



Treaty Series No. 17 (1953)

Exchange of Notes

between the Government of the United
Kingdom of Great Britain and Northern Ireland
and the Swiss Government constituting an
**Agreement for Air Services between
and beyond their respective territories**

Berne, 13th May, 1952

*Presented by the Secretary of State for Foreign Affairs to Parliament
by Command of Her Majesty
March 1953*

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EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE SWISS GOVERNMENT CONSTITUTING AN AGREEMENT FOR AIR SERVICES BETWEEN AND BEYOND THEIR RESPECTIVE TERRITORIES

Berne, 13th May, 1952

No. 1

*The Head of the Swiss Political Department to
Her Majesty's Minister at Berne*

M. le Ministre,

Berne, le 13 mai 1952.

J'ai l'honneur de communiquer à votre Excellence qu'au cours de négociations entre nos deux Gouvernements, il a été reconnu qu'il était dans l'intérêt de la Suisse et du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, pour faciliter les communications aériennes entre leurs territoires, de prendre des arrangements concernant les vols commerciaux non couverts par l'accord du 5 avril 1950 entre la Suisse et le Royaume-Uni relatif aux services aériens.

En conséquence, je m'empresse de porter à votre connaissance que le Conseil Fédéral Suisse est prêt à accorder les privilèges suivants aux aéronefs britanniques définis dans cette note, aux conditions spécifiées plus bas, étant entendu que la réciprocité est accordée par le Gouvernement du Royaume-Uni aux aéronefs suisses. Ces privilèges s'ajouteront aux droits, dont bénéficient les aéronefs de chacun des deux pays, d'effectuer des vols en transit et des atterrissages sans but commercial sur le territoire de l'autre sans devoir obtenir une autorisation préalable, comme il est prévu à l'article 5 de la Convention relative à l'aviation civile internationale conclue à Chicago, le 7 décembre 1944 (ci-après dénommée "la Convention"):

1. Sous réserve des dispositions de la présente note, les aéronefs britanniques effectuant, contre rémunération, des vols non couverts par l'accord du 5 avril 1950 sont autorisés à embarquer et à débarquer sur le territoire suisse des passagers et des marchandises sans autorisation préalable.

Une autorisation préalable sera toutefois exigée pour de tels vols, effectués contre rémunération par des aéronefs britanniques sur chacune des routes décrites aux tableaux I et II de l'annexe à l'accord du 5 avril 1950, si ces routes sont effectivement desservies par une entreprise désignée conformément aux dispositions dudit accord, pour les transports de plus de quatre passagers, lorsque l'exploitant de l'aéronef a déjà effectué, sur l'itinéraire en question, un autre transport de plus de quatre passagers dans les dix jours qui précèdent.

Avant qu'une telle autorisation ne soit donnée pour une série de vols exécutés pour le compte d'une association, les autorités aéronautiques suisses pourront demander que l'exploitant de l'aéronef donne des informations sur le but poursuivi par cette association et qu'il fournisse une déclaration selon laquelle seules les personnes qui en sont membres seront transportées lors de ces vols. Toutefois, l'autorisation d'effectuer une telle série de vols ne sera pas refusée sans raison valable.

2. Aucune disposition de la présente note ne pourra être considérée comme conférant à un aéronef britannique le droit de transporter, contre rémunération, des passagers ou des marchandises provenant de et destinés à des points situés en Suisse.

3. Si les autorités aéronautiques suisses estiment que les vols effectués par des exploitants britanniques, conformément aux dispositions de la présente note, ont un caractère qui permet de les assimiler aux services convenus figurant à l'accord du 5 avril 1950, elles en informeront les autorités aéronautiques du Royaume-Uni. Ces dernières feront savoir aux autorités aéronautiques suisses, dans les dix jours qui suivront la réception de cette notification, si elles consentent que ces vols soient désormais effectués selon les conditions de l'accord précité. A moins que les autorités aéronautiques des deux pays ne conviennent que de tels vols seront effectués conformément aux dispositions de l'accord précité, les autorités aéronautiques suisses pourront, sans préjudice d'aucune des dispositions de la présente note, refuser l'autorisation de continuer la série de vols ou imposer aux vols ultérieurs telles conditions qu'elles pourront juger nécessaires. Dans tous les cas, les dispositions légales en vigueur dans chacun des deux pays seront prises en considération.

4. Toutes les dispositions de la Convention qui entrent en considération s'appliqueront aux vols commerciaux effectués conformément aux dispositions de la présente note.

