The definitions contained in paragraphs (a), (b) and (d) of Article 96 of the Convention on International Civil Aviation signed at Chicago on December 7, 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 com-

municated to the International Civil Aviation Organization. If such notice is given, this Agreement shall terminate twelve (12) months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of 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 International Civil Aviation Organization.

ARTICLE 13

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

IN WITNESS WHEREOF the undersigned plenipotentiaries have signed the present Agreement in duplicate this 17th day of July, 1947, at Ottawa.

For the Government of Canada:

C. D. HOWE.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

A. CLUTTERBUCK.

ANNEX

1. In addition to the rights enjoyed under the International Air Services Transit Agreement to which both Contracting Parties are signatory His Majesty's Government in the United Kingdom grants to the designated airline or airlines of Canada, the right to pick up and put down international traffic destined for or coming from (a) Canada and (b) points in the territory of third countries, at the following places in British Colonial territory:—

- Kindley Field, Bermuda
- Palisadoes, Jamaica
- Piarco, Trinidad

on a route from Canada via Bermuda or direct to British Colonial territory in the Caribbean area and to points beyond in South America.

2. His Majesty's Government in the United Kingdom also grants to the designated airline or airlines of Canada the rights to carry cabotage traffic between Bermuda on the one hand and any or all the above-mentioned British Colonies in the Caribbean area on the other but not between these latter Colonies themselves.

3. In addition to the rights enjoyed under the International Air Services Transit Agreement to which both Contracting Parties are signatories, the Government of Canada grants to an airline or airlines designated by His Majesty's Government in the United Kingdom the right to pick up and set down in Canada international traffic destined for or coming from United Kingdom territory on the following routes:—British Guiana and/or Trinidad and/or Jamaica via Bermuda to Montreal.

4. In so far as one of the Contracting Parties may not wish permanently or temporarily to operate in full or in part capacity to which it is entitled, that Contracting Party may arrange with the other Contracting Party under terms and conditions to be agreed between them for the designated airline or airlines of such other Contracting Party to operate additional capacity so as to maintain the full capacity agreed upon between them.

5. The capacity to be provided by the designated airline or airlines of Canada and the designated airline or airlines of the United Kingdom, as and when reciprocal services are in operation, on the route referred to in paragraph 1 above and the frequencies to be operated shall be agreed between the Contracting Parties initially and from time to time thereafter, as either Contracting Party may consider to be necessary or desirable. In the determination of capacity the following principles shall be observed:—

- (a) the capacity provided shall be maintained in close relationship to the traffic offering;
- (b) the services provided by a designated airline under this Agreement and its Annex shall retain as their primary objective provision of capacity adequate to the traffic demands between the country of which such airline is a national and the country of ultimate destination of the traffic.

6. Tariffs to be charged by the designated air lines referred to in this Annex shall be agreed in the first instance between them, having due regard to the rates fixed by any Tariff Conference of air lines operating in the area. Any tariff so agreed will be subject to the approval of the competent aeronautical authorities of the Contracting Parties. In the event of disagreement between the airlines, the competent aeronautical authorities of the Contracting Parties shall endeavour to reach an agreement. Should the competent aeronautical authorities or subsequently the Contracting Parties themselves fail to agree, the matter in dispute will be referred to arbitration as provided for in Article 9 of this Agreement.

IN WITNESS WHEREOF
 The Government of the United Kingdom and His Majesty's Government in Canada and the Government of Jamaica and the Government of Trinidad and Tobago have caused this Agreement to be signed by their duly authorized representatives at Ottawa, Canada, this 17th day of December, 1947.

The Government of the United Kingdom also grants to the airlines of the United Kingdom the right to carry cabotage traffic between the United Kingdom and any of the above-mentioned British territories on the one hand and any or all the above-mentioned British territories in the Caribbean area on the other but not between these latter territories themselves.

In addition to the rights enjoyed under the International Air Services Agreement to which both Contracting Parties are signatories, the Government of Canada grants to an airline or airlines designated by His Majesty's Government in the United Kingdom the right to pick up and set down in Canada international traffic destined for or coming from United Kingdom territory by the following routes:—British Guiana and/or Trinidad and/or Jamaica via Barbados to Montreal.

