



Treaty Series No. 35 (1935)

EXCHANGE OF NOTES

between His Majesty's Government in the United Kingdom
and the Government of the United States

respecting

AIR NAVIGATION

Washington, March 28/April 5, 1935

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

LONDON

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EXCHANGE OF NOTES BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE GOVERNMENT OF THE UNITED STATES RESPECTING AIR NAVIGATION.

Washington, March 28/April 5, 1935.

No. 1.

Sir Ronald Lindsay to Mr. Cordell Hull.

Sir,

Washington, March 28, 1935.

I HAVE the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to state that, pending the conclusion of a Treaty in regard to air navigation, His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland are prepared, in consideration of reciprocal treatment by the Government of the United States of America and subject to the conditions hereinafter set out, to accord the following treatment in respect of United States aircraft as defined below, their crews, passengers and cargoes:—

2.—(i) The territories in which the treatment specified in the subsequent paragraphs of this Note will be accorded (hereinafter referred to as the territories to which this Note applies) are: the United Kingdom of Great Britain and Northern Ireland and the territories specified in the schedule hereto, together with any territories to which the provisions of this Note may at any time be applicable by virtue of paragraph 17.

(ii) The term "United States aircraft," as used in this Note, means civil aircraft, including State aircraft used exclusively for commercial purposes, duly registered in territories under the sovereignty, jurisdiction or authority of the United States to which your reply to this Note shall apply.

3. Subject to the provisions of this Note, United States aircraft will, in time of peace, be allowed liberty of passage to and over the territories to which this Note applies: provided, however, that no regular air route or service may be established or operated to, within or over any such territory, with or without a landing there, except by prior consent of His Majesty's Government in the United Kingdom.

4.—(i) United States aircraft, their crews and passengers, and goods carried thereon will, while within or over a territory to which this Note applies, be subject to the laws in force in that territory, including all regulations relating to air traffic applicable to foreign aircraft, the transport of passengers and goods, and public safety

and order, as well as any regulations concerning immigration, passports, quarantine and (subject to the provisions of paragraph 6) customs.

(i) Subject to the provisions of the preceding sub-paragraph and to the laws and regulations therein specified, the carriage of passengers and the import or export of any goods which may lawfully be imported or exported will be permitted in United States aircraft into or out of the territories to which this Note applies; and (subject to the same proviso) such aircraft, their crews, passengers and cargoes shall enjoy in those territories the same privileges as and shall not, merely by reason of the nationality of the aircraft, be subjected to any other or higher duties or charges than those which are or may be imposed on British aircraft or the aircraft of the most favoured country not being part of the territories under His Majesty's sovereignty, suzerainty, protection or authority, engaged in international commerce, or on their crews, passengers or cargoes.

5. The regulations (together with any subsequent alterations therein) relative to air traffic in force in the territories to which this Note applies will be communicated to the Government of the United States.

6. The fuel retained on board United States aircraft arriving in or leaving any territory to which this Note applies, shall be exempt from customs duty, even though the fuel so retained is used by the aircraft on a flight in that territory, provided that such flight is definitely part of a journey from or to a place outside that territory.

7. Aerodromes open to public air traffic in the territories to which this Note applies will, so far as they are under the control of His Majesty's Government in the United Kingdom, be open to United States aircraft, which (subject to the same proviso) will also be entitled to the assistance of the meteorological, wireless, lighting and day and night signalling services at such aerodromes. Subject again to the same proviso, the scale of charges at such aerodromes for landing and accommodation will be the same for United States as for British aircraft.

8.—(i) The term "air commerce" as used in the succeeding sub-paragraph means (a) the navigation of aircraft from one place to another, both within the same or different territories under His Majesty's sovereignty, suzerainty, protection or authority, in the conduct or in furtherance of a business, and (b) the commercial transport of passengers or goods between any two points both within such territories.

(ii) Air commerce may, in the territories to which this Note applies, be reserved exclusively to British aircraft whether registered in those territories or elsewhere. Nevertheless, United States aircraft may proceed from any aerodrome which they may be entitled to use in those territories to any other such aerodrome for

the purpose of taking on board or landing 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 the starting place and end of which are not both points between which air commerce has been reserved; and such aircraft, whilst so proceeding from one aerodrome to another, will, notwithstanding that both such aerodromes are points between which air commerce has been reserved, be entitled to the treatment set out in this Note.

