

N° 3975.

HONGRIE ET PAYS-BAS

Convention relative à la navigation
aérienne. Signée à Budapest, le
8 juin 1935.

**HUNGARY
AND THE NETHERLANDS**

Convention regarding Air Naviga-
tion. Signed at Budapest, June
8th, 1935.

¹ TRADUCTION. — TRANSLATION.

No. 3975. — CONVENTION ² BETWEEN HUNGARY AND THE NETHERLANDS REGARDING AIR NAVIGATION. SIGNED AT BUDAPEST, JUNE 8TH, 1935.

French official text communicated by the Netherlands Minister for Foreign Affairs and by the Head of the Royal Hungarian Delegation to the League of Nations. The registration of this Convention took place September 29th, 1936.

HER MAJESTY THE QUEEN OF THE NETHERLANDS
and

HIS SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY,

Being equally convinced that it is to the mutual advantage of the Netherlands and Hungary 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 Convention for that purpose and have appointed as their respective Plenipotentiaries :

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

His Excellency Monsieur Lucien G. VAN HOORN, Her Envoy Extraordinary and Minister Plenipotentiary at Budapest ;

HIS SERENE HIGHNESS THE REGENT OF THE KINGDOM OF HUNGARY :

His Excellency Monsieur Géza TORMAY DE NÁDUDVAR, Secretary of State at the Royal Hungarian Ministry of Commerce ;

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

Article I.

1. Each of the two 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 Convention are observed.

2. It is, however, understood that the creation or operation by any undertaking possessing the nationality of one of the High Contracting Parties of regular air lines over the territory of the other Contracting Party, with or without a stop, shall be conditional on special arrangements being concluded between the supreme air administrations of the two High Contracting Parties.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

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

² The exchange of ratifications took place at Budapest, August 18th, 1936. Came into force September 17th, 1936.

3. Each of the two High Contracting Parties may, for the benefit of its national aircraft, enact reservations or restrictions regarding the conveyance of persons or things between two points in its territory :

(a) For payment in any form whatsoever ;

(b) Even without payment, if conveyance is made by an air transport undertaking, unless such undertaking is effecting transport necessary for the actual operation of its services.

4. For the purposes of the present Convention, "territory" shall mean the territory of the mother country, including territorial waters.

5. For the purposes of the present Convention, "aircraft" shall mean private aircraft and such State aircraft as are not used for military, police or Customs purposes.

6. The term "aircraft" shall mean any machine capable of remaining in the air as a result of the reaction of the air. The provisions of the present Convention shall apply to aircraft having no means of propulsion of their own only in so far as the special character of such aircraft allows.

7. Military, Customs or police aircraft of the two High Contracting Parties intending to proceed to the territory of the other Contracting Party or to fly over such territory (with or without landing) must in every case be provided with a special authorisation.

Article 2.

1. The aircraft of either High Contracting Party, their crews, passengers and cargoes shall, while in the territory of the other Contracting Party, be subject to the obligations arising from the regulations in force in the State over which they fly, and especially to the regulations governing air navigation generally, provided that these apply to all foreign aircraft without distinction of nationality, to Customs and other prescribed duties, to export and import prohibitions, to the regulations governing transport of persons, baggage and goods, to the regulations concerning security and public order and to sanitary and passport regulations. They shall, further, be subject to any other obligations arising from the general legislation in force at the time, except as otherwise provided in the present Convention.

2. On arrival, the fuel and lubricants contained in the ordinary tanks of the aircraft shall be admitted free of Customs or other duties. No quantity may, however, be unloaded without payment of duty.

3. On departure, fuel intended for the refuelling of the aircraft of the other Contracting Party proceeding abroad shall be supplied free of Customs or other duty. Nevertheless, should an intermediate stop be made in its own territory, the State in which the aircraft receives supplies may make the granting of exemption from duty subject to certain specific conditions.

Article 3.

1. Either High Contracting Party may, for military reasons or in the interests of public safety, prohibit the aircraft of the other Contracting State from flying over certain areas of its territory, subject to the penalties laid down in its legislation and provided that no distinction is made in this respect between its own private aircraft and those of the other Contracting Party.

2. Either High Contracting Party may, as an exception and in the interests of public security, authorise its national aircraft to fly over such areas.

3. Each High Contracting Party undertakes to acquaint the other Contracting Party with the situation and extent of the areas of its territory which may not be flown over and with the special authorisations issued in pursuance of the foregoing paragraph.

