

N° 2293.

AUTRICHE ET ITALIE

Traité relatif à la navigation aérienne,
avec protocole additionnel. Signés
à Rome, le 11 mai 1928.

AUSTRIA AND ITALY

Treaty regarding Aerial Navigation,
with Additional Protocol. Signed
at Rome, May 11, 1928.

¹ TRANSLATION.No. 2293. — TREATY BETWEEN AUSTRIA AND ITALY REGARDING
AERIAL NAVIGATION. SIGNED AT ROME, MAY 11, 1928.

HIS MAJESTY THE KING OF ITALY and THE FEDERAL PRESIDENT OF THE AUSTRIAN REPUBLIC, being firmly convinced that it is to the mutual advantage of Italy and Austria to promote, for peaceful purposes, the development of air navigation between the two countries and of international air navigation in general, have decided to conclude a Treaty to that end, and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF ITALY :

H. E. Dr. Italo BALBO, Under-Secretary of State for Air :

THE FEDERAL PRESIDENT OF THE AUSTRIAN REPUBLIC :

Dr. Anton POESCHMANN, Head of Section in the Federal Ministry of Commerce and Transport ;

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

Article I.

Each of the High Contracting Parties shall, in time of peace, accord freedom of innocent air passage above its territory to aircraft of the other Contracting Party duly registered therein, provided that the stipulations of the present Treaty are observed.

It is, however, understood that the creation and operation of regular air routes (with or without landing), within or across the territory of one of the High Contracting Parties by undertakings belonging to the other Party, as well as other regular transport services conducted by air companies for purposes of gain, shall be subject to special agreements between the highest air authorities of both States.

Further, subject to the provisions of the foregoing paragraph, each of the High Contracting Parties shall, on condition of reciprocity, grant most-favoured-nation treatment to the other contracting State in all matters of commercial intercourse by air.

For the purposes of the present Treaty, the word " territory " shall mean the territory of the mother country and the colonies, including territorial waters.

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

The term " military aircraft " shall mean aircraft which form part of the equipment of the military forces, or which bear the special distinguishing marks of military aircraft, or which are under the command of persons in military service.

For the purposes of the present Treaty, the term " aircraft " shall be deemed to include motor driven aircraft and free balloons.

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

Article 2.

The aircraft of either High Contracting Party, their crews, cargoes and passengers shall, while in the territory of the other State, be subject to the obligations arising from the regulations in force in that State at the time, and especially to the regulations governing air traffic generally, provided that these apply to all foreign aircraft without distinction of nationality. They shall also be subject to the regulations concerning Customs duties and other taxes, import and export prohibitions, transport of passengers and goods, and public security and order. They shall further be liable to any other obligations arising from the general legislation in force at the time, except as otherwise provided in the present Treaty.

The commercial transport of passengers and goods between two points within its own territory may be reserved by a State for national aircraft.

The fuel on board an aircraft shall be admitted free of duty to the amount requisite for completion of the journey as shown by the log.

Article 3.

Both the High Contracting Parties may prohibit air traffic over certain areas of their territory, provided that no distinction is made in this respect between national aircraft and the aircraft of the other State. Areas over which air traffic is thus prohibited shall be notified to the other contracting State.

Each of the Contracting Parties further reserves the right, under exceptional circumstances and with immediate effect, in time of peace temporarily to restrict air traffic over its own territory or to prohibit such traffic entirely or partially, provided that no distinction is made in this respect between the aircraft of the other contracting State and those of any other foreign country.

Article 4.

An aircraft which finds itself over a prohibited area shall, as soon as it is aware of the fact, give the signal of distress prescribed in the air traffic regulations of the State flown over, and land without delay as near as possible to an aerodrome belonging to the State in question situated outside the prohibited area.

Article 5.

Aircraft must be provided with distinctive and clearly visible marks enabling them to be identified during flight (nationality and registration marks). They must also bear the name and address of the owner.