9.—(i) Air traffic may be prohibited over specified areas in the territories to which this Note applies, but no distinction will be made in this matter between British and United States aircraft engaged in international commerce. Lists of the areas above which air traffic is thus prohibited will be communicated to the Government of the United States, and any subsequent alterations therein will be notified immediately.

(ii) In exceptional circumstances, air traffic above the whole or any part of the territories to which this Note applies may temporarily, and with immediate effect, be limited or prohibited, but no distinction in this respect will be made between United States aircraft and the aircraft of any country not being part of the territories under His Majesty's sovereignty, suzerainty, protection or authority.

(iii) In the event of any United States aircraft finding itself over a prohibited area, it must, so 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 in which the prohibited area is situated, and a landing must be effected as soon as possible at an aerodrome in that territory, outside but as near as possible to the prohibited area.

10.—(i) All United States aircraft flying in or over the territories to which this Note applies must carry clear and visible nationality and registration marks whereby they may be recognised during flight.

(ii) Such aircraft must also be provided with certificates of registration and airworthiness and with all the other documents prescribed for air traffic in the territories in which they are registered.

(iii) The members of the crew of such aircraft who perform duties for which a special permit is required in the territories in which the aircraft is registered must be provided with all the documents, and, in particular, with the certificates and licences prescribed by the regulations in force in those territories.

(iv) The other members of the crew must carry documents showing their duties in the aircraft, their profession, identity and nationality.

(v) The crews and passengers of United States aircraft entering or leaving any of the territories to which this Note applies must be provided with the documents required by the regulations concerning

international traffic in force in that territory, a list of which documents will be communicated under paragraph 5 of this Note.

(vi) Such aircraft carrying passengers or goods must also be provided with a list of the passengers' names and a manifest of the goods showing their nature and quantity.

(vii) The certificate of airworthiness, certificates of competency, and licences issued or rendered valid in respect of a United States aircraft or its crew by the competent United States authorities will be recognised as having the same validity in the territories to which this Note applies as the corresponding documents issued or rendered valid by the competent authorities of those territories: provided that recognition may be refused as regards certificates of competency and licences issued or rendered valid in favour of British subjects or British protected persons.

11.—(i) United States aircraft may, in or over the territories to which this Note applies, carry wireless apparatus only if a licence to instal and work such apparatus (which licence must be carried in the aircraft) has been issued by the competent authorities of the territories in which the aircraft is registered. The use of such apparatus in the territories to which this Note applies must be in accordance with the regulations on the subject issued by the competent authorities of those territories.

(ii) Such apparatus may only be used by those members of the crew who are provided with a special licence for the purpose, issued by the competent authorities of the territories in which the aircraft is registered.

(iii) For reasons of safety the competent authorities of the territories to which this Note applies may issue regulations relative to the obligatory equipment of aircraft with wireless apparatus when in or over those territories.

12. No arms of war, explosives of war, or munitions of war may be carried by United States aircraft in or above any of the territories to which this Note applies, or by the crew or passengers except by permission of the competent authorities of the territories concerned.

13. It will be open to the competent authorities of the territories to which this Note applies to search United States aircraft on landing or departure, and to examine the certificates and other documents prescribed in the preceding paragraphs.

14.—(i) United States aircraft entering or leaving any territory to which this Note applies may only land at or depart from aerodromes open to public air traffic and classed as customs aerodromes at which facilities exist for the enforcement of customs, passport, quarantine and immigration regulations and the clearance of aircraft; and no unauthorised intermediate landing, other than a forced landing, may be effected before arriving at such an aero-

drome on entry into, or after leaving it on departure from, the territory concerned. In special cases, and subject to the same provision as to intermediate landing, the competent authorities may allow landing at or departure from other aerodromes, at which the above-mentioned facilities have been arranged.

(ii) In the event of a forced landing or of a landing as provided in paragraph 9 (iii) not at an aerodrome of the class mentioned in the preceding sub-paragraph, the pilot of the aircraft, its crew and passengers must conform to the customs, passport, quarantine and immigration regulations in force in the territory in which the landing occurs.

(iii) Lists of the aerodromes in the territories to which this Note applies which are classed as customs aerodromes for the purposes of this paragraph will be communicated as soon as possible to the Government of the United States. Any subsequent alterations in these lists will be notified forthwith.

15. The competent authorities of the territory concerned may require that United States aircraft, on entering or leaving any territory to which this Note applies, shall do so between specified points. Any requirements in this respect and any subsequent alterations therein will be communicated to the Government of the United States. Subject to any such requirement and to the provisions of this Note, aircraft may choose their own route of entry or departure.

