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copies shall be transmitted by that Government to the governments of all the States which may sign and accept this Agreement.

[Signatures omitted.]

(30) Air Services Agreement Between the United States and the United Kingdom, Bermuda, 11 February 1946

(Treaties and Other International Acts Series 1507)

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Desiring to conclude an Agreement for the purpose of promoting direct air communications as soon as possible between their respective territories,

Have accordingly appointed authorised representatives for this purpose, who have agreed as follows:—

ARTICLE 1.—Each Contracting Party grants to the other Contracting Party rights to the extent described in the Annex to this Agreement for the purpose of the establishment of air services described therein or as amended in accordance with Section IV of the Annex (hereinafter referred to as “the agreed services”).

ARTICLE 2.—(1) The agreed services may 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 air carrier or carriers for the specified route or routes, and (b) the Contracting Party granting the rights has given the appropriate operating permission to the air carrier or carriers concerned (which, subject to the provisions of paragraph (2) of this Article and of Article 6, it shall do without undue delay).

(2) The designated air carrier or carriers may be

required to satisfy the aeronautical authorities of the Contracting Party granting the rights that it or they is or are qualified to fulfil the conditions prescribed by or under the laws and regulations normally applied by those authorities to the operations of commercial air carriers.

(3) In areas of military occupation, or in areas affected thereby, such inauguration will continue to be subject, where necessary, to the approval of the competent military authorities.

ARTICLE 3.—(1) The charges which either of the Contracting Parties may impose, or permit to be imposed, on the designated air carrier or carriers 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 air 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, a designated air carrier of the other Contracting Party and intended solely for use by the aircraft of such carrier 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 air carriers engaged in international air services or such carriers of the most favoured nation.

(3) Supplies of fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board aircraft of a designated air carrier of one Contracting Party 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 within that territory.

ARTICLE 4.—Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party and still in force shall be recognised as valid by the other Contracting Party for the purpose of operation of the agreed services. Each Contracting Party reserves the right, however, to refuse to recognise for the purpose of flight above its own territory, certificates of competency and licenses 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 air carrier or carriers 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 air carrier or carriers 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 a carrier designated by the other Contracting Party in the event that it is not satisfied that substantial ownership and effective control of such carrier are vested in nationals of either Contracting Party, or in case of failure by that carrier to comply with the laws and regulations referred to in Article 5 hereof, or

otherwise to fulfill 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 Provisional International Civil Aviation Organisation set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944.

ARTICLE 8.—Except as otherwise provided in this Agreement or its Annex, if either of the Contracting Parties considers it desirable to modify the terms of the Annex to this Agreement, it may request consultation between the aeronautical authorities of both Contracting Parties, such consultation to begin within a period of sixty days from the date of the request. When these authorities agree on modifications to the Annex, these modifications will come into effect when they have been confirmed by an Exchange of Notes through the diplomatic channel.

ARTICLE 9.—Except as otherwise provided in this Agreement or in its Annex, any dispute between the Contracting Parties relating to the interpretation or application of this Agreement or its Annex which cannot be settled through consultation shall be referred for an advisory report to the Interim Council of the Provisional International Civil Aviation Organisation (in accordance with the provisions of Article III Section 6 (8) of the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944) or its successor.

ARTICLE 10.—The terms and conditions of operating rights which may have been granted previously by either Contracting Party to the other Contracting Party or to an air carrier of such other Contracting Party shall not be abrogated by the present Agree-

ment. Except as may be modified by the present Agreement, the general principles of the air navigation arrangement between the two Contracting Parties, which was effected by an Exchange of Notes dated March 28 and April 5, 1935, shall continue in force in so far as they are applicable to scheduled international air services, until otherwise agreed by the Contracting Parties.

ARTICLE 11.—If a general multilateral air Convention enters into force in relation to both Contracting Parties, the present Agreement shall be amended so as to conform with the provisions of such Convention.

ARTICLE 12.—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 States, the Civil Aeronautics Board and any person or body authorised to perform the functions presently exercised by the Board or similar functions, and, in the case of the United Kingdom, the Minister of Civil Aviation for the time being, and any person or body authorised to perform any functions presently exercised by the said Minister or similar functions.

