

N° 2514.

AUTRICHE ET POLOGNE

Traité concernant la navigation aérienne, avec protocole additionnel.
Signés à Vienne, le 10 avril 1930.

AUSTRIA AND POLAND

Treaty regarding Aerial Navigation,
with Additional Protocol. Signed
at Vienna, April 10, 1930.

TEXTE POLONAIS. — POLISH TEXT.

N^o 2514. — UMOWA¹ MIĘDZY REPUBLIKĄ AUSTRJACKĄ I RZECZĄPOSPOLITĄ POLSKĄ O ŻEGLUDZE POWIETRZNEJ. PODPISANA W WIEDNIE DNIA 10. KNIETNIA 1930 r.

German and Polish official texts communicated by the Federal Chancellor of the Austrian Republic and the Polish Delegate accredited to the League of Nations. The registration of this Treaty took place November 4, 1930.

PREZYDENT ZWIĄZKOWY REPUBLIKI AUSTRJACKIEJ i PREZYDENT RZECZYPOSPOLITEJ POLSKIEJ w jednakowym przeświadczeniu, że popieranie rozwoju pokojowej międzynarodowej żeglugi powietrznej pomiędzy Austrią a Polską leży w interesie obydwóch Państw, postanowili zawrzeć umowę o żegludze powietrznej, i mianowali w tym celu swoich pełnomocników :

PREZYDENT ZWIĄZKOWY REPUBLIKI AUSTRJACKIEJ :

p. Dr. Michała HAINISCHA, Związkowego Ministra Handlu i Komunikacji ;

PREZYDENT RZECZYPOSPOLITEJ POLSKIEJ :

p. Dr. Karola BADERA, Posła Nadzwyczajnego i Ministra Pełnomocnego Rzeczypospolitej Polskiej w Wiedniu.

Pełnomocnicy ci po wymianie swych pełnomocnictw, uznanych za dobre i sporządzone w należytej formie, zgodzili się na następujące postanowienia :

Artykuł I.

1. Każde z Umawiających się Państw udziela w czasie pokoju pod warunkiem zupełnej wzajemności statkom powietrznym drugiego Umawiającego się Państwa, w tem ostatniem prawidłowo zarejestrowanym, prawa żeglugi powietrznej na swym obszarze, z zastrzeżeniem stosowania się do postanowień umowy niniejszej.

2. Istnieje jednak zgoda co do tego, że zarobkowy przewóz osób i rzeczy, a w szczególności urządzanie i eksploatacja regularnej komunikacji lotniczej przez przedsiębiorstwa lotnicze jednego z Umawiających się Państw do obszaru lub ponad obszarem drugiego Umawiającego się Państwa (z lądowaniem lub bez lądowania) podlega specjalnym umowom między naczelnymi władzami lotniczymi obydwóch Umawiających się Państw. Przedsiębiorstwa lotnicze jednego z Umawiających się Państw, dopuszczone do komunikacji lotniczej na podstawie tych specjalnych porozumień, otrzymują od właściwej władzy drugiego Umawiającego się Państwa specjalne zaświadczenia o zezwoleniu.

3. Za obszar w myśl umowy niniejszej uważa się obszar Państwa wraz z jego wodami terytorjalnymi.

¹ The exchange of ratifications took place at Warsaw, August 21, 1930.

¹ TRANSLATION.

No. 2514. — TREATY BETWEEN THE AUSTRIAN REPUBLIC AND THE POLISH REPUBLIC RELATING TO AERIAL NAVIGATION. SIGNED AT VIENNA, APRIL 10, 1930.

THE PRESIDENT OF THE FEDERAL REPUBLIC OF AUSTRIA and THE PRESIDENT OF THE POLISH REPUBLIC, being equally convinced that it is in the interests of both Austria and Poland to promote international air navigation in a pacific spirit, have decided to conclude a treaty for this purpose and have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE FEDERAL REPUBLIC OF AUSTRIA :

Dr. Michael HAINISCH, Federal Minister of Commerce and Transport ;

THE PRESIDENT OF THE POLISH REPUBLIC :

Dr. Karol BADER, Envoy Extraordinary and Minister Plenipotentiary of the Polish Republic in Vienna ;

Who, having communicated their full powers, found in good and due form, have agreed on the following provisions :

Article 1.

1. Each of the Contracting States shall, subject to full reciprocity in time of peace, accord freedom of passage above its territory to aircraft of the other Contracting State, duly registered therein, provided that the stipulations of the present Treaty are observed.

