No. 2153

FRANCE
and
MEXICO

Exchange of notes constituting an agreement on air transport. Mexico, 17 April 1952

Official texts: French and Spanish.

Registered by the International Civil Aviation Organization on 22 April 1953.

FRANCE
et
MEXIQUE

Échange de notes constituant un accord sur les transports aériens. Mexico, 17 avril 1952

Textes officiels français et espagnol.

Enregistré par l'Organisation de l'aviation civile internationale le 22 avril 1953.

[TRANSLATION — TRADUCTION]

No. 2153. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT[1] BETWEEN FRANCE AND MEXICO ON AIR TRANSPORT. MEXICO, 17 APRIL 1952

I

EMBASSY OF THE FRENCH REPUBLIC IN MEXICO

No. 345

Mexico (D.F.), 17 April 1952

Sir,

The Government of the French Republic and the Government of the United Mexican States, being desirous of facilitating air relations between their respective territories, I have the honour to inform you that after an exchange of views with the competent Mexican authorities, we have agreed on the following :

Title I

GENERAL

Article I.—For the purposes of this Agreement :

(1) The term " aeronautical authorities " means, in the case of France, the Office of the Secretary-General for Aviation, and, in the case of Mexico, the Directorate of Civil Aviation of the Ministry of Communications and Public Works, and in both cases, any person or body authorized to perform the functions at present exercised by them;

(2) The term " designated airline " means any airline which has been selected by one of the Contracting Parties to operate the agreed services specified in the annex, and in respect of which notification has been sent to the aeronautical authorities of the other Contracting Party in accordance with the provisions of article XIV of this Agreement.

Article II.—The civil, commercial or private aircraft of each Contracting Party shall enjoy, in the territory of the other Contracting Party, rights of transit and of stops for non-traffic purposes at the airports open to international traffic.

It is understood that this right shall not extend to zones the crossing of which by air is prohibited.

Article III.—The airlines of one of the Contracting Parties operating air services in the territory of the other Contracting Party may be required to satisfy the aeronautical authorities of the latter Contracting Party that they are qualified to fulfil the conditions prescribed under the laws and regulations normally applied by these authorities to the operation of commercial airlines.

[1] Came into force on 17 April 1952, by the exchange of the said notes.

Article IV.—Certificates of airworthiness, certificates of competency and licences issued by one Contracting Party shall, throughout the period in which they are in force, be recognized as valid by the other Contracting Party.

Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licences granted to its own nationals by the other Contracting Party or by another State.

Article V.—(1) The laws and regulations of either Contracting Party relating to the entry into, stay in or departure from its territory of aircraft engaged in international air navigation, or to the operation, handling and navigation of such aircraft while within its territory, shall apply to aircraft of the other Contracting Party.

(2) The laws and regulations in force in the territory of either Contracting Party governing the entry, stay or departure of passengers, crew or cargo of aircraft, such as those relating to police formalities, entry, immigration, emigration, passports, clearance, customs and health shall apply to passengers, crew and cargo taken on board aircraft of the other Contracting Party.

Article VI.—In order to prevent discriminatory practices and to respect the principle of equality of treatment:

(1) The taxes or other fiscal charges that either of the Contracting Parties may impose or permit to be imposed upon the aircraft of the other Contracting Party for the use of airports and other facilities shall not be higher than would be paid for the use of such airports and facilities by its national aircraft of the same category;

(2) Fuel, lubricating oils, spare parts, regular equipment and general supplies intended solely for use by aircraft of one of the Contracting Parties in international service and introduced into the territory of the other Contracting Party by or on behalf of the owner or operator of the aircraft or taken on board such aircraft in that territory for use therein, shall be accorded by the latter Contracting Party, with respect to the imposition of customs duties, inspection fees or other national charges or duties, treatment as favourable as that accorded to its national aircraft of the same category or to the aircraft of the most-favoured nation;

(3) Aircraft of one of the Contracting Parties in international service, and fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board the said aircraft shall be exempt, in the territory of the other Contracting Party,from customs duties, inspection fees or other similar duties or charges, even though such supplies be consumed or used on flights over that territory;

(4) The supplies listed in paragraph 3 of this article and exempted in the manner defined therein may not be unloaded save with the approval of the customs authorities of the other Contracting Party. Where such supplies are to be re-exported, they shall be kept, until re-exportation, under the customs supervision of the other Contracting Party, but shall remain at the disposal of the owners or operators of the aircraft.