Les carburants, les huiles lubrifiantes, les pièces de rechange, l'équipement régulier et les approvisionnements normaux des aéronefs, introduits ou pris à bord en Suisse par ou pour des aéronefs britanniques et destinés uniquement à l'usage de ces aéronefs, jouiront, en ce qui concerne les droits de douane, frais d'inspection et autres droits et taxes nationaux similaires, d'un traitement qui ne sera pas moins favorable que celui qui est accordé aux fournitures similaires introduites ou prises à bord en Suisse, à l'usage des aéronefs suisses ou de ceux de la nation la plus favorisée affectés à des vols commerciaux du même genre que ceux qui sont effectués conformément aux dispositions de cette note. Ce traitement sera accordé en plus et sans préjudice de celui auquel le Conseil Fédéral Suisse est tenu par l'article 24 de la Convention.

5. Le Conseil Fédéral Suisse se réserve le droit d'interdire l'exercice de droits commerciaux au sens de la présente note par un aéronef britannique en Suisse, si

- (a) le propriétaire ou l'exploitant de l'aéronef ne possède pas la nationalité britannique, ou si, s'agissant d'une entreprise, le Conseil Fédéral estime qu'une part notable de sa propriété et son contrôle effectif ne se trouvent pas entre les mains de citoyens britanniques, ou si
- (b) le propriétaire ou l'exploitant, malgré un avertissement adressé par les autorités aéronautiques suisses aux autorités aéronautiques du Royaume-Uni, continue à ne pas se conformer aux conditions fixées dans cette note.

6. Au sens de la présente note, l'expression " aéronef britannique " désigne un aéronef civil immatriculé dans le Royaume-Uni. Seront réputés " aéronefs britanniques " les aéronefs civils immatriculés dans un territoire dont les relations internationales sont de la compétence du Gouvernement du Royaume-Uni dès le moment où les aéronefs suisses jouiront dans ce territoire de droits analogues à ceux qui sont accordés par la présente note.

Les aéronefs militaires, de douane ou de police ne seront pas considérés comme aéronefs civils.

Je serais reconnaissant à votre Excellence de bien vouloir me faire savoir si le Gouvernement du Royaume-Uni est d'accord sur les termes et conditions de la présente note et s'il est disposé à accorder aux aéronefs suisses des droits équivalents, dans les mêmes termes et conditions.

Dans cette éventualité, j'ai l'honneur de suggérer que la présente note et votre réponse spécifiant les termes et conditions selon lesquels le Gouvernement

du Royaume-Uni est disposé à garantir les droits correspondants aux aéronefs suisses soient considérées comme constituant un accord entre nos deux Gouvernements, qui restera en vigueur jusqu'à l'expiration d'une période de deux mois après notification adressée par l'un des deux Gouvernements à l'autre Gouvernement de son intention de mettre fin audit accord. Cet accord sera appliqué provisoirement dès la date de votre réponse à la présente note. Il entrera définitivement en vigueur aussitôt que le Conseil Fédéral Suisse aura notifié sa ratification au Gouvernement du Royaume-Uni, par voie diplomatique. Si la ratification n'est pas notifiée dans les 12 mois à partir de la date de la présente note, chaque Gouvernement pourra mettre fin à l'application provisoire de l'accord, en notifiant par écrit à l'autre Gouvernement sa dénonciation, qui prendra effet deux mois après la date de la notification.

Veillez agréer, etc.

MAX PETITPIERRE.

Translation of No. 1

Sir.

Berne, 13th May, 1952.

I have the honour to inform your Excellency that in the course of negotiations, between our two Governments it was recognised that it was to the interest of Switzerland and the United Kingdom of Great Britain and Northern Ireland, with a view to facilitating air communications between their territories, to make arrangements for commercial flights not covered by the Agreement of 5th April, 1950⁽¹⁾, relating to air services between Switzerland and the United Kingdom.

I, therefore, have the honour to inform your Excellency that the Swiss Federal Council is prepared to grant the following privileges to British aircraft as defined in this Note on the conditions specified below, in consideration of the grant to Swiss aircraft of reciprocal treatment by the Government of the United Kingdom. These privileges shall be additional to the rights, enjoyed by the aircraft of each country, of making transit flights and stops for non-traffic purposes in the territories of the other country without the necessity of obtaining prior permission, as provided for in Article 5 of the Convention on International Civil Aviation, concluded at Chicago on 7th December, 1944⁽²⁾ (hereinafter referred to as "the Convention").

1. Subject to the provisions of this Note, British aircraft operating for valuable consideration flights not covered by the Agreement of 5th April, 1950, may take on board and set down passengers and goods in Swiss territory without prior permission.

Prior permission shall, nevertheless, always be required for such flights carried out by British aircraft for valuable consideration over any route specified in Schedules I and II attached to the Annex to the Agreement of 5th April, 1950, and effectively operated by a designated airline in accordance with the provisions of the said Agreement when the aircraft is to carry more than four passengers and the operator of the aircraft has within the preceding ten days made at least one other flight carrying more than four passengers over the route in question.