In so far as one of the Contracting Parties may not wish permanently to operate in full or in part capacity to which it is entitled, that Party may arrange with the other Contracting Party under terms and conditions to be agreed between them for the designated airline or airlines to operate additional capacity, so as to maintain the full capacity agreed upon between them.

The capacity to be provided by the designated airline or airlines of each Contracting Party and the designated airline or airlines of the United Kingdom, as and when reciprocal services are in operation, on the route referred to in paragraph 1 above and the frequencies to be operated shall be agreed between the Contracting Parties initially and from time to time thereafter, as either Contracting Party may consider to be necessary or desirable. In the determination of the following principles shall be observed:—

- (a) the capacity provided shall be maintained in close relationship to the traffic offered;
- (b) the services provided by a designated airline under this Agreement and its Annex shall remain as their primary objective provision of capacity adequate to the traffic demands between the country of which each airline is a national and the country of ultimate destination of the traffic.

APPENDIX

EXCHANGE OF NOTES (JULY 17, 1947) BETWEEN CANADA AND THE UNITED KINGDOM RELATING TO THE AIR AGREEMENT SIGNED BETWEEN THE TWO COUNTRIES AT OTTAWA, JULY 17, 1947.

I

The High Commissioner for the United Kingdom to the Secretary of State for External Affairs

OFFICE OF THE HIGH COMMISSIONER FOR THE UNITED KINGDOM

OTTAWA, 17th July, 1947.

No. 16

SIR:

In connection with the Agreement between the Government of the United Kingdom and the Government of Canada for certain air services signed this day, I have the honour to state that the Government of the United Kingdom undertakes, in respect of Bermuda, Jamaica and Trinidad, not to exercise the reciprocal rights granted in paragraph 3 of the Annex to that Agreement for a period of four years from the 1st January, 1947, provided that, if the Government of the Colony concerned is not satisfied that the service provided by the designated airline or airlines of Canada is adequate to cater for the traffic offering, it may make direct representations to the Government of Canada, and if satisfaction is not attained in this way, the United Kingdom shall have the right in turn to exercise its reciprocal rights in respect of that dissatisfied Colony.

2. I also have the honour to state that the signature of the United Kingdom Government, in respect of Bermuda, is subject to subsequent approval by the legislature of that Colony, it being understood that, pending this approval, no objection will be raised by the authorities concerned to the exercise at Bermuda of the traffic rights granted under this Agreement to the designated airline or airlines of Canada.

3. If the Government of Canada accepts these proposals, I have the honour to suggest that this note and your reply thereto shall constitute an agreement between the two Governments.

I have the honour to be,

Sir,

Your most obedient servant,

A. CLUTTERBUCK.



II

The Secretary of State for External Affairs to the High Commissioner for the
United Kingdom

OTTAWA, 17th July, 1947.

No. 40

SIR:

I have the honour to acknowledge receipt of your Note No. 16 of July 17, stating that the Government of the United Kingdom undertakes, in respect of Bermuda, Jamaica and Trinidad, not to exercise the reciprocal rights granted in paragraph 3 of the Annex to that Agreement for a period of four years from the 1st January, 1947, provided that, if the Government of the Colony concerned is not satisfied that the service provided by the designated airline or airlines of Canada is adequate to cater for the traffic offering, it may make direct representations to the Government of Canada and, if satisfaction is not attained in this way, the United Kingdom shall have the right in turn to exercise its reciprocal rights in respect of that dissatisfied Colony.

I also note that the signature of the United Kingdom Government, in respect of Bermuda, is subject to subsequent approval by the legislature of that colony, it being understood that, pending this approval, no objection will be raised by the authorities concerned to the exercise at Bermuda of the traffic rights granted under this Agreement to the designated airline or airlines of Canada.

The Canadian Government accepts your proposals and agrees that your note and this reply thereto shall constitute an agreement between our two governments.

I have the honour to be,

Sir,

Your obedient servant,

LESTER B. PEARSON.

for the Secretary of State for External Affairs.

I have the honour to be,

Sir,

Your most obedient servant,

A. CUTLERBUCK