(b) The term “designated air carriers” 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 carriers 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 Inter-

national 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 13.—Either Contracting Party may at any time request consultation with the other with a view to initiating any amendments of this Agreement or its Annex which may be desirable in the light of experience. Pending the outcome of such consultation, it shall be open to either Party at any time to give notice to the other of its desire to terminate this Agreement. Such notice shall be simultaneously communicated to the Provisional International Civil Aviation Organisation or its successor. If such notice is given, this Agreement shall terminate twelve calendar 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 Provisional International Civil Aviation Organisation or its successor.

ARTICLE 14.—This Agreement, including the provisions of the Annex hereto, will come into force on the day it is signed.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed the present Agreement.

Done in duplicate this eleventh day of February Nineteen-hundred-and-forty-six at Bermuda.

[Signatures omitted.]

ANNEX

I

For the purposes of operating air services on the routes specified below in Section III of this Annex or as amended in accordance with Section IV hereof, the designated air carriers of one of the Contracting Parties shall be accorded in the territory of the other Contracting Party the use on the said routes at each of the places specified therein of all the airports (being airports designated for international air services), together with ancillary facilities and rights of transit, of stops for non-traffic purposes and of commercial entry and departure for international traffic in passengers, cargo and mail in full accord and compliance with the principles recited and agreed in the Final Act of the Conference on Civil Aviation held between the Governments of the United States and of the United Kingdom at Bermuda from January 15 to February 11, 1946, and subject to the provisions of Sections II and V of this Annex.

II

(a) Rates to be charged by the air carriers of either Contracting Party between points in the territory of the United States and points in the territory of the United Kingdom referred to in this Annex shall be subject to the approval of the Contracting Parties within their respective constitutional powers and obligations. In the event of disagreement the matter in dispute shall be handled as provided below.

(b) The Civil Aeronautics Board of the United States having announced its intention to approve the rate conference machinery of the International Air Transport Association (hereinafter called "IATA"), as submitted, for a period of one year beginning in February, 1946, any rate agreements concluded

through this machinery during this period and involving United States air carriers will be subject to approval by the Board.

(c) Any new rate proposed by the air carrier or carriers of either Contracting Party shall be filed with the aeronautical authorities of both Contracting Parties at least thirty days before the proposed date of introduction; provided that this period of thirty days may be reduced in particular cases if so agreed by the aeronautical authorities of both Contracting Parties.

(d) The Contracting Parties hereby agree that where:

(1) during the period of the Board's approval of the IATA rate conference machinery, either any specific rate agreement is not approved within a reasonable time by either Contracting Party or a conference of IATA is unable to agree on a rate, or

(2) at any time no IATA machinery is applicable, or

(3) either Contracting Party at any time withdraws or fails to renew its approval of that part of the IATA rate conference machinery relevant to this provision,

the procedure described in paragraphs (e), (f) and (g) hereof shall apply.

(e) In the event that power is conferred by law upon the aeronautical authorities of the United States to fix fair and economic rates for the transport of persons and property by air on international services and to suspend proposed rates in a manner comparable to that in which the Civil Aeronautics Board at present is empowered to act with respect to such rates for the transport of persons and property by air within the United States, each of the Contracting

Parties shall thereafter exercise its authority in such manner as to prevent any rate or rates proposed by one of its carriers for services from the territory of one Contracting Party to a point or points in the territory of the other Contracting Party from becoming effective, if, in the judgment of the aeronautical authorities of the Contracting Party whose air carrier or carriers is or are proposing such rate, that rate is unfair or uneconomic. If one of the Contracting Parties on receipt of the notification referred to in paragraph (c) above is dissatisfied with the new rate proposed by the air carrier or carriers of the other Contracting Party, it shall so notify the other Contracting Party prior to the expiry of the first fifteen of the thirty days referred to, and the Contracting Parties shall endeavour to reach agreement on the appropriate rate. In the event that such agreement is reached each Contracting Party will exercise its statutory powers to give effect to such agreement. If agreement has not been reached at the end of the thirty day period referred to in paragraph (c) above, the proposed rate may, unless the aeronautical authorities of the country of the air carrier concerned see fit to suspend its operation, go into effect provisionally pending the settlement of any dispute in accordance with the procedure outlined in paragraph (g) below.