16. No article or substance, other than ballast, may be unloaded or otherwise discharged from United States aircraft in the course of flight in or over the territories to which this Note applies unless special permission to that effect is given by the competent authorities of the territory in which the unloading or discharge occurs. For the purposes of this paragraph, ballast means fine sand or water only.

17.—(i) His Majesty's Government in the United Kingdom may at any time by means of a notification in writing addressed to the Government of the United States apply the provisions of this Note to all or any British colonies, overseas territories or protectorates, or to any mandated territories in respect of which the mandate is exercised by His Majesty's Government in the United Kingdom, other than those specified in the schedule to this Note. Such application shall take effect two calendar months after the date of the receipt of the notification.

(ii) His Majesty's Government in the United Kingdom may subsequently give notice in writing to the Government of the United States of the termination of the application of this Note to any territory to which it has become applicable by notification under the preceding sub-paragraph. In that event such application shall cease two calendar months after the date of the receipt of the notification.

18. His Majesty's Government in the United Kingdom may terminate the arrangements set out in this Note at any time by means of a notification in writing addressed to the Government of the United States to take effect two calendar months after the date of its receipt.

19. I shall be glad if you will inform me whether the Government of the United States concur in the terms of this Note and are willing to grant reciprocal treatment in respect of British aircraft, registered in territories to which this Note applies, their crews, passengers and cargoes.

I have, &c.
R. C. LINDSAY.

SCHEDULE.

Newfoundland, including Labrador.
Bahamas.
Barbados.
Bermuda.
British Guiana.
British Honduras.
Jamaica (including Turks and Caicos Islands and the Cayman Islands).
Leeward Islands and their dependencies, including—

Antigua.
Dominica.
Montserrat.
St. Christopher and Nevis.
Virgin Islands.

Trinidad and Tobago.
Windward Islands and their dependencies, including—

Grenada.
St. Vincent.
St. Lucia.

No. 2.

Mr. Cordell Hull to Sir Ronald Lindsay.

Department of State,

Washington, April 5, 1935.

Excellency,

I HAVE the honour to invite reference to your Note of the 28th March, 1935, setting forth the treatment which His Majesty's Government in the United Kingdom is prepared, in return for reciprocal treatment, to accord to United States aircraft as therein defined, their crews, passengers and cargoes; and to state in reply that the Government of the United States of America concurs in its terms, and is prepared in return for the treatment therein specified, and pending the conclusion of a Treaty in the matter of air naviga-

tion, to accord the following reciprocal treatment in respect of British aircraft as defined below, their crews, passengers and cargoes, subject to the conditions hereinafter set out:—

2.—(i) The territories in which the treatment specified in the subsequent paragraphs of this Note will be accorded (hereinafter referred to as the territories to which this Note applies) are: the Continental United States of America and the territories specified in the schedule hereto, together with any territories to which the provisions of this Note may at any time be applicable by virtue of paragraph 17.

(ii) The term "British aircraft," as used in this Note, means civil aircraft, including State aircraft used exclusively for commercial purposes, duly registered in the territories to which your Excellency's Note under reference applies.

3. Subject to the provisions of this Note, British aircraft will, in time of peace, be allowed liberty of passage to and over the territories to which this Note applies; provided, however, that no regular air route or service may be established or operated to, within or over any such territory, with or without a landing there, except by prior consent of the Government of the United States.

4.—(i) British aircraft, their crews and passengers, and goods carried thereon will, while within or over a territory to which this Note applies, be subject to the laws in force in that territory, including all regulations relating to air traffic applicable to foreign aircraft, the transport of passengers and goods, and public safety and order, as well as any regulations concerning immigration, passports, quarantine and (subject to the provisions of paragraph 6) customs.

(ii) Subject to the provisions of the preceding sub-paragraph and to the laws and regulations therein specified, the carriage of passengers and the import or export of any goods which may lawfully be imported or exported will be permitted in British aircraft into or out of the territories to which this Note applies; and (subject to the same proviso) such aircraft, their crews, passengers and cargoes shall enjoy in those territories the same privileges as and shall not, merely by reason of the nationality of the aircraft, be subjected to any other or higher duties or charges than those which are or may be imposed on United States aircraft or the aircraft of the most favoured country not being part of the territories under United States sovereignty, jurisdiction or authority, engaged in international commerce, or on their crews, passengers or cargoes.