2. It is agreed that the commercial transport of passengers or goods and in particular the establishment and operation by air transport undertakings belonging to one of the Contracting States of regular airlines to and from the territory of the other State or across such State (with or without landing), shall be subject to special agreements between the air authorities of both the Contracting States. Authorised air transport undertakings of the one State shall, under this special agreement, obtain for this purpose special written authorisations from the competent authorities.

3. The term "territory" shall for the purposes of the present Treaty be held to mean the home country including territorial waters.

4. For the purposes of the present Treaty, the term "aircraft" shall mean private and Government motor driven aircraft and free balloons which are not used for military, Customs or police purposes.

5. Aircraft which form part of the equipment of the military forces or which bear marks characteristic of military aircraft or which are under a military commander specially commissioned for the purpose, shall be deemed to be military aircraft.

¹ Translated by the Secretariat of the League of Nations, for information.

6. The stipulations of the present Treaty shall only apply to free balloons so far as their special character permits.

Article 2.

Aircraft shall possess the nationality of the State in which they are duly registered.

Article 3.

1. Each of the Contracting States shall determine the points between which the frontiers of its territory may be crossed.

2. While flying over the territory of the other State, aircraft shall, as far as weather conditions permit, keep to the prescribed air-route. If no specific air-route is prescribed, the shortest authorised route shall be taken.

3. Sections of the frontier which either Contracting State allows to be flown over by its own or foreign aircraft and the air-routes which it prescribes for its own or foreign aircraft, shall also be open to the aircraft of the other Contracting State.

Article 4.

Either Contracting State may prohibit flight over certain areas of its own territory, provided that no distinction is made in this respect between the aircraft of the two Contracting States.

Article 5.

Each of the Contracting States shall notify to the other the sections of the frontier which may be flown over, the prescribed air-routes and the areas of its territory over which air navigation is prohibited, as also any changes which may be made in regard to these matters.

Article 6.

Each of the Contracting States reserves the right in exceptional circumstances to impose restrictions with immediate effect on flight over its own territory or to prohibit such flight, either wholly or partially.

Article 7.

1. All aircraft which finds itself over a prohibited area of either Contracting State must immediately give the signal of distress provided in the Air Navigation Regulations of the State flown over and shall land without delay at the nearest aerodrome situated outside the prohibited area of the State in question.

2. The same measures shall apply when an aircraft receives a special signal during flight that it is over a prohibited area.

Article 8.

Air transport undertakings and aircraft of either of the Contracting States, their crews, passengers and cargoes, shall be subject, while in the national territory of the other State, to the obligations

arising out of the regulations in force in that State, especially those which concern air navigation in general, in so far as they are applicable to all foreign aircraft without distinction of nationality, to the regulations laid down in the special written authorisation and also to the regulations concerning Customs and other duties, export and import prohibitions, to the carriage of passengers and goods, public safety and order, health and passports. They shall, furthermore, be subject to such other obligations as may arise out of the general legislation in force.

Article 9.

Each of the Contracting Parties may reserve for its own aircraft the commercial transport of passengers or goods between two points in its own territory.

Article 10.

The fuel on board an aircraft of one of the Contracting Parties on arrival in the territory of the other Contracting Party shall be admitted free of duty, with the exception of such fuel as is unloaded on the territory of this State, or is to be exclusively used for flying within the territory of this State.

Article 11.

1. Aircraft must be provided with distinctive and clearly visible nationality and registration marks, enabling them to be identified in flight. They must also be marked with the name and the residence of their owner.

2. Aircraft must carry certificates of registration, air-worthiness and logs, and in addition, any other documents required for air navigation in the country to which they belong.

Article 12.

The Contracting Parties reserve the right by direct agreements between the competent authorities of both States to settle any claims for damage caused in connection with the operation of aircraft in the territory of the other Contracting State.

Article 13.

1. Members of the crew performing duties for the exercise of which a special licence is required in their country of origin, must carry the certificates laid down for air navigation in the said country and, in particular, the prescribed certificates of competency and licences.

2. The other members of the crew must carry certificates indicating their identity, their nationality, their profession and their duties on board the aircraft.

3. Except as otherwise provided for by agreement between the two contracting States, the crew and passengers must carry the certificates prescribed for the crossing of the frontiers of the contracting State to whose territory they intend to proceed.

Article 14.

1. Certificates of air-worthiness, certificates of competency and licences, issued or approved by one of the Contracting States for the aircraft or the crew shall have the same validity in the other Contracting State as the corresponding documents issued or approved in the latter State, except that certificates of competency and licences held by the crew shall only be valid for the service of aircraft belonging to their own country. Exceptions to this rule may only be allowed with the consent of the highest air authority of the other State.