Aircraft must carry certificates of registration and airworthiness and any other documents prescribed in the country to which they belong.

All members of the crew performing duties on board, for the exercise of which a special licence is required in their home country, must hold the certificates there required for air navigation and in particular the prescribed certificates of competency and licences.

The other members of the crew must be provided with certificates stating their duties on board, trade or profession, identity and nationality.

Certificates of airworthiness, certificates of competency and licences issued or approved by one of the High Contracting Parties for the aircraft or the crew shall have the same validity in the other contracting State as the corresponding documents issued or approved by the latter State.

For the purposes of flight within its own territory, each of the High Contracting Parties reserves the right to refuse to recognise certificates of competency and licences issued to its own nationals by the other contracting State.

The crew and the passengers must, unless otherwise agreed, be provided with the documents required for international traffic by the regulations in force at the time.

If the airworthiness of an aircraft provided with the requisite certificates shall subsequently be so impaired that the safety of the passengers is endangered, the continuation of the journey of such aircraft over the territory of the other State may be made conditional on the aircraft being so repaired as to ensure its further journey not being interrupted.

Article 6.

Aircraft of either Contracting Party may only carry apparatus for the transmission of radio-telegraphic messages in the territory of the other contracting State in so far as this is permitted by both contracting States. Such apparatus may only be used by members of the crew carrying a special licence issued by their State of origin.

Both Contracting Parties reserve the right, as a measure of safety, to issue regulations regarding the compulsory equipment of aircraft with wireless telegraph apparatus.

Article 7.

Aircraft and their crews and passengers may not carry arms, ammunition, war material, poisonous substances, explosives, carrier pigeons or photographic apparatus, except with the permission of the State in whose air territory the aircraft happens to be. This provision shall not apply to the members of the crew, who are entitled to carry with them on the aircraft signalling apparatus and weapons required for the protection of the passengers or goods transported.

Either contracting State may, as a measure of public safety, restrict or prohibit in its territory the conveyance of other objects in addition to those specified in the preceding paragraph. Such regulations shall be applicable without distinction to the aircraft of both Contracting Parties.

Article 8.

Aircraft which carry passengers or goods must be provided with a nominal roll of the passengers and with a manifest of the cargo, specifying the nature and quantity of the goods carried, together with the necessary Customs declarations.

Should it be discovered, on the arrival of an aircraft, that there is a discrepancy between the goods carried and the above documents, the Customs authorities of the aerodrome of arrival shall communicate direct with the competent Customs authorities of the other contracting State.

The conveyance of mails shall be the subject of special direct arrangements between the postal administrations of the two contracting States.

Article 9.

Each contracting State may, in its own territory, have the aircraft of the other State inspected by the competent authorities on arrival or departure, and the prescribed certificates and other documents verified.

Article 10.

Aerodromes which are open to public air traffic shall be available to the aircraft of either State upon the same conditions ; similarly, the meteorological information service and the radio-telegraphic and safety-landing arrangements for air traffic shall be at the disposal of both. Any charges made (for landing, accomodation, etc.) shall be the same for national aircraft as for those of the other State.

Article 11.

Arrivals in and departure from either of the contracting States may only take place at an aerodrome open to public air traffic classed as a Customs aerodrome, and with passport control service, and no intermediate landing may be made between the frontier and the aerodrome. The competent authorities may in special cases authorise aircraft to land or take off from other aerodromes, where Customs and passport inspection will be carried out. The prohibition of intermediate landing applies also in such special cases.

In the case of forced landing outside the aerodromes referred to in the first paragraph, the pilot, the crew, and the passengers must observe the national regulations in force in this connection.

Each High Contracting Party shall communicate to the other a schedule of its aerodromes open to public air traffic. This list shall expressly specify the aerodromes classed as Customs aerodromes. Any change in this schedule and any restriction, even of a temporary character, of the right to use any aerodrome must be immediately notified to the other Contracting Party.

Article 12.