Before such permission is given in respect of a series of flights carried out on behalf of a society or association, the Swiss aeronautical authorities may

(1) "Treaty Series No. 49 (1951)," Cmd. 8284.

(2) "Treaty Series No. 8 (1953)," Cmd. 8742.

require that the operator of the aircraft shall provide information as to the purposes for which the society or association is constituted and shall give an undertaking that only persons who are members of the society or association will be carried on the flights. Permission in respect of such series of flights shall not, however, be refused without good reason.

2. Nothing in this Note shall be deemed to confer upon British aircraft the right to carry for valuable consideration passengers or goods both originating from and destined for points in Switzerland.

3. If the Swiss aeronautical authorities consider the flights carried out by British operators in accordance with the provisions of this Note are of a similar nature to the services agreed upon in the Agreement of 5th April, 1950, they will so inform the aeronautical authorities of the United Kingdom. The latter shall inform the Swiss aeronautical authorities within ten days of the receipt of this notification whether they propose that these flights shall thenceforth be carried out under the conditions of the said Agreement. Unless the aeronautical authorities of the two countries agree that such flights shall be made under the conditions laid down in the said Agreement the Swiss aeronautical authorities may, notwithstanding any of the other provisions of this Note, refuse permission for continuance of the series or impose upon further flights such conditions as they may deem necessary. In all cases the legislation in force in each of the two countries shall be taken into consideration.

4. All relevant provisions of the Convention shall apply to commercial flights made under the provisions of this Note.

Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores introduced into Switzerland or taken on board aircraft in Switzerland by or on behalf of British aircraft and intended solely for use by or in these aircraft shall be accorded, in respect of customs duty, inspection fees and other similar national duties and charges, treatment not less favourable than that accorded to similar supplies introduced into Switzerland or taken on board aircraft in Switzerland and intended for use by or in Swiss aircraft or aircraft of the most favoured nation engaged in commercial flights similar to those operated in accordance with the provisions of this Note. This treatment shall be in addition to and without prejudice to that which the Swiss Federal Council is under obligation to grant under Article 24 of the Convention.

5. The Swiss Federal Council reserves the right to prohibit the exercise of traffic rights under this Note in Switzerland by any British aircraft—

- (a) the owner or operator of which is not a British national or is an undertaking in respect of which the Swiss Federal Council is not satisfied that substantial ownership and effective control are vested in British nationals, or
- (b) when the owner or operator, in spite of a warning addressed by the Swiss aeronautical authorities to the aeronautical authorities of the United Kingdom, persists in failing to comply with the conditions set out in this Note.

6. For the purposes of this Note, the expression "British aircraft" means civil aircraft registered in the United Kingdom; and shall include civil aircraft registered in any territory for whose international relations the Government of the United Kingdom are responsible, as soon as Swiss aircraft enjoy in that territory rights similar to those accorded by the present Note.

Aircraft used in military, customs or police services shall be deemed not to be civil aircraft.

I shall be grateful if your Excellency will inform me whether the Government of the United Kingdom concur in the terms and conditions set forth in the present Note and are prepared to grant reciprocal privileges to Swiss aircraft on equivalent terms and conditions.

In that event, I have the honour to suggest that the present Note and your reply in that sense, specifying the terms and conditions on which the Government of the United Kingdom are prepared to grant corresponding privileges to Swiss aircraft, shall be regarded as constituting an agreement between our two Governments which shall remain in force until the expiry of a period of two months after notification by one of the two Governments to the other Government of its intention to terminate the said agreement. This agreement shall have provisional effect from the date of your reply to the present Note. It shall come into force definitively as soon as the Swiss Federal Council has notified its ratification to the Government of the United Kingdom through the diplomatic channel. If notice of ratification is not given within twelve months from the date of this Note either Government may terminate the provisional application of the agreement by giving to the other Government written notice of denunciation, which shall take effect two months after the date of notification.

I avail, &c.
MAX PETITPIERRE.

No. 2

*Her Majesty's Minister at Berne to the Head of the
Swiss Political Department*

British Legation,

Your Excellency,

Berne, 13th May, 1952.

I have the honour to acknowledge receipt of your Excellency's Note of this day's date proposing certain arrangements for commercial flights which are not covered by the Agreement of 5th April, 1950, between the United Kingdom of Great Britain and Northern Ireland and Switzerland for air services between and beyond their respective territories.

In reply I have the honour to inform you that the Government of the United Kingdom concur in the terms and conditions set forth in your Note and are prepared to grant on a reciprocal basis the following privileges to Swiss aircraft as defined in this Note on the conditions specified. These privileges shall be additional to the rights enjoyed by the aircraft of each country of making transit flights and stops for non-traffic purposes in the territory of the other country without the necessity of obtaining prior permission as provided in Article 5 of the Convention on International Civil Aviation opened for signature at Chicago on 7th December, 1944 (hereinafter referred to as "the Convention"):

1. Subject to the provisions of this Note Swiss aircraft operating for valuable consideration flights not covered by the Agreement of 5th April, 1950, may take on board and set down passengers and goods in the United Kingdom without prior permission.

