

AVIATION Transport Services

Agreement Between the
UNITED STATES OF AMERICA and IRELAND

Amending the Agreement of February 3, 1945, as Amended

Effected by Exchange of Notes Signed at Dublin July 25 and September 6, 1990

with

Annexes



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89-497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)-

.. the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

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IRELAND

Aviation: Transport Services

Agreement amending the agreement of February 3, 1945, as amended.

Effected by exchange of notes

Signed at Dublin July 25 and September 6, 1990; Entered into force September 6, 1990. With annexes.

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*The Irish Minister for Foreign Affairs to the American
Ambassador*

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From the Minister for Foreign Affairs of Ireland to the Ambassador of
the United States, at Dublin

25 July 1990

Excellency,

I have the honour to refer to the discussions between representatives of the Governments of Ireland and of the United States of America which took place in Washington on 24 October 1988, and in Dublin on 10 and 11 October 1989 concerning the Agreement between the United States of America and Ireland relating to Air Transport Services of 3 February 1945, as amended.¹

On the basis of these discussions, and noting the benefits which both economies, the airlines and the travelling public have derived from the air services operated between our two countries for many years, I have the honour to propose that

(1) the Annex to the Agreement shall be deleted in its entirety and shall be replaced by the Annex attached to this Note, and that

(2) the following new articles shall be added to the Agreement: "*Article 6 bis*

Each Contracting Party confirms that, in its territory, the designated airlines of the other Contracting Party have the right to provide ground-handling services for their own operations.

Article 6 ter

(a) Each Contracting Party shall allow prices for air transport to be established by each designated airline of the Contracting Parties, based upon commercial considerations in the marketplace. Intervention by the Contracting Parties shall be limited to:

¹EAS 460; 59 Stat. 1402.

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(1) prevention of unreasonably discriminatory prices or practices;

(2) protection of consumers from prices that are unreasonably high or restrictive because of abuse of a dominant position;

(3) protection of airlines from prices that are artificially low because of direct or indirect Government subsidy or support.

(b) Each Contracting Party may require notification to or filing with its aero-nautical authorities of prices proposed to be charged to or from its territory by the designated airlines of the other Contracting Party. Notification or filing by the airlines of both Contracting Parties may be required not more than 30 days before the proposed effective date of such prices. In individual cases, notification or filing may be permitted on shorter notice than normally required. Neither Contracting Party shall require the notification or filing by airlines of the other Contracting Party of prices charged by charter operators to the public for traffic originating in the territory of either Contracting Party.

(c) Neither Contracting Party shall take unilateral action to prevent the inauguration or continuation of a price charged or proposed to be charged by an airline of either Contracting Party for international air transport between the territories of the Contracting Parties, including transport on an interline or intraline basis.

(d) Each Contracting Party shall allow any designated airline of the other Contracting Party to exercise price leadership on any sector between its territory and a third country if an airline of any country other than the third country and the Contracting Party in question is permitted to do so on that same sector.

(e) If either Contracting Party is dissatisfied with any price, it shall give notice of its dissatisfaction to the other Contracting Party and shall request consultations with that Party. It shall also notify the other Contracting Party as soon as possible of the reasons it believes such price is inconsistent with the considerations set forth in paragraph (a). In the case of a proposed price, such notification shall be given not later than 15 days before the proposed effective date of such price. These consultations shall be held not later than 30 days after receipt of the request and the Contracting Parties shall co-operate in securing information necessary for reasoned resolution of the issue. If the Contracting Parties reach agreement with respect to a price for which a notice of dissatisfaction has been given, each Contracting Party shall use its best efforts to put that agreement into effect. Without such mutual agreement, such price shall go into or continue in effect.

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(f) Each Contracting Party shall allow any designated airline of the other Contracting Party to match any scheduled or charter price, including combinations of prices, charged in the marketplace for international air transport between its territory and a third country. As used herein, the term "match" means the right to continue or to institute, on a timely basis, using such expedited procedures as may be necessary, an identical or similar price, including a combination of prices on a direct, interline or intraline basis, notwithstanding differences in conditions including, but not limited to, airports, routing, distance, timing, connections, aircraft type, aircraft configuration or change of aircraft".

If these proposals are acceptable to your Government, it is suggested that this Note, with the attached Annex, together with your positive reply thereto, shall constitute an Agreement between our two Governments in the matter, which shall enter into force on the date of your Note in reply.

Accept, Excellency, the assurances of my highest consideration.

Gerard Collins, T.D. Minister for Foreign Affairs

*Annex to Agreement between Ireland and the United States of
America relating to Air Transport Services*

(A) (i) Airlines of the United States authorised under the present Agreement are accorded in the territory of Ireland rights of transit, non-traffic stops, and commercial entry for international traffic at Shannon Airport on the following route:

The United States to Ireland and countries beyond, via inter-mediate points, in both directions

(ii) In addition, the said airlines are accorded in the territory of Ireland rights of transit, non-traffic stops and commercial entry for inter-national traffic at Shannon and Dublin, on the following route:

the United States to Ireland, via intermediate points, in both directions;

provided that all scheduled flights on this route, in either direction, shall serve Shannon; this requirement shall terminate if any other air-line inaugurates scheduled services between Dublin and the United States, in either direction, without a traffic stop at Shannon.