2. For the purpose of flights within its own territory, either contracting State has the right to refuse to recognise the certificates issued to nationals of the said State by the other contracting State.

Article 15.

1. Aircraft of one of the Contracting States when in the territory of the other Contracting State shall not carry apparatus for the transmission of radiotelegraphic messages, except in so far as this is lawful in both Contracting States. This apparatus shall, in the territory of either Contracting State only be used according to the regulations in force in the territory of this Contracting State, and only by such members of the crew as are provided with a special licence issued for the purpose by their state of origin.

2. Either Contracting Party shall be entitled on the grounds of safety to issue rules regarding the compulsory equipment of aircraft with apparatus for the transmission of radio telegraphic messages.

3. The competent authorities of both Contracting States shall be entitled to come to a direct agreement in regard to the carrying out of the provisions of this Article.

Article 16.

1. Aircraft and their crews and passengers must not carry arms, ammunition, war material, substances that may be used in chemical warfare, explosives, carrier pigeons or photographic apparatus, except with the permission of the State in the territory of which the aircraft is situated. Without prejudice however to the regulations in force with regard to the possession and carrying of arms, these rules shall not apply to members of the crew as regards the conveyance of signal apparatus or of weapons necessary for the protection of the persons or goods carried in the aircraft.

2. Either Contracting State may as a measure of public safety subject the carriage or conveyance of other objects in addition to those specified in the preceding paragraph to restriction provided that in regard to these no distinction shall be made between the aircraft of both Contracting States.

Article 17.

1. Aircraft which carry passengers or articles must be provided with a nominal roll of the passengers and a list specifying the nature and quantity of the articles and cargo carried, together with the necessary Customs declaration.

2. The details of Customs supervision over aircraft shall be settled by direct agreement between the Customs administrations of the two Contracting States.

Article 18.

The carrying of mails shall be arranged direct between the postal administrations of the two Contracting States by means of special agreements.

Article 19.

Each of the Contracting States may in its own territory in all circumstances have the aircraft of the other Contracting State officially inspected on arrival or departure and the certificates and other documents verified.

Article 20.

1. Aerodromes which are open to public use in either of the Contracting States shall be available to the aircraft of either State upon the same conditions. The aircraft of both Contracting States shall also be entitled to use the meteorological, wireless and safety services under the same conditions. Any charges (landing charge, charge for length of stay, etc.) shall be the same for the aircraft of each of the Contracting States.

2. In the territory of a Contracting State aircraft may only land at or take off from an aerodrome open to public use, provided with a Customs office and facilities for the inspection of passports; aircraft may not land either previously, or subsequently, except on such an aerodrome.

3. The competent authorities may in particular cases authorise aircraft to land at or take off from other aerodromes where the Customs and passport inspections will also be carried out. The prohibition of any previous or subsequent landings anywhere except at these aerodromes shall also apply in these particular cases. Application for such authorisation must be made in good time to the competent air authorities. The costs of Customs and passport inspection shall be borne in this case by the party concerned.

4. In the event of a forced landing or a landing under the circumstances provided for in Article 7 in the country of departure after or in the country of arrival before the Customs and passport inspection has taken place, the pilot, crew and passengers shall, as regards Customs and passport formalities, be bound to comply with the regulations in force in that country.

Article 21.

Each Contracting State shall communicate to the other State a schedule of aerodromes in its territory which are open at the time to public use; this list shall also specify the aerodromes at which there are Customs offices and arrangements for passport inspection. Any changes in this schedule and any restriction, even of a temporary character, of the right to utilise any aerodrome must be notified without delay to the other Contracting State.

Article 22.

No ballast other than fine sand or water may be dropped.

Article 23.

1. The discharge or removal in the course of flight of any article other than ballast is prohibited unless special permission has been obtained for this purpose by the State in whose territory such discharge or removal is effected, or unless the discharge is rendered necessary by imminent danger.

2. Where waste materials are discharged from aircraft in flight, the regulations issued on the subject by the State in whose territory such discharge is effected shall be duly observed.

Article 24.

Aircraft which enter or fly over the territory of either Contracting State and make thereon only such landings and stoppages as are reasonably necessary, shall be exempt from any seizure on the ground of infringement of patent, design, model or trade mark, subject to the deposit of security, the amount of which in default of amicable agreement, shall be fixed with the least possible delay by the competent authority of the place of seizure.

Article 25.

The aircraft of either Contracting State shall be entitled on landing in the territory of the other Contracting State, particularly in the case of a forced landing, to the same measure of assistance as aircraft of this State.

Article 26.

The Contracting Parties shall reciprocally notify one another of all regulations concerning air traffic in force in their respective territories.

