

N° 4683.

ÉTATS-UNIS D'AMÉRIQUE
ET FRANCE

Echange de notes comportant un arrangement
relatif à la navigation aérienne. Paris, le
15 juillet 1939.

*Textes officiels anglais et français communiqués par l'envoyé extraordinaire
et ministre plénipotentiaire des Etats-Unis d'Amérique à Berne. L'enre-
gistrement a eu lieu le 8 février 1940.*

UNITED STATES OF AMERICA
AND FRANCE

Exchange of Notes constituting an Arrange-
ment relating to Air Navigation. Paris,
July 15th, 1939.

*English and French official texts communicated by the Envoy Extraordinary
and Minister Plenipotentiary of the United States of America at Berne.
The registration took place February 8th, 1940.*

No. 4683.— EXCHANGE OF NOTES¹
BETWEEN THE GOVERNMENT
OF THE UNITED STATES OF
AMERICA AND THE GOVERN-
MENT OF THE FRENCH
REPUBLIC CONSTITUTING AN
ARRANGEMENT RELATING TO
AIR NAVIGATION. PARIS, JULY
15TH, 1939.

N^o 4683. — ÉCHANGE DE NOTES¹
ENTRE LE GOUVERNEMENT
DES ÉTATS-UNIS D'AMÉRIQUE
ET LE GOUVERNEMENT DE LA
RÉPUBLIQUE FRANÇAISE COM-
PORTANT UN ARRANGEMENT
RELATIF A LA NAVIGATION
AÉRIENNE. PARIS, LE 15 JUIL-
LET 1939.

I.

EMBASSY OF THE UNITED STATES OF AMERICA.

No. 1929.

EXCELLENCY,

PARIS, July 15th, 1939.

I have the honor to inform you that the Government of the United States of America desires to conclude with the Government of France a reciprocal arrangement in the following terms, governing the navigation of aircraft of each country in territory of the other country.

ARRANGEMENT BETWEEN THE UNITED STATES OF AMERICA AND FRANCE RELATING TO
AIR NAVIGATION.

Article 1.

Pending the conclusion of a convention between the United States of America and France on the subject of air navigation, the movement of aircraft of one contracting Party over the territory of the other contracting Party shall be governed by the following provisions :

Article 2.

The present arrangement shall apply to the metropolitan territory of France and the United States of America, as well as the following territories, possessions or colonies, including their territorial waters over which the two countries respectively exercise jurisdiction :

- (a) St. Pierre and Miquelon ;
Martinique ;
Guadeloupe and dependencies ; and
French Guiana.
- (b) Puerto Rico ;
Virgin Islands of the United States ; and
American Samoa.

Article 3.

The term " aircraft " employed in the present agreement shall be understood to mean private aircraft, and State aircraft, other than military, customs and police aircraft, duly registered in the territory of either of the contracting Parties.

The present arrangement does not apply to military, customs or police aircraft of either contracting Party, which may not, without special authorization, be flown over the territory of the other contracting Party nor land there.

¹ Came into force August 15th, 1939.

¹ Entré en vigueur le 15 août 1939.

Article 4.

Each of the contracting Parties shall grant, in time of peace, to aircraft of the other contracting Party, duly registered in the territory of such Party, liberty of passage above its territory, provided that the conditions set forth in the present arrangement are observed.

It is, however, agreed that the establishment and operation, by an enterprise of one of the contracting Parties, of a regular air route or air transport service to, over or away from the territory of the other contracting Party, with or without a stop, shall be subject to the consent of such other Party. Any air transport enterprise of either Party applying for permission to operate such regular air route or air transport service shall be required to submit its application through diplomatic channels.

With the reservation of the stipulations contained in the second paragraph above concerning regular air routes or air transport services for which special consent is necessary, the aircraft of either contracting Party may proceed to one or more points of the territory of the other Party, either to land part or all of their passengers or of their cargo of foreign origin, or to take aboard part or all of their passengers, or of their cargo for a foreign destination. Each of the Parties to this arrangement may reserve to its own aircraft air commerce wholly within its own territory.

The term "air commerce" as used in the preceding paragraph shall, with respect to the Parties to this arrangement, be understood to mean :

- (a) Navigation of aircraft in territory of either Party in the conduct or furtherance of a business ;
- (b) The commercial transport of persons or goods between any two points in the territory of either Party.

Article 5.

The aircraft of each of the contracting Parties, their crews and passengers, and goods carried thereon, shall, while within the territory of the other Party, be subject to the laws in force in that territory, including all regulations relating to air navigation applicable to foreign aircraft, the transport of passengers and goods, and public safety and order, as well as any regulations concerning immigration, quarantine, customs and clearance.

