



Treaty Series No. 16 (1940)

[Reprint of Canadian Treaty Series No. 10 (1939)]

EXCHANGE OF NOTES

between the Governments of Canada and
the United States of America

relating to

AIR TRANSPORT SERVICES

Ottawa, August 18, 1939

*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 THE GOVERNMENTS
CANADA AND THE UNITED STATES OF AMERICA RELATING
TO AIR TRANSPORT SERVICES.

Ottawa, August 18, 1939.

No. 1.

The Secretary of State for External Affairs of Canada to the United States Minister at Ottawa.

Department of External Affairs,

Sir,

Ottawa, August 18, 1939.

I HAVE the honour to refer to negotiations which have recently taken place between the Government of Canada and the Government of the United States of America for the conclusion of a reciprocal arrangement relating to air transport services.

It is my understanding that it has been agreed in the course of the negotiations, now terminated, that this arrangement shall be as follows:—

Arrangement between Canada and the United States of America relating to Air Transport Services.

ARTICLE 1.

Having in mind the desirability of mutually stimulating and promoting the sound economic development of air transportation between the United States and Canada, the Parties to this Arrangement agree that the establishment and development of air transport services between their respective territories by air carrier enterprises holding proper authorisations from their respective Governments, shall be governed by the following provisions.

ARTICLE 2.

The present Arrangement shall apply to continental United States of America, including Alaska, and to Canada, including their territorial waters.

The privileges accorded by this Arrangement shall be available only to air carrier enterprises *bona fide* owned and controlled by nationals of the respective Parties.

ARTICLE 3.

Each of the Parties agrees, subject to compliance with its laws and regulations, to grant to air carrier enterprises of the other Party permits for non-stop services through the air space over its territory

between two points within the territory of the other Party; provided, however, that inland non-stop services between the United States and Alaska shall be the subject of a separate understanding.

Each Party further agrees, subject to compliance with its laws and regulations and on a basis of reciprocity, to grant operating rights to the air carrier enterprises of the other Party for the operation of international services between a place in the territory of one Party and a place in the territory of the other Party.

The details of the application of the principle of reciprocity contained herein shall be the subject of amicable adjustment between the competent aeronautical authorities of the Parties to this Arrangement.

ARTICLE 4.

Any air carrier enterprise of either Party applying for permission to operate in territory of the other Party shall be required to transmit its application through diplomatic channels in accordance with Article 3 (c) of the Air Navigation Arrangement effected by an exchange of notes between the two Parties, signed on the 28th July, 1938.⁽¹⁾

The air carrier enterprises of each Party will be required to qualify before the competent aeronautical authorities of the other Party under the latter's applicable laws and regulations before being permitted to engage in the operations contemplated by this Arrangement, and upon so qualifying will be issued permits or licences by such authorities accordingly.

ARTICLE 5.

The terms of the permits referred to in Article 4, the airports to be used by the respective services, the routes or airways to be flown within the respective territories of the Parties between the designated airports, and other appropriate details of the conduct of the air transport services contemplated by this Arrangement, shall be determined by the competent aeronautical authorities of the Parties. Any permit issued by the competent aeronautical authorities for the air transport services contemplated hereunder shall be valid only so long as the holder thereof shall be authorised by its own Government to engage in the service envisaged by such permit. The holding of such permit shall be subject to compliance by the holder with all applicable laws of the issuing Government and with all valid rules, regulations and orders issued thereunder. Such permit may not be revoked for any cause other than non-compliance with such laws, rules, regulations or orders, or for such reasons as the public interests may require.

ARTICLE 6.

Each of the Parties hereto agrees not to impose, and to use its best efforts to prevent the imposition of, any restrictions or limitations as to airports, airways or connections with other transportation

(1) "Treaty Series No. 36 (1939)," Cmd. 6067.

services and facilities in general to be utilised within its territory which might be competitively or otherwise disadvantageous to the air carrier enterprises of the other Party.

ARTICLE 7.

The aircraft operated by United States air carrier enterprises shall conform at all times with the airworthiness requirements prescribed by the competent aeronautical authorities of the United States for aircraft employed in air transportation of the character contemplated by this Arrangement.

The aircraft operated by Canadian air carrier enterprises shall conform at all times with the airworthiness requirements prescribed by the competent aeronautical authorities of Canada for aircraft employed in air transportation of the character contemplated by this Arrangement.

The competent aeronautical authorities of the Parties hereto may communicate with a view to bringing about uniformity of safety standards for the operations contemplated by this Arrangement and compliance therewith, and whenever the need therefor appears the Parties may enter into an agreement prescribing such uniform safety standards.

ARTICLE 8.

The matter of the transportation of mail shall be subject to agreement between the competent authorities of both Parties.

ARTICLE 9.

The operations contemplated hereunder shall be conducted subject to the applicable terms of the Air Navigation Arrangement effected by an exchange of notes between the two Parties signed on the 28th July, 1938.

ARTICLE 10.

This Arrangement shall remain in force for a period of two years and thereafter until terminated on six months' notice given by either Government to the other Government.

I shall be glad to have you inform me whether it is the understanding of your Government that the terms of the Arrangement agreed to in the negotiations are as above set forth. If so, it is suggested that the Arrangement become effective on this date. If your Government concurs in this suggestion the Government of Canada will regard it as becoming effective on this date.

Accept, Sir, &c.

W. L. MACKENZIE KING.

No. 2.

*The United States Minister at Ottawa to the Secretary of State for
External Affairs of Canada.*

Legation of the United States of America,

Sir, *Ottawa, August 18, 1939.*

I HAVE the honour to acknowledge the receipt of your note of the 18th August, 1939, in which you communicated to me the terms of a reciprocal arrangement between the United States of America and Canada relating to air transport services, as understood by you to have been agreed to in negotiations, now terminated, between the Government of the United States of America and the Government of Canada.

The terms of this arrangement which you have communicated to me are as follows :—

[As in No. 1.]

I am instructed to state that the terms of the arrangement as communicated to me are agreed to by my Government.

I am further instructed to inform you that my Government concurs in your suggestion that the arrangement become effective on this date and will accordingly regard it as becoming effective on this date.

I avail, &c.

DANIEL C. ROPER.