Article VII.—Should either of the Contracting Parties consider it desirable to modify any clause of this Agreement or the schedules of routes annexed thereto, or to exercise the right specified in article XV, it may request consultation between the aeronautical authorities of the two Contracting Parties, such consultation to begin within a period

of sixty (60) days from the date of the request. Any modification of the Agreement which may be agreed upon between the said authorities shall come into effect after it has been confirmed by an exchange of diplomatic notes.

Article VIII.—In a spirit of close collaboration, the aeronautical authorities of the two Contracting Parties shall from time to time consult together with a view to ensuring the application and satisfactory implementation of the principles laid down in the present Agreement.

Article IX.—Any dispute relating to the interpretation or application of this Agreement which cannot be settled through direct negotiation between the airlines concerned, between the aeronautical authorities or between the respective Governments shall be referred to arbitration in accordance with the usage of international law.

The Contracting Parties undertake to comply with any provisional measures ordered in the course of the proceedings, and with the arbitral award, which shall in all cases be considered as final.

Article X.—Either Contracting Party may at any time notify the other of its desire to terminate this Agreement. Such notice shall simultaneously be communicated to the other Contracting Party and to the International Civil Aviation Organization. The Agreement shall terminate twelve (12) months after the date of the receipt of the notice by the other Contracting Party.

In the absence of acknowledgement of receipt by the other Contracting Party, notice shall be deemed to have been received fourteen (14) days after the receipt of the notice by the International Civil Aviation Organization.

If before the expiry of the period of twelve (12) months laid down for the denunciation of the Agreement, the two Contracting Parties sign a new Agreement or agree to withdraw the notice of denunciation, the International Civil Aviation Organization shall be notified thereof.

Article XI.—Should the two Contracting Parties ratify or adhere to a multilateral air convention, the present Agreement shall be amended so as to conform with the provisions of such convention from the date of its entry into force as between them.

Article XII.—This Agreement and all other instruments intended to amplify or modify it shall be registered with the International Civil Aviation Organization, established under the Convention on International Civil Aviation, signed at Chicago on 7 December 1944.[1]

Title II

AGREED COMMERCIAL SERVICES

Article XIII.—The Government of the French Republic grants the Government of the United Mexican States and the Government of the United Mexican States grants the Government of the French Republic the right to have the air services specified in the annex operated by one or more airlines respectively designated by them. Such services shall hereinafter be referred to as the " agreed services ".

[1] United Nations, *Treaty Series*, Vol. 15, p. 295; Vol. 26, p. 420; Vol. 32, p. 402; Vol. 33, p. 352; Vol. 44, p. 346; Vol. 51, p. 336, and Vol. 139, p. 469.

Article XIV.—(1) Each of the agreed services may be put into operation immediately or at a later date, at the option of the Contracting Party to whom the rights have been granted, provided always that :

(*a*) The Contracting Party to whom the rights have been granted has designated the airlines for the specified routes;

(*b*) The Contracting Party granting the rights has authorized the airlines concerned to open the agreed services, which shall be done without delay subject to the provisions of articles III and XV.

Article XV.—Each Contracting Party reserves the right to withhold from an airline designated by the other Contracting Party the authorization to operate referred to in article XIV of this Agreement or to revoke such authorization whenever it has reason to believe that it has no proof that substantial ownership and effective control of such airline are vested in nationals of that Contracting Party, or in case of failure by that airline to comply with the rules and regulations referred to in article V above or to perform its obligations under this Agreement.

Article XVI.—The airlines designated by each of the Contracting Parties shall have the right to pick up and set down international traffic in passengers, mail and cargo at the terminal points of and at intermediary stops on the international routes expressly specified and approved in the respective schedules of routes annexed to this Agreement.

Article XVII.—It is agreed between the Contracting Parties that the services offered by the airline or airlines designated under this Agreement and its annex shall have as their principal objective the provision of capacity adequate to the traffic demands between the country to which the airline belongs and the countries of destination.

The two Contracting Parties agree to recognize that fifth-freedom traffic is complementary to the traffic needs between the terminal points of the routes connecting the territories of the Contracting Parties. It is also accessory as regards the needs of third-freedom and fourth-freedom traffic between the territory of one of the Contracting Parties and that of an intermediary country.

Traffic capacity shall be adapted to the requirements of the area through which the airline passes, due account being taken of regional and local services. It shall also be adapted to traffic requirements between the terminal points.