Notwithstanding any other provision of this Annex, any U.S. airline, while operating scheduled services between the United States and Shannon, may additionally enter into a code-sharing arrangement with a British or Irish carrier operating services between London and Dublin, under which each qualified U.S. airline may hold out a through flight number between a single U.S. gateway and Dublin via London. The flights between London and Dublin under the U.S. air-line code shall not be greater in number than the total number of U.S./Shannon flights performed in the same week by the U.S. airline concerned, subject to a minimum entitlement of four code-shared flights per week in each direction. Code-shared flights shall be clearly identified as such and shall conform with applicable national rules and regulations.

B. Airlines of Ireland authorised under the present Agreement are accorded in the territory of the United States rights of transit, non-traffic stops and commercial entry for international traffic at Boston, New York, Chicago and Los Angeles on the following routes:

Ireland via intermediate points to Boston, New York, Chicago and Los Angeles, in both directions.

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Any of the specified points in the United States may be served by any flight serving any of the other points, in either direction.

C. Any airline of either Contracting Party exercising the non-traffic stops granted by this Agreement may be required by the other Contracting Party to offer reasonable commercial services in pas-sengers, cargo and mail, both outward and inward.

D. Consistent with the traffic rights available under this Agreement, des-ignated airlines may perform international air transport without any limitation as to change, at any point on the route, in type or number of aircraft operated, provided that, in the outbound direction, the transport beyond such point is a continuation of the transport from the territory of the Contracting Party which has designated the airline and, in the inbound direction, the transport to the territory of the Contracting Party which has designated the airline is a continuation of the transport beyond such point.

E. (i) Airlines designated by either Contracting Party for international char-ter air transport shall, in accordance with the terms of their designa-tion, be entitled to perform such transport of passengers (and their accompanying baggage) and/or cargo, including, but not limited to, freight forwarder, split, and combination charters:

(a) between any point or points in the territory of the Contracting Party which has designated the airlines and any point or points in the territory of the other Contracting Party; and

(b) between any point or points in the territory of the other Contracting Party and any point or points in a third country or countries, provided that such traffic is carried via the home-land of the designated airlines and makes a stopover in the homeland for at least two consecutive nights.

Except in the case of charter services between the United States and the following points in Ireland:

Cork

Connaught Regional Airport,

airlines of the United States designated for charter services shall serve Shannon on either the eastbound or westbound leg of the journey and, where Ireland is served in only one direction by any charter flight, that flight shall serve Shannon; this requirement shall terminate if any other airline inaugurates charter services between a point

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in Ireland, other than Cork or Connaught Regional Airport, and the United States, without the required traffic stop at Shannon.

(ii) In the performance of services covered by paragraph E(i), the designated airlines of either Contracting Party shall also have the right:

(a) to make stopovers at any points whether within or outside the territory of either Contracting Party;

(b) to carry transit traffic through the other Contracting Party's territory; and

(c) to combine on the same aircraft traffic originating in the homeland of the designated carrier with that originating in the territory of the other Contracting Party.

(iii) Each Contracting Party shall extend favourable consideration to applications by airlines of the other Contracting Party to carry traffic not covered by paragraphs E(i) and E(ii) on the basis of comity and reciprocity.

(iv) The designated airlines of either Contracting Party performing international charter air transport originating in the territory of the other Contracting Party shall have the option of complying with the charter laws, regulations and rules of either its homeland or of the other Contracting Party. If a Contracting Party applies different rules, regulations, terms, conditions, or limitations to one or more of its airlines or to airlines of different countries, each designated airline shall be subject to the least restrictive of such provisions.

(v) Nothing contained in paragraph E(iv) shall limit the rights of either Contracting Party to require the designated airlines of the other Contracting Party to adhere to requirements relating to the protection of passenger funds and passenger cancellation and refund rights.

(vi) Neither Contracting Party shall require a designated airline of the other Contracting Party, in respect of the carriage of traffic from the territory of that other Contracting Party on a one-way or round-trip basis, to submit more than a declaration of conformity with the laws, regulations and rules of that other Contracting Party, referred to under paragraph E(iv), or of a waiver of these laws, regulations or rules granted by the aeronautical authorities of that other Contracting Party.

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*The American Ambassador to the Irish Minister for Foreign
Affairs*

EMBASSY OF THE
UNITED STATES OF AMERICA

September 6, 1990

Excellency,

I have the honor to refer to Your Excellency's Note, dated July 25, 1990, which states as follows:

[For text of the Irish note, see pp. 2-7.]

I have the honor to confirm that the Government of the United States of America accepts the proposals outlined in Your Excellency's Note and that you' Note, with the attached Annex, and this reply shall constitute an Agreemen between our two Governments, which shall enter into force on the date of this Note.

Accept, Excellency, the assurances of my highest consideration. Richard A. Moore

His Excellency,
Mr. Gerard Collins, T.D.,
Minister of Foreign Affairs of,
Ireland.

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