4. Outside the above-mentioned areas, each High Contracting Party reserves the right, under exceptional circumstances and with immediate effect, in time of peace, temporarily to limit or prohibit air traffic over its territory either partially or completely, provided that no distinction is made between the aircraft of the other Contracting Party and aircraft of other foreign countries.

5. Such a decision shall be made public and notified to the other Contracting Party.

Article 4.

1. Any aircraft which finds itself over a prohibited area shall, as soon as it is aware of the fact, give the signal of distress prescribed by the air navigation regulations of the State flown over; it shall also, as soon as possible, land or alight on the sea outside the prohibited area, on the nearest aerodrome of the State in question.

2. The same obligation shall apply to any aircraft flying over a prohibited area which has received the special signal designed to attract its attention.

Article 5.

Aircraft must carry distinct and clearly visible marks enabling them to be identified during flight (nationality and registration marks); they must have on board certificates of registration and airworthiness and any other documents prescribed for air navigation in their State of origin.

Article 6.

1. The members of the crew who perform in an aircraft duties for which a special permit is required in their country of origin shall be provided with the documents required in that State for air navigation and, in particular, with the certificates of competency and licences prescribed by the regulations.

2. The other members of the crew shall carry documents showing their duties in the aircraft, their profession, identity and nationality.

3. The crew and passengers shall carry with them the documents (passports, etc.) which may be necessary for admission to or residence in the territory to which they are travelling, unless an agreement to the contrary has been concluded between the two High Contracting Parties.

Article 7.

1. The certificates of airworthiness of aircraft and the certificates of competency and licences of the crew, issued or rendered valid by one of the High Contracting Parties shall, so long as the aircraft retains such nationality, be recognised as valid by the other Contracting Party.

2. For the purpose of flight within its own territory, each High Contracting Party reserves the right to refuse to recognise certificates of competency and licences issued to its own nationals by the other Contracting Party.

Article 8.

1. No wireless apparatus of any kind may be carried by an aircraft without a special licence issued by the State whose nationality the aircraft possesses.

2. The use of such apparatus shall, over the territory of either High Contracting Party, be subject to the regulations in force in that State.

3. Such apparatus may only be used by members of the crew holding a special licence issued or rendered valid for the purpose by the competent authorities of the State whose nationality the aircraft possesses.

4. The two High Contracting Parties reserve the right, for reasons of safety, to issue regulations regarding the obligatory equipment of aircraft with wireless apparatus.

Article 9.

1. Aircraft and their crews and passengers may not carry arms, ammunition, asphyxiating gases, explosives or carrier pigeons, except with the special permission of the State flown over by the aircraft.

2. In the present Convention, signalling material and ammunition, and also starting cartridges, shall not be deemed to be arms and ammunition.

3. Either High Contracting Party may, for air navigation purposes, prohibit or regulate the transport or use of photographic or cinematographic apparatus.

4. Either High Contracting Party may, for reasons of public order and safety, restrict in its territory the transport of objects other than those specified in paragraph 1 of the present Article, provided that no distinction is made in this respect between national aircraft and aircraft of the other Contracting Party.

Article 10.

1. Aircraft which carry passengers, baggage or goods must be provided with a list of the passengers' names and, in the case of goods, with a manifest showing the nature and quantity of the cargo, together with the necessary Customs declarations.

2. If on the arrival of any aircraft a discrepancy is noted between the goods carried and the above-mentioned documents, the Customs authorities of the aerodrome of arrival shall communicate direct with the competent Customs authorities of the other Contracting Party.

Article 11.

The carriage of mails shall be the subject of special direct arrangements between the postal administrations of the two High Contracting Parties.

Article 12.

Upon the departure or landing of any aircraft, each High Contracting Party may cause the aircraft of the other Contracting Party to be searched in its territory by the competent authorities and may cause the prescribed certificates and other documents to be examined.

Article 13.

Aerodromes open to public air traffic shall be available under the same conditions for the aircraft of the High Contracting Parties, which shall also be entitled to the assistance of the meteorological and wireless services and the installations for ensuring the safety of air traffic. Any charges (for landing, accommodation, etc.) shall be the same for national aircraft and the aircraft of the other High Contracting Party.

Article 14.

1. All aircraft entering or leaving the territory of either High Contracting Party shall land at or depart from the public Customs aerodromes (with a passport service), and no intermediate landing shall be effected between the frontier and such aerodromes.