In connexion with the foregoing, the two Contracting Parties recognize that the operation of local and regional services constitutes a legitimate right of the two countries. They accordingly agree to consult together from time to time concerning the manner in which the rules set forth above are to be applied by the airlines so as to ensure that their interests in local and regional services are not adversely affected. They also agree, where an objection is raised by an intermediary country, to enter into immediate consultation with a view to the specific and practical application of the foregoing rules in any particular case.

Article XVIII.—(1) Rates shall be fixed at reasonable levels, regard being paid in particular to economy of operation, reasonable profit, the rates charged by other airlines and the characteristics of each service, such as standards of speed and comfort.

(2) The rates to be charged on the agreed services between the points in French territory and the points in Mexican territory referred to in the annex shall, so far as possible, be agreed between the designated French and Mexican airlines.

These airlines shall proceed :

(*a*) By applying any resolutions adopted under the rate-fixing procedure of the International Air Transport Association (IATA); or

(*b*) By direct agreement after consultation, where necessary, with any airlines of a third country operating all or part of the same routes.

(3) The rates so fixed shall be submitted to the aeronautical authorities of each Contracting Party for approval not less than thirty (30) days before the date laid down for their entry into force; in special cases this time-limit may be reduced subject to the agreement of the said authorities.

(4) Should the designated airlines fail to agree on the fixing of rates in accordance with paragraph 2 above, or should one of the Contracting Parties make known its dissatisfaction with the rate submitted to it in accordance with the provisions of paragraph 3 above, the aeronautical authorities of the two Contracting Parties shall endeavour to reach a satisfactory solution.

In the last resort, the matter shall be referred to the arbitration provided for in article IX of this Agreement.

Pending the announcement of the arbitral award, the Contracting Party making known its dissatisfaction shall have the right to require the other Contracting Party to maintain the rates previously in force.

(5) In the case of a rate proposed upon the opening of a newly agreed service, the Contracting Party in disagreement may not object to the inauguration of that service except in so far as the initial rate proposed has not been fixed in accordance with one of the two procedures referred to in paragraph 2 of this article.

Article XIX.—After the present Agreement comes into force, the aeronautical authorities of both Contracting Parties shall exchange information as promptly as possible concerning the authorizations extended to their respective designated airlines to operate the agreed services or fractions thereof.

Such information shall include in particular copies of the authorizations granted, any modifications thereof and all annexed documents.

The aeronautical authorities of the two Contracting Parties shall, as soon as possible and before their respective services begin to be exploited effectively, notify each other of the time-tables, flight frequencies and types of aircraft to be used. They shall likewise notify each other of any changes in these arrangements.

Title III

FINAL PROVISIONS

The present Agreement shall enter into force on the date of this exchange of Notes.

ANNEX

(1) *French service*

Paris—New York—Mexico City—in both directions.

(2) *Mexican service*

Mexico City—Miami or Havana—Bermuda—Azores—Lisbon or Madrid—Paris—in both directions.

The French Government provisionally waives its right to operate what is called fifth-freedom traffic on the routes listed in this schedule.

Nevertheless, it is the French Government's understanding that the provisions of the Agreement relating to this traffic may be brought into force when the two Governments have agreed that their respective airlines shall operate fifth-freedom traffic also to third countries situated on their routes.

I should be grateful if, when acknowledging the receipt of the present note, you would officially confirm that the present exchange of notes constitutes an agreement between our respective Governments.

I have the honour to be, etc.

Jules DE KOENIGSWARTER

II

Mexico, D.F., 17 April 1952

Sir,

I have the honour to acknowledge the receipt of your note No. 345 of today's date, in which, after informing me that representatives of the French Embassy and the competent authorities of the Mexican Government have agreed to establish an air service between the two countries, you propose an Air Transport agreement between Mexico and France, in the following terms :

AGREEMENT CONCERNING REGULAR AIR TRANSPORT BETWEEN THE UNITED MEXICAN STATES AND THE FRENCH REPUBLIC

The Government of the United Mexican States and the Government of the French Republic, being desirous of facilitating air relations between their respective territories, have appointed representatives for this purpose, who, being duly authorized, have agreed on the following :

[*See note I*]

The text contained in your note No. 345 being identical in every particular with that submitted to me by the Ministry of Communications and Public Works, the Government of Mexico agrees to consider your note and this reply as constituting an air transport agreement between Mexico and France.

I have the honour to be, etc.

Manuel TELLO

No. 2153