

AIR TRANSPORT SERVICES

*Exchange of notes at Ottawa August 18, 1939, with text of arrangement
Entered into force August 18, 1939*

*Recommendations to give effect to article III accepted by agreement
of November 29 and December 2, 1940*¹

*Extended by agreement of March 4, 1943*²

*Superseded by agreement of February 17, 1945*³

54 Stat. 1805; Executive Agreement Series 159

The Secretary of State for External Affairs to the American Minister

OFFICE OF THE SECRETARY OF STATE
FOR EXTERNAL AFFAIRS
CANADA

No. 166

OTTAWA, *August 18, 1939*

SIR:

I have the honour to refer to negotiations which have recently taken place between the Government of Canada and the Government of the United States of America for the conclusion of a reciprocal arrangement relating to air transport services.

It is my understanding that it has been agreed in the course of the negotiations, now terminated, that this arrangement shall be as follows:

ARRANGEMENT BETWEEN CANADA AND THE UNITED STATES OF AMERICA
RELATING TO AIR TRANSPORT SERVICES

ARTICLE I

Having in mind the desirability of mutually stimulating and promoting the sound economic development of air transportation between the United States and Canada, the Parties to this Arrangement agree that the establishment and development of air transport services between their respective territories by air carrier enterprises holding proper authorizations from their respective Governments, shall be governed by the following provisions.

¹ EAS 186, *post*, p. 202.

² 57 Stat. 923; EAS 314.

³ EAS 457, *post*, p. 388.

ARTICLE II

The present Arrangement shall apply to continental United States of America, including Alaska, and to Canada, including their territorial waters.

The privileges accorded by this Arrangement shall be available only to air carrier enterprises *bona fide* owned and controlled by nationals of the respective Parties.

ARTICLE III

Each of the Parties agrees, subject to compliance with its laws and regulations, to grant to air carrier enterprises of the other Party permits for non-stop services through the air space over its territory between two points within the territory of the other Party; provided however that inland non-stop services between the United States and Alaska shall be the subject of a separate understanding.

Each Party further agrees, subject to compliance with its laws and regulations and on a basis of reciprocity, to grant operating rights to the air carrier enterprises of the other Party for the operation of international services between a place in the territory of one Party and a place in the territory of the other Party.

The details of the application of the principle of reciprocity contained herein shall be the subject of amicable adjustment between the competent aeronautical authorities of the Parties to this Arrangement.⁴

ARTICLE IV

Any air carrier enterprise of either Party applying for permission to operate in territory of the other Party shall be required to transmit its application through diplomatic channels in accordance with Article III (c) of the Air Navigation Arrangement effected by an exchange of notes between the two Parties, signed on July 28, 1938.⁵

The air carrier enterprises of each Party will be required to qualify before the competent aeronautical authorities of the other Party under the latter's applicable laws and regulations before being permitted to engage in the operations contemplated by this Arrangement, and upon so qualifying will be issued permits or licenses by such authorities accordingly.

ARTICLE V

The terms of the permits referred to in Article IV, the airports to be used by the respective services, the routes or airways to be flown within the respective territories of the Parties between the designated airports, and other appropriate details of the conduct of the air transport services contemplated by this Arrangement, shall be determined by the competent aeronautical authorities of the Parties. Any permit issued by the competent aeronautical

⁴ For recommendations to give effect to art. III, see EAS 186, *post*, p. 202.

⁵ EAS 129, *ante*, p. 102.

authorities for the air transport services contemplated hereunder shall be valid only so long as the holder thereof shall be authorized by its own Government to engage in the service envisaged by such permit. The holding of such permit shall be subject to compliance by the holder with all applicable laws of the issuing Government and with all valid rules, regulations and orders issued thereunder. Such permit may not be revoked for any cause other than non-compliance with such laws, rules, regulations or orders or for such reasons as the public interest may require.

ARTICLE VI

Each of the Parties hereto agrees not to impose, and to use its best efforts to prevent the imposition of, any restrictions or limitations as to airports, airways or connections with other transportation services and facilities in general to be utilized within its territory which might be competitively or otherwise disadvantageous to the air carrier enterprises of the other Party.

ARTICLE VII

The aircraft operated by United States air carrier enterprises shall conform at all times with the airworthiness requirements prescribed by the competent aeronautical authorities of the United States for aircraft employed in air transportation of the character contemplated by this Arrangement.

The aircraft operated by Canadian air carrier enterprises shall conform at all times with the airworthiness requirements prescribed by the competent aeronautical authorities of Canada for aircraft employed in air transportation of the character contemplated by this Arrangement.

The competent aeronautical authorities of the Parties hereto may communicate with a view to bringing about uniformity of safety standards for the operations contemplated by this Arrangement and compliance therewith, and whenever the need therefor appears the Parties may enter into an agreement prescribing such uniform safety standards.

ARTICLE VIII

The matter of the transportation of mail shall be subject to agreement between the competent authorities of both Parties.

ARTICLE IX

The operations contemplated hereunder shall be conducted subject to the applicable terms of the Air Navigation Arrangement effected by an exchange of notes between the two Parties signed on July 28, 1938.

ARTICLE X

This Arrangement shall remain in force for a period of two years and thereafter until terminated on six months notice given by either Government to the other Government.

I shall be glad to have you inform me whether it is the understanding of your Government that the terms of the arrangement agreed to in the negotiations are as above set forth. If so, it is suggested that the arrangement become effective on this date. If your Government concurs in this suggestion the Government of Canada will regard it as becoming effective on this date.

Accept, Sir, the renewed assurances of my highest consideration.

W. L. MACKENZIE KING
Secretary of State for External Affairs
Canada

The Honourable

THE UNITED STATES MINISTER TO CANADA, *Ottawa.*

The American Minister to the Secretary of State for External Affairs

LEGATION OF THE
UNITED STATES OF AMERICA
OTTAWA, CANADA
August 18, 1939

No. 101

SIR:

I have the honor to acknowledge the receipt of your note of August 18, 1939, in which you communicated to me the terms of a reciprocal arrangement between the United States of America and Canada relating to air transport services, as understood by you to have been agreed to in negotiations, now terminated, between the Government of the United States of America and the Government of Canada.

The terms of this arrangement which you have communicated to me are as follows:

[For terms of arrangement, see U.S. note, above.]

I am instructed to state that the terms of the arrangement as communicated to me are agreed to by my Government.

I am further instructed to inform you that my Government concurs in your suggestion that the arrangement become effective on this date and will accordingly regard it as becoming effective on this date.

I avail myself of the occasion to renew to you, Sir, the assurances of my highest consideration.

DANIEL C. ROPER

The Right Honourable

THE SECRETARY OF STATE FOR EXTERNAL AFFAIRS, *Ottawa*