(f) Prior to the time when such power may be conferred by law upon the aeronautical authorities of the United States, if one of the Contracting Parties is dissatisfied with any new rate proposed by the air carrier or carriers of either Contracting Party for services from the territory of one Contracting Party to a point or points in the territory of the other Contracting Party, it shall so notify the other prior to the expiry of the first fifteen of the thirty day period referred to in paragraph (c) above, and the

Contracting Parties shall endeavour to reach agreement on the appropriate rate. In the event that such agreement is reached each Contracting Party will use its best efforts to cause such agreed rate to be put into effect by its air carrier or carriers. It is recognised that if no such agreement can be reached prior to the expiry of such thirty days, the Contracting Party raising the objection to the rate may take such steps as it may consider necessary to prevent the inauguration or continuation of the service in question at the rate complained of.

(g) When in any case under paragraphs (e) and (f) above the aeronautical authorities of the two Contracting Parties cannot agree within a reasonable time upon the appropriate rate after consultation initiated by the complaint of one Contracting Party concerning the proposed rate or an existing rate of the air carrier or carriers of the other Contracting Party, upon the request of either, both Contracting Parties shall submit the question to the Provisional International Civil Aviation Organisation or to its successor for an advisory report, and each Party will use its best efforts under the powers available to it to put into effect the opinion expressed in such report.

(h) The rates to be agreed in accordance with the above paragraphs shall be fixed at reasonable levels, due regard being paid to all relevant factors, such as cost of operation, reasonable profit and the rates charged by any other air carriers.

(j) The Executive Branch of the Government of the United States agrees to use its best efforts to secure legislation empowering the aeronautical authorities of the United States to fix fair and economic rates for the transport of persons and property by air on international services and to suspend proposed rates in a manner comparable to that in which the

Civil Aeronautics Board at present is empowered to act with respect to such rates for the transport of persons and property by air within the United States.

III

(a) ROUTES TO BE SERVED BY AIR CARRIERS
OF THE UNITED KINGDOM

[Enumeration of routes omitted.]

(b) ROUTES TO BE SERVED BY AIR CARRIERS
OF THE UNITED STATES

[Enumeration of routes omitted.]

IV

(a) Amendments made by either Contracting Party to the routes described in Section III of this Annex which change the points served in the territory of the other Contracting Party will be made only after consultation in accordance with the provisions of Article 8 of this Agreement.

(b) Other route changes desired by either Contracting Party may be made and put into effect at any time, prompt notice to that effect being given by the aeronautical authorities of the Contracting Party concerned to the aeronautical authorities of the other Contracting Party. If such other Contracting Party finds that, having regard to the principles set forth in paragraph (6) of the Final Act of the Conference referred to in Section I of this Annex, the interests of its air carrier or carriers are prejudiced by the carriage by the air carrier or carriers of the first Contracting Party of traffic between the territory of the second Contracting Party and the new point in the territory of a third country it shall so inform the first Contracting Party. If agreement

cannot be reached by consultation between the Contracting Parties, it shall be open to the Contracting Party whose air carrier or carriers is or are affected to invoke the provisions of Article 9 of this Agreement.

(c) The Contracting Parties will, as soon as possible after the execution of this Agreement and from time to time thereafter, exchange information concerning the authorisations extended to their respective designated air carriers to render service to, through and from the territory of the other Contracting Party. This will include copies of current certificates and authorisations for service on the routes which are the subject of this Agreement, and for the future such new certificates and authorisations as may be issued, together with amendments, exemption orders and authorised service patterns.

V

(a) Where the onward carriage of traffic by an aircraft of different size from that employed on the earlier stage of the same route (hereinafter referred to as "change of gauge") is justified by reason of economy of operation, such change of gauge at a point in the territory of the United Kingdom or the territory of the United States shall not be made in violation of the principles set forth in the Final Act of the Conference on Civil Aviation held at Bermuda from January 15 to February 11, 1946 and, in particular, shall be subject to there being an adequate volume of through traffic.