Prior permission shall, nevertheless, always be required for such flights carried out by Swiss aircraft for valuable consideration over any route specified in Schedules I and II attached to the Annex to the Agreement of 5th April, 1950, and effectively operated by a designated airline in accordance with the provisions of the said Agreement when the aircraft is to carry more than four passengers and the operator of the aircraft has within the preceding ten days

made at least one other flight carrying more than four passengers over the route in question.

Before such permission is given in respect of a series of flights carried out on behalf of a society or association, the aeronautical authorities of the United Kingdom may require that the operator of the aircraft shall provide information as to the purposes for which the society or association is constituted and shall give an undertaking that only persons who are members of the society or association will be carried on the flights. Permission in respect of such series of flights shall not, however, be refused without good reason.

2. Nothing in this Note shall be deemed to confer upon Swiss aircraft the right to carry for valuable consideration passengers or goods both originating from and destined for points in the United Kingdom or territories for whose international relations the Government of the United Kingdom are responsible.

3. If the aeronautical authorities of the United Kingdom consider that flights carried out by Swiss operators in accordance with the provisions of this Note are of a similar nature to the services agreed upon in the Agreement of 5th April, 1950, they will so inform the Swiss aeronautical authorities. The latter shall inform the aeronautical authorities of the United Kingdom within ten days of the receipt of this notification whether they propose that these flights shall thenceforth be carried out under the conditions of the said Agreement. Unless the aeronautical authorities of the two countries agree that such flights shall be made under the conditions laid down in the said Agreement the aeronautical authorities of the United Kingdom may, notwithstanding any of the other provisions of this Note, refuse permission for continuance of the series or impose upon further flights such conditions as they may deem necessary. In all cases the legislation in force in each of the two countries shall be taken into consideration.

4. All relevant provisions of the Convention shall apply to commercial flights made under the provisions of this Note.

Fuel, lubricating oils, spare parts, regular aircraft equipment and aircraft stores introduced into or taken on board aircraft in the United Kingdom by or on behalf of Swiss aircraft and intended solely for use by or in these aircraft shall be accorded, in respect of customs duty, inspection fees and other similar national duties and charges, treatment not less favourable than that accorded to similar supplies introduced into or taken on board aircraft in the United Kingdom and intended for use by or in British aircraft or aircraft of the most favoured nation engaged in commercial flights similar to those operated in accordance with the provisions of this Note. This treatment shall be in addition to and without prejudice to that which the Government of the United Kingdom are under obligation to grant under Article 24 of the Convention.

5. The Government of the United Kingdom reserve the right to prohibit the exercise of traffic rights under this Note in the United Kingdom or territories for whose international relations the Government of the United Kingdom are responsible by any Swiss aircraft—

- (a) the owner or operator of which is not a Swiss national or is an undertaking in respect of which the Government of the United Kingdom are not satisfied that substantial ownership and effective control are vested in Swiss nationals, or
- (b) when the owner or operator, in spite of a warning addressed by the aeronautical authorities of the United Kingdom to the Swiss aeronautical authorities, persists in failing to comply with conditions set out in this Note.

6. The privileges accorded in the United Kingdom to Swiss aircraft by virtue of this Note may be extended to one or more of the territories for whose international relations the Government of the United Kingdom are responsible by notification addressed by the United Kingdom Government to the Swiss Federal Council.

In the case of any such territory to which these privileges have been so extended they may subsequently be withdrawn at any time by a further notification in writing addressed by the Government of the United Kingdom to the Swiss Federal Council.

7. For the purposes of this Note the expression "Swiss aircraft" means civil aircraft registered in Switzerland.

Aircraft used in military, customs or police services shall be deemed not to be civil aircraft.

The Government of the United Kingdom accept your suggestion that your Excellency's Note and the present reply should be regarded as constituting an agreement between our two Governments which shall remain in force until the expiry of a period of two months after notification by one of the two Governments to the other Government of its intention to terminate the said agreement. This agreement shall have provisional effect from to-day's date and shall enter into force⁽³⁾ definitively as soon as the Swiss Federal Council has notified its ratification to the Government of the United Kingdom through the diplomatic channel. If notice of ratification is not given within twelve months of the date of this Note either Government may terminate the provisional application of the agreement by giving to the other Government written notice of denunciation, which shall take effect two months after the date of notification.

I avail, &c.

PATRICK SCRIVENER.

(³) 10th February, 1953

NOTE: The provisions of the Agreement were extended to Jersey, Guernsey and the Isle of Man by notification of 17th November, 1952.

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