2. In special cases, the competent authorities may allow aircraft to land at or depart from other aerodromes, where the Customs and passport formalities will be carried out. In such case the cost of this special service shall be borne by the party concerned. The prohibition of landing between the aerodrome and the frontier shall also apply in these special cases.

3. In the case of forced landing or of landing as described in Article 4 outside the aerodromes referred to in the first paragraph of the present Article, the pilot, crew and passengers of the aircraft must observe the regulations in force in the State in which the landing is made and the pilot, or the person who may be deemed to be such, shall be required to notify immediately the competent revenue department or the nearest police station.

4. The two High Contracting Parties shall supply one another with a schedule of the aerodromes open to public air traffic. This schedule shall indicate the Customs aerodromes with facilities for passport examination.

5. Any changes made in the above schedules and any restrictions, even temporary, of the right to utilise any such aerodrome must be notified immediately to the other Contracting Party.

Article 15.

1. Each High Contracting Party may prescribe that any aircraft crossing its frontier must necessarily do so between certain specified points.

2. The sectors which either High Contracting Party has opened for its own or for foreign aircraft for the passage in flight of its frontiers shall also be open to the aircraft of the other Contracting Party.

3. Aircraft of either High Contracting Party over the territory of the other Contracting Party shall be bound to follow strictly the routes prescribed by the State concerned, save where they are compelled by atmospheric conditions to deviate from the said routes. When the route is not prescribed, the shortest direction must be followed.

Article 16.

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

Article 17.

No article or substance other than ballast may be thrown or dropped from an aircraft in flight unless special permission for the purpose shall have been given by the State over whose territory the aircraft is passing.

Article 18.

As regards all questions of nationality connected with the application of the present Convention aircraft shall be deemed to possess the nationality of the State in the registers of which they are duly entered.

Article 19.

Any aircraft entering or flying across the territory of either High Contracting Party and making the necessary landings therein shall be exempt from any seizure on the ground 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 authority of the place where the seizure is to be made.

Article 20.

1. The aircraft of either High Contracting Party shall be entitled when landing in the territory of the other, especially in the case of a forced landing, to the same assistance as the aircraft of the latter.

2. The salvage of aircraft in peril on the sea shall, in the absence of any special agreement, be governed by the principles of maritime law.

Article 21.

The High Contracting Parties shall communicate to each other all regulations regarding air traffic in force in their respective territories.

Article 22.

The details of the application of the present Convention, more particularly the question of Customs formalities, shall, when necessary and as far as possible, be settled by direct agreement between the competent administrations of the two High Contracting Parties.

Article 23.

1. Any dispute regarding the interpretation and application of the present Convention which cannot be settled amicably through the usual diplomatic channels shall be referred, at the request of either High Contracting Party, for arbitration to an arbitral tribunal constituted as laid down in the present Article. The decisions of the arbitral tribunal shall be binding on both High Contracting Parties.

2. The arbitral tribunal shall consist of three members and shall be so constituted that each State can appoint its arbitrator within one month from the date of the request.

3. The chairman of the arbitral tribunal shall be appointed in the course of the following month by agreement between the two High Contracting Parties. The chairman must be a national of some third State and must not be resident in the territory of either High Contracting Party or hold any office in the said countries.

4. If, in the course of a month, either High Contracting Party has not appointed its arbitrator on the arbitral tribunal, or if, during the following month, no chairman has been selected in the absence of agreement between the two Contracting Parties, the President of the Swiss Federal Council shall be asked to make the necessary appointments.

5. The seat of the arbitral tribunal shall be determined by the chairman.

6. The decisions of the arbitral tribunal shall be adopted by a majority vote. The form of proceedings shall be decided by the arbitral tribunal; they may be conducted by correspondence if no objection is raised by the two High Contracting Parties.

7. Each High Contracting Party shall pay the emoluments of its own arbitrator and one half of the emoluments of the chairman, as well as one half of the costs of the proceedings.

Article 24.

1. Either High Contracting Party may at any time denounce the present Convention on giving one year's notice.

2. Nevertheless, the High Contracting Parties reserve the right to terminate the Convention immediately by joint agreement.

Article 25.

The present Convention shall be ratified and the instruments of ratification shall be exchanged at Budapest as soon as possible. It shall come into force on the thirtieth day after the date of the exchange of ratifications.

In faith whereof the respective Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done at Budapest, in duplicate, this eighth day of June, one thousand nine hundred and thirty-five.

(L. S.) VAN HOORN, *m. p.*

(L. S.) Géza TORMAY DE NÁDUDVAR, *m. p.*