



Treaty Series No. 16 (1934)

[Reprint of "Union of South Africa Treaty Series No. 3 (1933)"]

## Exchange of Notes

between the Governments of the Union of South Africa  
and the United States of America

regarding

# AIR NAVIGATION

Pretoria, March 17/September 20, 1933

*Presented by the Secretary of State for Foreign Affairs  
to Parliament by Command of His Majesty*

LONDON

PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE

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1934

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Cmd. 4604

EXCHANGE OF NOTES BETWEEN THE GOVERNMENTS OF  
THE UNION OF SOUTH AFRICA AND THE UNITED  
STATES OF AMERICA REGARDING AIR NAVIGATION.

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Pretoria, March 17/September 20, 1933.

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No. 1.

*Mr. Totten to General Hertzog.*

(No. 166.)  
Sir,

*Legation of the United States of America,  
Pretoria, March 17, 1933.*

I HAVE the honour to communicate the text of the arrangement between the United States of America and the Union of South Africa providing for navigation by aircraft of each country in the territory of the other, as understood by me to have been agreed to in the negotiations which have just been concluded between the Legation and your Ministry, as evidenced by your note of the 13th March, 1933 (File No. P.M. 66/1/1).<sup>(1)</sup>

AIR NAVIGATION ARRANGEMENT BETWEEN THE UNITED STATES OF  
AMERICA AND THE UNION OF SOUTH AFRICA.

ARTICLE 1.

Pending the conclusion of a convention between the United States of America and the Union of South Africa on the subject of air navigation, the operation of civil aircraft of the one country in the other country shall be governed by the following provisions.

ARTICLE 2.

The present arrangement shall apply to Continental United States of America, exclusive of Alaska, and to the Union of South Africa, including the adjacent territorial waters of the two countries.

ARTICLE 3.

The term aircraft with reference to one or the other Party to this arrangement shall be understood to mean civil aircraft, including State aircraft used exclusively for commercial purposes, duly registered in the territory of such Party.

ARTICLE 4.

Each of the Parties undertakes to grant liberty of passage above its territory in time of peace to the aircraft of the other Party, provided that the conditions set forth in the present arrangement are observed.

(<sup>1</sup>) Not reproduced.

It is, however, agreed that the establishment and operation of regular air routes by an air transport company of one of the Parties within the territory of the other Party or across the said territory, with or without intermediary landing, shall be subject to the prior consent of the other Party given on the principle of reciprocity and at the request of the Party whose nationality the air transport company possesses.

The Parties to this arrangement agree that the period in which pilots may, while holding valid pilot licences issued or rendered valid by either country, operate registered aircraft of that country in the other country for non-industrial or non-commercial purposes shall be limited to a period not exceeding six months from the time of entry for the purpose of operating aircraft, unless prior to the expiration of this period the pilots obtain from the Government of the country in which they are operating, pilot licences authorising them to operate aircraft for non-industrial or non-commercial purposes.

#### ARTICLE 5.

The aircraft of each of the Parties to this arrangement, their crews and passengers, shall, while within the territory of the other Party, be subject to the general legislation in force in that territory, as well as the regulations in force therein relating to air traffic in general, to the transport of passengers and goods and to public safety and order in so far as these regulations apply to all foreign aircraft, their crews and passengers.

Each of the Parties to this arrangement shall permit the import or export of all merchandise which may be legally imported or exported and also the carriage of passengers, subject to any customs, immigration and quarantine restrictions, into or from their respective territories in the aircraft of the other Party, and such aircraft, their passengers and cargoes, shall enjoy the same privileges as and shall not be subjected to any other or higher duties or charges than those which the aircraft of the country, imposing such duties or charges, engaged in international commerce, and their cargoes and passengers, or the aircraft of any foreign country likewise engaged, and their cargoes and passengers, enjoy or are subjected to.

Each of the Parties to this arrangement may reserve to its own aircraft air commerce between any two points, neither of which is in a foreign country. Nevertheless the aircraft of either Party may proceed from any aerodrome in the territory of the other Party which they are entitled to use to any other such aerodrome either for the purpose of landing the whole or part of their cargoes or passengers or of taking on board the whole or part of their cargoes or passengers, provided that such cargoes are covered by through bills of lading, and such passengers hold through tickets, issued respectively for a journey whose starting place and destination both are not points between which air commerce has been duly so reserved, and such aircraft, while proceeding as aforesaid from one aerodrome to

another, shall, notwithstanding that such aerodromes are points between which air commerce has been duly reserved, enjoy all the privileges of this arrangement.

#### ARTICLE 6.

Each of the Parties to this arrangement shall have the right to prohibit air traffic over certain areas of its territory, provided that no distinction in this matter is made between its aircraft engaged in international commerce and the aircraft of the other Party likewise engaged. The areas above which air traffic is thus prohibited by either Party must be notified to the other Party.

Each of the Parties reserves the right under exceptional circumstances in time of peace and with immediate effect temporarily to limit or prohibit air traffic above its territory on condition that in this respect no distinction is made between the aircraft of the other Party and the aircraft of any foreign country.

#### ARTICLE 7.

Any aircraft which finds itself over a prohibited area shall, as soon as it is aware of the fact, give the signal of distress prescribed in the Rules of the Air in force in the territory flown over and shall land as soon as possible at an aerodrome situated in such territory outside of but as near as possible to such prohibited area.

#### ARTICLE 8.

All aircraft shall carry clear and visible nationality and registration marks whereby they may be recognised during flight. In addition, they must bear the name and address of the owner.