The contracting Parties agree to adopt all practicable measures, through the issuance of special regulations or otherwise, to facilitate and expedite communication by aircraft between their respective territories, and to prevent unnecessary delays to aircraft, their crews and passengers, cargo, and the personnel of the aircraft companies traveling on business of the companies, especially in the administration of the laws relating to immigration, customs and clearance.

Subject to the provisions of the first paragraph of this Article and to the laws and regulations therein specified, the carriage of passengers, and the import or export of all merchandise which may be legally imported or exported, will be permitted in aircraft of the one Party into or from the territory of the other Party ; and, subject to the provisions of the first paragraph of this Article and to the laws and regulations therein specified, such aircraft, their crews, passengers and cargoes, shall enjoy in the territory of the other Party the same privileges as are enjoyed by aircraft, their crews, passengers, and cargoes of the mentioned territory or foreign aircraft engaged in international commerce, their crews, passengers and cargoes ; and they shall not, merely by reason of the nationality of the aircraft, be subjected to duties or charges other or higher than those which are or may be imposed on aircraft of the territory referred to or on aircraft of another foreign country engaged in international commerce, or on their crews, passengers or cargoes, it being understood that in this respect the claimant has the choice of national or most-favored nation treatment.

Upon arrival in the territory of either of the contracting Parties, the fuel and lubricants contained in the tanks of the aircraft shall be admitted free of customs and other duties. However, no quantity can be unloaded free of duty except temporarily and under customs control.

Upon departure of aircraft of either contracting Party from territory of the other contracting Party for a point outside of such territory, fuel and lubricants intended for the refueling and lubrication of such aircraft will, on a basis of reciprocity and to the extent permitted by the laws and regulations of the contracting Party in force in the territory of departure, be furnished either

free of customs and other duties or, alternatively, the duties levied on such fuel and lubricants will be refunded.

The expression "customs and other duties" includes import, export, excise, and internal duties and taxes of all kinds levied upon the fuel and lubricants.

Aircraft of either Party, and also their equipment and spare parts on board, are in principle liable, on landing in a territory of the other Party, to customs and other duties of all kinds normally chargeable on importation.

If they are to be re-exported, they are entitled to temporary admission free of duty under the conditions contemplated by the Customs regulations of each of the contracting Parties, who will endeavor to reduce their formalities to the strict minimum, especially as regards aircraft belonging to regular lines.

Similar treatment shall be accorded to spare parts and material imported separately for the repair of such aircraft; parts replaced must, if the Customs so require, be re-exported under Customs supervision.

Article 6.

Each one of the two contracting Parties shall have the right, for reasons of a military nature or in the interest of public safety, to prohibit flights over certain areas of its territory by all aircraft private or commercial of the other contracting Party, under the penalties provided by its legislation, it being understood that in any case at issue no distinction in this matter will be made between its aircraft engaged in international commerce and the aircraft of the other Party likewise engaged. The areas above which air navigation is thus prohibited by either Party must be notified to the other Party.

Each of the contracting Parties reserves to itself, in addition, the right, in time of peace, under exceptional circumstances, to limit or prohibit temporarily and with immediate effect, air navigation above its territory or any part thereof on condition that this restriction or prohibition shall be made applicable without any distinction of nationality between them, to the aircraft of the other Party and to the aircraft of any other foreign country.

Article 7.

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 regulations in force in the country flown over; it shall furthermore land as soon as possible at an aerodrome situated in the territory of said country and as near as possible to such prohibited area.

This same obligation applies to aircraft flying over a prohibited area and to which the special signal intended to draw their attention shall have been given.

Article 8.

All aircraft shall carry clearly visible distinctive marks by which their identity may be recognized during flight (nationality and registration marks).

All aircraft must be provided with certificates of registration and airworthiness and with all other documents prescribed for air navigation in the country in which they are registered.

Article 9.

All members of the crew who perform in an aircraft of either of the contracting Parties duties for which certificates or licenses are required in the country in which such aircraft is registered must be provided with said certificates and licenses delivered by the authorities of such country.

The other members of the crew must carry documents mentioning their duties on board, their profession, identity and nationality.

The crew and passengers, unless otherwise specified, must carry the documents required by the regulations in force governing international traffic.

Article 10.

The certificates of airworthiness, certificates of competency and licenses, issued or rendered valid by the country whose nationality is possessed by the aircraft, shall be considered by the other country as being in accordance with the regulations governing air traffic to the same extent as the corresponding documents delivered or rendered valid by the latter.

However, each of the contracting Parties reserves the right to refuse to recognize, for the purpose of flight within the boundaries of and above its own territory, certificates of competency and licenses issued to its own nationals by the other contracting Party.