Article 27.

Each of the Contracting Parties shall notify the other Party of any infractions on the part of air transport companies, aircraft or crews of the other Contracting Party in order to enforce compliance with the Treaty provisions.

Article 28.

The methods by which the present Treaty shall be carried out shall be settled in detail so far as is necessary and possible by direct agreement between the respective competent administrations (authorities) of the two Contracting States.

Article 29.

1. Any disputes regarding the execution or application of the present Treaty which cannot be settled through diplomatic channels shall, on the request of one of the Contracting States, be submitted for decision to the Court of Arbitration provided for hereafter. The decisions of the Court of Arbitration shall be binding on both Parties.

2. The Court of Arbitration shall be composed of three members and shall be constituted as follows : Within one month from the time that one of the Contracting States has been informed of the desire on the part of the other State to convene the Court of Arbitration, each Contracting State shall appoint an arbitrator of its own choice.

If one of the two Contracting States does not appoint an arbitrator within the prescribed time-limit, the other Contracting State shall have the right to request the President of the Swiss Confederation to proceed to the appointment of this arbitrator.

The President of the Court of Arbitration shall be chosen by agreement between the two Contracting States during the same month. The President shall be an expert in aviation; he shall be a national of a third State and shall neither have his residence in the territory of one of the Contracting States nor hold any official position in one of the Contracting States.

Should the appointment of the President of the Court of Arbitration by common agreement not take place within one month, each of the Contracting States shall have the right to request the President of the Swiss Confederation to appoint the President.

3. The seat of the Court of Arbitration shall be fixed by the President.

4. The decisions of the Court of Arbitration shall be taken by a majority vote.

5. If neither Contracting State objects, the proceedings may be in writing; otherwise the Court of Arbitration shall decide upon the form of procedure to be adopted.

6. Each of the Contracting States shall remunerate its arbitrator for his work and shall pay half the emoluments of the President. Each of the Contracting States shall bear half the cost of the proceedings.

Article 30.

The present Treaty shall be concluded for an indefinite period. It may be denounced at any time by either Contracting State at twelve months' notice.

Article 31.

1. The present Treaty shall be ratified and the instruments of ratifications shall be exchanged as soon as possible at Warsaw.

2. The Treaty shall come into force one month after the date on which the instruments of ratification have been exchanged.

In faith whereof the undersigned have signed the present Treaty and have thereto affixed their seals.

Done at Vienna the tenth day of April one thousand nine hundred and thirty, in two original copies in the German and Polish languages, both texts being authentic.

(L. S.) Dr. Michael HAINISCH, *m. p.*

(L. S.) Dr. Karol BADER, *m. p.*

ADDITIONAL PROTOCOL.

When proceeding to sign the Treaty concluded between the Federal Republic of Austria and the Polish Republic concerning air traffic, the undersigned Plenipotentiaries further agreed upon the following provisions:

(1) The two Contracting States shall for the purpose of the simplification and acceleration of Customs formalities connected with the transport of passengers, mail, and goods grant all possible facilities within the limits of the existing regulations.

(2) With a view to facilitating the operation of the regular air-lines mentioned in Article 1, paragraph 2, of the present Treaty, the Contracting Parties have agreed that aircraft operating on these routes, including the fixed engines and all the spare engines, spare parts, apparatus and instruments, entered or to be entered in the inventory of

these aircraft or of their workshops (depôts), shall in each of the Contracting States be allowed to enter duty free under the systems of temporary admission, without the deposit of security, provided that they are taken out of the country again under Customs supervision within a time-limit fixed by the competent Customs authorities. The re-exportation of these articles shall be compulsory even when they have become useless, if it is desired to avoid paying Customs duties on them.

(3) The time-limit for the re-exportation of material stored in the workshop (depôt) of an authorised air transport undertaking may be extended upon application by the undertaking, accompanied by a statement of the reasons therefor.

(4) The material cleared through the Customs under the system of temporary admission in accordance with the foregoing provisions shall be placed under Customs supervision, and shall not be used without the consent of the competent Customs authorities for any purposes other than the operation of the aircraft used on the air-lines mentioned in paragraph 2.

The present Additional Protocol, which shall form an integral part of the Treaty referred to above, and shall come into force simultaneously with it, has been drawn up in two original texts in the German and Polish languages, both texts being equally authentic.

In faith whereof the Plenipotentiaries have signed the present Additional Protocol.

Done at Vienna, the tenth day of April, one thousand nine hundred and thirty.

(L. S.) Dr. Michael HAINISCH, *m. p.*

(L. S.) Dr. Karol BADER, *m. p.*