5. The regulations (together with any subsequent alterations therein) relative to air traffic in force in the territories to which this Note applies will be communicated to His Majesty's Government in the United Kingdom.

6. The fuel retained on board British aircraft arriving in or leaving any territory to which this Note applies shall be exempt from customs duty, even though the fuel so retained is used by the aircraft on a flight in that territory, provided that such flight is definitely part of a journey from or to a place outside that territory.

7. Aerodromes open to public air traffic in the territories to which this Note applies will, so far as they are under the control of the Government of the United States, be open to British aircraft, which (subject to the same proviso) will also be entitled to the assistance of the meteorological, wireless, lighting and day and night signalling services at such aerodromes. Subject again to the same proviso, the scale of charges at such aerodromes for landing and accommodation will be the same for British as for United States aircraft.

8.—(i) The term "air commerce" as used in the succeeding sub-paragraph means (a) the navigation of aircraft from one place to another both within the same or different territories under United States sovereignty, jurisdiction or authority, in the conduct or in furtherance of a business, and (b) the commercial transport of passengers or goods between any two points both within such territories.

(ii) Air commerce may, in the territories to which this Note applies, be reserved exclusively to United States aircraft whether registered in those territories or elsewhere. Nevertheless, British aircraft may proceed from any aerodrome which they may be entitled to use in those territories to any other such aerodrome for the purpose of taking on board or landing 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 the starting place and end of which are not both points between which air commerce has been reserved; and such aircraft, while so proceeding from one aerodrome to another, will, notwithstanding that both such aerodromes are points between which air commerce has been reserved, be entitled to the treatment set out in this Note.

9.—(i) Air traffic may be prohibited over specified areas in the territories to which this Note applies, but no distinction will be made in this matter between United States and British aircraft engaged in international commerce. Lists of the areas above which air traffic is thus prohibited will be communicated to His Majesty's Government in the United Kingdom, and any subsequent alterations therein will be notified immediately.

(ii) In exceptional circumstances air traffic above the whole or any part of the territories to which this Note applies may temporarily, and with immediate effect, be limited or prohibited, but no distinction in this respect will be made between British aircraft and the aircraft of any country not being part of the territories under United States sovereignty, jurisdiction or authority.

(iii) In the event of any British aircraft finding itself over a prohibited area, it must, so 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 in which the prohibited area is situated, and a landing must be effected as soon as possible at an aerodrome in that territory, outside but as near as possible to the prohibited area.

10.—(i) All British aircraft flying in or over the territories to which this Note applies must carry clear and visible nationality and registration marks whereby they may be recognised during flight.

(ii) Such aircraft must also be provided with certificates of registration and airworthiness and with all the other documents prescribed for air traffic in the territories in which they are registered.

(iii) The members of the crew of such aircraft who perform duties for which a special permit is required in the territories in which the aircraft is registered must be provided with all the documents, and, in particular, with the certificates and licences prescribed by the regulations in force in those territories.

(iv) The other members of the crew must carry documents showing their duties in the aircraft, their profession, identity and nationality.

(v) The crews and passengers of British aircraft entering or leaving any of the territories to which this Note applies must be provided with the documents required by the regulations concerning international traffic in force in that territory, a list of which documents will be communicated under paragraph 5 of this Note.

(vi) Such aircraft carrying passengers or goods must also be provided with a list of the passengers' names, and a manifest of the goods showing their nature and quantity.

(vii) The certificate of airworthiness, certificates of competency, and licences issued or rendered valid in respect of a British aircraft or its crew by the competent British authorities will be recognised as having the same validity in the territories to which this Note applies as the corresponding documents issued or rendered valid by the competent authorities of those territories; provided that recognition may be refused as regards certificates of competency and licences issued or rendered valid in favour of citizens of the United States or other persons owing allegiance thereto.

11.—(i) British aircraft may, in or over the territories to which this Note applies, carry wireless apparatus only if a licence to instal and work such apparatus (which licence must be carried in the aircraft) has been issued by the competent authorities of the territories in which the aircraft is registered. The use of such apparatus in the territories to which this Note applies must be in accordance with the regulations on the subject issued by the competent authorities of those territories.

(ii) Such apparatus may only be used by those members of the crew who are provided with a special licence for the purpose, issued by the competent authorities of the territories in which the aircraft is registered.