(b) Where a change of gauge is made at a point in the territory of the United Kingdom or in the territory of the United States, the smaller aircraft will operate only in connection with the larger aircraft arriving at the point of change, so as to provide

a connecting service which will thus normally wait on the arrival of the larger aircraft, for the primary purpose of carrying onward those passengers who have travelled to United Kingdom or United States territory in the larger aircraft to their ultimate destination in the smaller aircraft. Where there are vacancies in the smaller aircraft such vacancies may be filled with passengers from United Kingdom or United States territory respectively. It is understood however that the capacity of the smaller aircraft shall be determined with primary reference to the traffic travelling in the larger aircraft normally requiring to be carried onward.

(c) It is agreed that the arrangements under any part of the preceding paragraphs (a) and (b) shall be governed by and in no way restrictive of the standards set forth in paragraph (6) of the Final Act.

RESOLUTION ADOPTED AT THE BERMUDA CONFERENCE, 11 FEBRUARY 1946

[The following resolution was adopted as part of the
Final Act of the Conference:]

Whereas representatives of the two Governments have met together in Bermuda to discuss Civil Aviation matters outstanding between them and have reached agreement thereon,

Whereas the two Governments have to-day concluded an Agreement relating to air services between their respective territories (hereinafter called "the Agreement"),

And whereas the two Governments have reached agreement on the procedure to be followed in the settlement of other matters in the field of Civil Aviation,

Now therefore the representatives of the two Governments in Conference resolve and agree as follows:—

(1) That the two Governments desire to foster and encourage the widest possible distribution of the benefits of air travel for the general good of mankind at the cheapest rates consistent with sound economic principles; and to stimulate international air travel as a means of promoting friendly understanding and good will among peoples and ensuring as well the many indirect benefits of this new form of transportation to the common welfare of both countries.

(2) That the two Governments reaffirm their adherence to the principles and purposes set out in the preamble to the Convention on International Civil Aviation signed at Chicago on the 7th December, 1944.

(3) That the air transport facilities available to the travelling public should bear a close relationship to the requirements of the public for such transport.

(4) That there shall be a fair and equal opportunity for the carriers of the two nations to operate on any route between their respective territories (as defined in the Agreement) covered by the Agreement and its Annex.

(5) That, in the operation by the air carriers of either Government of the trunk services described in the Annex to the Agreement, the interest of the air carriers of the other Government shall be taken into consideration so as not to affect unduly the services which the latter provides on all or part of the same routes.

(6) That it is the understanding of both Governments that services provided by a designated air carrier under the Agreement and its Annex shall retain as their primary objective the provision of capacity adequate to the traffic demands between

the country of which such air carrier is a national and the country of ultimate destination of the traffic. The right to embark or disembark on such services international traffic destined for and coming from third countries at a point or points on the routes specified in the Annex to the Agreement shall be applied in accordance with the general principles of orderly development to which both Governments subscribe and shall be subject to the general principle that capacity should be related:

(a) to traffic requirements between the country of origin and the countries of destination;

(b) to the requirements of through airline operation; and

(c) to the traffic requirements of the area through which the airline passes after taking account of local and regional services.

(7) That, in so far as the air carrier or carriers of one Government may be temporarily prevented through difficulties arising from the War from taking immediate advantage of the opportunity referred to in paragraph(4)above, the situation shall be reviewed between the Governments with the object of facilitating the necessary development, as soon as the air carrier or carriers of the first Government is or are in a position increasingly to make their proper contribution to the service.

(8) That duly authorised United States civil air carriers will enjoy non-discriminatory "Two Freedom" privileges and the exercise (in accordance with the Agreement or any continuing or subsequent agreement) of commercial traffic rights at airports located in territory of the United Kingdom which have been constructed in whole or in part with United States funds and are designated for use by international civil air carriers.

(9) That it is the intention of both Governments that there should be regular and frequent consultation between their respective aeronautical authorities (as defined in the Agreement) and that there should thereby be close collaboration in the observance of the principles and the implementation of the provisions outlined herein and in the Agreement and its Annex. . . .