Article 11.

Aircraft, their crews and passengers, may not carry arms, ammunition, noxious gases, explosives, carrier pigeons, or photographic apparatus, except by permission of the country within whose air space the aircraft is navigating.

However, the transportation of accessories necessary to the operation and navigation of the aircraft (rockets, flares, etc.) is not prohibited.

If the carriage of photographic apparatus is permitted it must, unless otherwise especially authorized, be so placed that utilization thereof during flight will be impossible.

Each of the contracting Parties has the right, for reasons of public order and safety, to limit or prohibit on its territory the transportation of articles other than those enumerated in the first paragraph of the present Article, provided that no difference is made in that respect between its national aircraft employed in international traffic and the aircraft of the other contracting Party so employed.

Article 12.

Upon the departure or landing of aircraft, each contracting Party may, within its own territory, and through its competent authorities, search the aircraft of the other Party and examine the certificates and other documents prescribed.

Article 13.

Aerodromes open to public air traffic in the territory of one of the Parties to this arrangement shall, in so far as they are under its control, be open to all aircraft of the other Party, which may equally utilize the meteorological information services, the wireless services, the lighting services and day and night signalling services, in so far as those several classes of services are under the control of the Party in whose territory they respectively are situated. Any charges, landing, accommodation charges, et cetera, in so far as such charges are under the control of the pertinent contracting Party, shall be the same for the aircraft of each of the two contracting Parties.

Article 14.

Upon entry or departure, aircraft going to or proceeding from the territory of either of the contracting Parties shall land at or depart from an aerodrome open to public air traffic and classed as a customs aerodrome (with passport control service), at which facilities exist for clearance of aircraft and enforcement of immigration regulations. No intermediary landing shall be effected between the frontier and that aerodrome. In special cases, the competent authorities may allow aircraft to depart from or land at other aerodromes, at which customs, immigration, clearance and passport control formalities shall be accomplished. The cost entailed by this special service shall, to such extent as may be required under the local regulations, then be paid by the owner or person in charge of the aircraft. The prohibition of any intermediary landing applies also in these special cases.

In the event of a forced landing outside the aerodrome referred to in the first paragraph of this Article, the captain of the aircraft, the crew and passengers, must conform with the national regulations applying to such cases.

The Parties to this arrangement shall exchange lists of the aerodromes in their territories from time to time designated by them as ports of entry and departure.

Article 15.

Each of the contracting Parties reserves the right to determine that the frontiers may be crossed only between certain points. In such case notification of the decision will be given to the other Party.

Article 16.

It is forbidden to drop, from aircraft in flight, any ballast other than fine sand or water.

Article 17.

In the course of flight, only those articles or substances, other than ballast, may be dropped or otherwise discharged for which a special authorization shall have been given by the authorities of the country flown over.

Article 18.

Aircraft of either of the Parties operating in the territory of the other Party may be equipped with wireless apparatus only if the necessary license to install and work such apparatus, issued by the competent authorities of the contracting Party in which the aircraft is registered, shall have been obtained. The use of such apparatus shall be in accordance with the regulations on the subject issued by the competent authorities of the contracting Party flown over.

Such apparatus shall be used only by such members of the crew as are provided with a special license for the purpose issued by the competent authorities of the contracting Party in which the aircraft is registered.

Article 19.

In all questions of nationality that may arise in carrying out the present arrangement, it is agreed that aircraft possess the nationality of the country in whose territory they are duly registered.

The registration of aircraft referred to in the preceding paragraph shall be performed in compliance with the laws and special provisions of each contracting Party.

Article 20.

The contracting Parties shall communicate to each other from time to time the regulations relative to air navigation in force in their respective territories.

Article 21.

Either Party may, at any time after the present arrangement comes into force, apply the provisions of the arrangement to any of the territories under its jurisdiction, including territorial waters, that are not mentioned in Article 2. Such application shall be by notification in writing, given to the other Party, and shall become effective sixty days from the day when the notification shall have been given.

The Party extending this arrangement to the additional territory under its jurisdiction cited in the preceding paragraph may subsequently terminate such application, the decision coming into effect only upon sixty days' notice.

Article 22.

The present arrangement shall be subject to termination by either Party upon sixty days' notice given to the other Party.

If the Government of France agrees to the foregoing provisions, I have the honor to suggest that the present note and Your Excellency's reply in similar terms, be regarded as constituting an arrangement between the two Governments which shall come into force on August 15th, 1939.

I avail myself of this occasion to renew to Your Excellency the assurance of my highest consideration.

William C. BULLITT.

His Excellency Monsieur Georges Bonnet,
Minister of Foreign Affairs, Paris.