The common frontiers between the two High Contracting Parties may only be crossed at points fixed by common agreement between the highest air authorities of the two States. Frontiers which are not common must be crossed at points to be determined by the State concerned.

It is agreed that all frontier sections common and otherwise, over which either Contracting Party has granted the right of passage to aircraft of another nationality shall, *ipso facto*, be open to the aircraft of the other Contracting Party.

Article 13.

As ballast, only fine sand or water may be dropped.

Article 14.

No article or substance, other than ballast, may be dropped or thrown out during flight unless special permission has been obtained from the State whose territory is flown over.

Where waste materials are thrown from aircraft in flight, the relevant regulations of the State in whose territory this takes place shall be observed.

Article 15.

Whenever questions of nationality arise in connection with the execution of this Treaty, it is agreed that aircraft shall possess the nationality of the State in which they are duly registered.

No aircraft may be registered in either State unless it is the sole property of nationals of that State. Should the owner be a company of any kind, such company must fulfil all the requirements of the Italian or Austrian law in force, in order that it may be considered an Italian or Austrian company respectively.

Article 16.

The High Contracting Parties shall exchange monthly lists of new entries and cancellations made during the preceding month in their respective aircraft registers.

Article 17.

Aircraft entering or flying over the territory of either contracting State and making only such landings and stoppages as are reasonably necessary shall be exempt from any seizure on account of infringement of a patent, design or model, 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 authorities of the place of seizure.

Article 18.

Aircraft of either contracting State shall be entitled when landing, and especially in the case of forced landings, to the same assistance as national aircraft.

The salvage of aircraft wrecked on the high seas shall be subject, unless otherwise agreed upon, to the principles of maritime law as embodied in the agreements in force at the time, or, in default, in the laws of the State to which the rescuers belong.

Article 19.

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

Article 20.

Details connected with the execution of this Treaty (more particularly in respect of Customs formalities) shall, as far as possible, be settled by direct agreement between the competent departments of both Contracting Parties.

Each of the High Contracting Parties shall notify the other Party of any infringements of the provisions of this Treaty committed in its territory by persons or enterprises belonging to the other State.

Disputes regarding the execution of this Treaty which cannot be settled amicably through the usual diplomatic channel shall first be submitted for investigation to a Conciliation Board, consisting of two members appointed by Italy and Austria respectively, and a chairman nominated by mutual agreement. Both the members and the chairman shall be appointed as and when the occasion demands. Should the Contracting Parties fail to agree on the nomination of a chairman or on the finding of the Board, the dispute shall be submitted to the Permanent Court of International Justice.

Article 21.

Either of the High Contracting Parties may at any time denounce the present Treaty on giving twelve months' notice.

Article 22.

This Treaty shall be ratified; the instruments of ratification shall be exchanged at Vienna as soon as possible.

It shall come into force on the day on which the instruments of ratification are exchanged.

In faith whereof the Plenipotentiaries have signed the present Treaty.

Done at Rome May the eleventh, one thousand nine hundred and twenty-eight, in duplicate in the Italian and German languages, both texts being equally authentic.

(Signed) Italo BALBO.

(Signed) POESCHMANN.

ADDITIONAL PROTOCOL.

On signing the Treaty concluded between the Kingdom of Italy and the Austrian Republic relating to air navigation, the undersigned Plenipotentiaries have further agreed upon the following :

(1) The "most-favoured-nation" clause in Article 1, third paragraph, shall not extend to the sphere of direct duties and taxes. The question of the direct taxation of air traffic companies operating in the territories of both Parties shall be regulated by the provisions of the Agreement for the purpose of Avoiding Double Taxation, dated April 6, 1922.

(2) The provisions of the Treaty shall only be applicable to balloons as far as their special characteristics permit.

This Additional Protocol, which shall form an integral part of the above Treaty and come into force simultaneously therewith, is drawn up in duplicate in the Italian and German languages, both texts being equally authentic.

ROME, *May* 11, 1928.

(Signed) Italo BALBO.

(Signed) POESCHMANN.