All aircraft shall be provided with certificates of registration and of airworthiness and with all the other documents prescribed for air traffic in the territory in which they are registered.

The members of the crew who perform, in an aircraft, duties for which a special permit is required in the territory in which such aircraft is registered, shall be provided with all documents and in particular with the certificates and licences prescribed by the regulations in force in such territory.

The other members of the crew shall carry documents showing their duties in the aircraft, their profession, identity and nationality.

The certificate of airworthiness, certificates of competency and licences issued or rendered valid by one of the Parties to this arrangement in respect of an aircraft registered in its territory or of the crew of such aircraft shall have the same validity in the territory of the other Party as the corresponding documents issued or rendered valid by the latter.

Each of the Parties reserves the right for the purpose of flight within its own territory to refuse to recognise certificates of competency and licences issued to nationals of that Party by the other Party.

## ARTICLE 9.

Aircraft of either of the Parties to this arrangement may carry wireless apparatus in the territory of the other Party only if a licence to install and work such apparatus shall have been issued by the competent authorities of the Party in whose territory the aircraft is registered. The use of such apparatus shall be in accordance with the regulations on the subject issued by the competent authorities of the territory within whose air space the aircraft is navigating.

Such apparatus shall be used only by such members of the crew as are provided with a special licence for the purpose issued by the Government of the territory in which the aircraft is registered.

The Parties to this arrangement reserve respectively the right, for reasons of safety, to issue regulations relative to the obligatory equipment of aircraft with wireless apparatus.

## ARTICLE 10.

No arms of war, explosives of war, or munitions of war shall be carried by aircraft of either Party above the territory of the other Party or by the crew or passengers, except by permission of the competent authorities of the territory within whose air space the aircraft is navigating.

## ARTICLE 11.

Upon the departure or landing of any aircraft each Party may within its own territory and through its competent authorities search the aircraft of the other Party and examine the certificates and other documents prescribed.

## ARTICLE 12.

Aerodromes open to public air traffic in the territory of one of the Parties to this arrangement shall in so far as they are under the control of the Party in whose territory they are situated be open to all aircraft of the other Party, which shall also be entitled to the assistance of the meteorological services, the wireless services, the lighting services and the day and night signalling services, in so far as the several classes of services are under the control of the Party in whose territory they respectively are rendered. Any scale of charges made, namely, landing, accommodation or other charge, with respect to the aircraft of each Party in the territory of the other Party, shall in so far as such charges are under the control of the Party in whose territory they are made be the same for the aircraft of both Parties.

## ARTICLE 13.

All aircraft entering or leaving the territory of either of the Parties to this arrangement shall land at or depart from an aerodrome open to public air traffic and classed as a customs aerodrome at which facilities exist for enforcement of immigration regulations and clearance of aircraft, and no intermediary landing shall be effected

between the frontier and the aerodrome. In special cases the competent authorities may allow aircraft to land at or depart from other aerodromes, at which customs, immigration and clearance facilities have been arranged. The prohibition of any intermediary landing applies also in such cases.

In the event of a forced landing outside the aerodromes referred to in the first paragraph of this article, the pilot of the aircraft, its crew and the passengers shall conform to the customs and immigration regulations in force in the territory in which the landing has been made.

Aircraft of each Party to this arrangement are accorded the right to enter the territory of the other Party subject to compliance with quarantine regulations in force therein.

The Parties to this arrangement shall exchange lists of the aerodromes in their territories designated by them as ports of entry and departure.

#### ARTICLE 14.

Each of the Parties to this arrangement reserves the right to require that all aircraft crossing the frontiers of its territory shall do so between certain points. Subject to the notification of any such requirements by one Party to the other Party, and to the right to prohibit air traffic over certain areas as stipulated in Article 6, the frontiers of the territories of the Parties to this arrangement may be crossed at any point.

#### ARTICLE 15.

As ballast, only fine sand or water may be dropped from an aircraft.

#### ARTICLE 16.

No article or substance, other than ballast, may be unloaded or otherwise discharged in the course of flight unless special permission for such purpose shall have been given by the authorities of the territory in which such unloading or discharge takes place.

#### ARTICLE 17.

Whenever questions of nationality arise in carrying out the present arrangement, it is agreed that every aircraft shall be deemed to possess the nationality of the Party in whose territory it is duly registered.

#### ARTICLE 18.

The Parties to this arrangement shall communicate to each other the regulations relative to air traffic in force in their respective territories.

#### ARTICLE 19.

The present arrangement shall be subject to termination by either Party upon sixty days' notice given to the other Party or by the enactment by either Party of legislation inconsistent therewith,

If you inform me that it is the understanding of your Government that the arrangement agreed upon is as herein set forth, the arrangement will be considered to be operative from the date of the receipt of your note so advising me.

I have, &c.

RALPH J. TOTTEN,

*Envoy Extraordinary and Minister Plenipotentiary  
of the United States of America.*

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No. 2.

*General Hertzog to Mr. Totten.*

*Department of External Affairs,  
Pretoria, September 20, 1933.*

Sir,

I HAVE the honour to refer to your letter No. 166 of the 17th March last regarding the arrangement between the Union of South Africa and the United States of America providing for navigation by aircraft of each country in the territory of the other and to inform you that His Majesty's Government in the Union of South Africa are in accord with the terms of the arrangement which is, word for word, as follows:—

(Here follows the text of the arrangement as in No. 1 above.)

It is further agreed that the arrangement will be operative as from the date of this note.

I have, &c.

J. B. M. HERTZOG,

*Minister of External Affairs.*

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