(iii) For reasons of safety the competent authorities of the territories to which this Note applies may issue regulations relative to the obligatory equipment of aircraft with wireless apparatus when in or over those territories.

12. No arms of war, explosives of war or munitions of war may be carried by British aircraft in or above any of the territories to which this Note applies, or by the crew or passengers, except by permission of the competent authorities of the territories concerned.

13. It will be open to the competent authorities of the territories to which this Note applies to search British aircraft on landing or departure, and to examine the certificates and other documents prescribed in the preceding paragraphs.

14.—(1) British aircraft entering or leaving any territory to which this Note applies may only land at or depart from aerodromes open to public air traffic and classed as customs aerodromes at which facilities exist for the enforcement of customs, passport, quarantine and immigration regulations and the clearance of aircraft; and no unauthorised intermediate landing, other than a forced landing, may be effected before arriving at such an aerodrome on entry into, or after leaving it on departure from, the territory concerned. In special cases, and subject to the same provision as to intermediate landing, the competent authorities may allow landing at or departure from other aerodromes, at which the above-mentioned facilities have been arranged.

(ii) In the event of a forced landing or of a landing as provided in paragraph 9 (iii) not at an aerodrome of the class mentioned in the preceding sub-paragraph, the pilot of the aircraft, its crew and passengers must conform to the customs, passport, quarantine and immigration regulations in force in the territory in which the landing occurs.

(iii) Lists of the aerodromes in the territories to which this Note applies which are classed as customs aerodromes for the purposes of this paragraph will be communicated as soon as possible to His Majesty's Government in the United Kingdom. Any subsequent alterations in these lists will be notified forthwith.

15. The competent authorities of the territory concerned may require that British aircraft, on entering or leaving any territory to which this Note applies, shall do so between specified points. Any requirements in this respect and any subsequent alterations therein will be communicated to His Majesty's Government in the United Kingdom. Subject to any such requirement and to the provisions of this Note, aircraft may choose their own route of entry or departure.

16. No article or substance, other than ballast, may be unloaded or otherwise discharged from British aircraft in the course of flight in or over the territories to which this Note applies unless special permission to that effect is given by the competent authorities of the

territory in which the unloading or discharge occurs. For the purposes of this paragraph, ballast means fine sand or water only.

17.—(i) The Government of the United States may at any time by means of a notification in writing addressed to His Majesty's Government in the United Kingdom apply the provisions of this Note to all or any United States territories or possessions, other than those specified in the schedule to this Note.— Such application shall take effect two calendar months after the date of the receipt of the notification.

(ii) The Government of the United States may subsequently give notice in writing to the Government of the United Kingdom of the termination of the application of this Note to any territory to which it has become applicable by notification under the preceding subparagraph. In that event such application shall cease two calendar months after the date of the receipt of the notification.

18. The Government of the United States may terminate the arrangements set out in this Note at any time by means of a notification in writing addressed to His Majesty's Government in the United Kingdom to take effect two calendar months after the date of its receipt.

19. I shall be glad if your Excellency will inform me whether His Majesty's Government in the United Kingdom concurs in the terms of this Note and regards them as affording the reciprocal treatment referred to in your Excellency's Note under reply. I have the honour to suggest, in that event, that the arrangements set out in the two Notes shall take effect one calendar month from this day's date.

Accept, &c.

CORDELL HULL.

SCHEDULE.

Alaska.

American Samoa (comprising the Island of Tutuila, the Manua Islands, and all other islands of the Samoan group east of longitude 171° west of Greenwich, together with Swains Island).

Puerto Rico (including Vieques, Culebra, Mona and Desecheo).

Virgin Islands of the United States (comprising St. Thomas, St. John, St. Croix and dependent islets).

No. 3.

Sir Ronald Lindsay to Mr. Cordell Hull.

Sir,

Washington, April 5, 1935.

I HAVE the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to acknowledge receipt of your Note of to-day's date, setting forth the treatment

which the Government of the United States are prepared, in return for the reciprocal treatment set out in my Note of the 28th March to accord to British aircraft as defined in your Note, their crews, passengers and cargoes, in regard to air navigation.

2. I have the honour to state in reply that His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland concur in the terms of your Note under reply, and regard them as affording the reciprocal treatment referred to in my Note of the 28th March. His Majesty's Government in the United Kingdom also concur in your suggestion that the arrangements set out in the two Notes shall take effect one calendar month from this day's date.

I have, &c.

R. C. LINDSAY.