

No. 2154

MEXICO
and
NETHERLANDS

Exchange of notes constituting an agreement relating to air transport. Mexico, 13 October 1952

D: indif.

Official texts: Dutch, English and Spanish.

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

MEXIQUE
et
PAYS-BAS

Échange de notes constituant un accord relatif aux transports aériens. Mexico, 13 octobre 1952

Textes officiels anglais, espagnol et néerlandais.

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

No. 2154. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN MEXICO AND THE NETHERLANDS RELATING TO AIR TRANSPORT. MEXICO, 13 OCTOBER 1952

I

[DUTCH TEXT — TEXTE NÉERLANDAIS]

LEGACIÓN REAL DE LOS PAÍSES BAJOS

Mexico, D.F., 13 de Octubre de 1952

No. 1872

Excellentie,

Onder verwijzing naar de onderhandelingen, welke in de loop van dit jaar hier ter stede gevoerd werden door een Nederlandse Delegatie onder leiding van Mr. L. H. Slotemaker, Directeur der Koninklijke Luchtvaart Maatschappij te 's-Gravenhage, en bevoegde autoriteiten van de Regering van de Verenigde Mexicaanse Staten, welke onderhandelingen op 2 April j.l. geleid hebben tot overeenstemming betreffende de instelling van een luchtvaartdienst tussen het Grondgebied van het Koninkrijk der Nederlanden en dat van de Verenigde Mexicaanse Staten, heb ik de eer Uwer Excellentie in opdracht van mijn Regering een luchtvaartovereenkomst tussen beide Regeringen voor te stellen, waarvan de tekst in de Nederlandse, Spaanse en Engelse taal als volgt luidt :

[TRANSLATION — TRADUCTION]

ROYAL NETHERLANDS LEGATION

Mexico, D.F., 13 October 1952

No. 1872

Your Excellency,

With reference to the negotiations conducted this year in this city between a Netherlands delegation, under the chairmanship of Mr. L. H. Slotemaker, Director of the Koninklijke Luchtvaart Maatschappij at The Hague, and competent authorities of the Government of the United Mexican States, at which agreement was reached on 2 April 1952 concerning the establishment of an air transport service between the territory of the Kingdom of the Netherlands and the territory of the United Mexican States, I have the honour to propose to you, on the instructions of my Government, an air transport agreement between the two Governments, the text of which, in the Dutch, Spanish and English languages, is as follows :

¹ Came into force on 13^a October 1952, by the exchange of the said notes.

de las rutas aéreas determinadas, vía puntos intermedios, y a efectuar aterrizajes regulares en el territorio del Reino de los Países Bajos, en los puntos que a continuación se enumeran :

México, D.F. — vía puntos intermedios — a Aruba y Curaçao, o cualquiera de estos dos puntos.

2. La línea aérea designada por el Gobierno de los Estados Unidos Mexicanos no podrá transportar pasajeros, correo o carga, por contrato u otra forma remunerada, de un punto a otro del territorio de las Antillas Neerlandesas.

[ENGLISH TEXT — TEXTE ANGLAIS]

AIR TRANSPORT AGREEMENT BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE UNITED MEXICAN STATES

The Government of the Kingdom of the Netherlands and the Government of the United Mexican States, considering :

That the possibilities of commercial aviation as a means of transport and of promoting friendly understanding and good will among peoples are increasing from day to day;

That it is desirable to organize, on equitable bases of equality and reciprocity, regular air services between the two countries, to obtain greater co-operation in the field of international air transportation;

That in order to attain this end it is necessary to conclude an agreement which guarantees regular air communications between the territory of the Kingdom of the Netherlands and the territory of Mexico;

Have to this end appointed their representatives who, being duly authorized by their respective Governments and acting within the powers which have been conferred upon them, have agreed as follows :

Article 1

Each Contracting Party grants to the other Contracting Party the rights specified in the Annex hereto necessary for establishing the international civil air routes and services herein described whether such services be inaugurated immediately or at a later date at the option of the Contracting Party to which the rights are granted.

Article 2

For the purposes of the present Agreement and its Annex, except where the text indicates otherwise :

a) The term "aeronautical authorities" shall mean, in the case of the Kingdom of the Netherlands, the Director General of Civil Aviation or any other person or body authorized to perform the functions presently exercised by the Director General of Civil Aviation and, in the case of the United Mexican States, the Ministry of Communications and Public Works or any person or entity authorized to perform the functions exercised at present by the said Ministry.

b) The term “ designated airline ” shall mean the airline or airlines that the aeronautical authorities of one of the Contracting Parties shall have designated to operate the agreed air routes, in accordance with article 3 of this Agreement, it being an indispensable requirement that such designation be communicated in writing to the aeronautical authorities of the other Contracting Party.

c) The term “ territory ” shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of the State concerned.

d) The term “ air service ” shall mean any scheduled air service performed by aircraft for the public transport of passengers, mail, or cargo.

e) The term “ international air service ” shall mean an air service which passes through the air space over the territory of more than one State.

f) The term “ airline ” shall mean any air transport enterprise offering or operating an international air service.

g) The term “ stop for non-traffic purposes ” shall mean a landing for any purpose other than taking on or discharging passengers, cargo or mail.

h) The term “ services offered ” shall mean the capacity of an aircraft used on such service, multiplied by the frequency operated by such aircraft over a given period and route.

i) The term “ air route ” shall mean the scheduled route followed by an aircraft that is in regular service for public transport of passengers, cargo, and/or mail.

Article 3

a) Each of the air services so described shall be placed in operation as soon as the Contracting Party, to whom the rights have been granted by Article I, to designate an airline or airlines for the route concerned, has authorized an airline or airlines for such route; and the Contracting Party granting the rights shall, subject to article 7 hereof, be bound to give the appropriate operating permission to the airline or airlines concerned without undue delay.

b) Each airline so designated may be required to satisfy the aeronautical authorities of the Contracting Party granting the rights that it is in a position to fulfill the requirements prescribed by the laws and regulations normally applied by those authorities to the operation of commercial airlines.

c) In case of hostilities or of military occupation, such operations shall, in the areas affected thereby, be subject to the approval of the competent military authorities.

Article 4

In order to prevent discriminatory practices and to assure equality of treatment, both Contracting Parties agree that :

a) Each one of the Contracting Parties may impose or permit to be imposed fair and reasonable charges for the use of public airports and other facilities under its control. Both Contracting Parties agree, however, that these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services.

b) Fuel, lubricating oils and spare parts introduced into or taken on board aircraft in the territory of one Contracting Party by the other Contracting Party or its nationals, and intended solely for use by aircraft of the airlines of the latter Contracting Party shall, with respect to the imposition of customs duties, inspection fees and other national duties or charges by the former Contracting Party whose territory is entered, be accorded the same treatment as that applying to national airlines and to airlines of the most favoured nation.

c) The fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board aircraft of the airlines of one Contracting Party authorized to operate the routes and services described in the Annex shall, upon arriving in or leaving and while within the territory of the other Contracting Party, be exempt from customs, inspection fees or similar duties or charges, even though such supplies be used by such aircraft on flights in that territory.

Article 5

Certificates of airworthiness, certificates of competency and licences issued or rendered valid by one Contracting Party shall be recognized as valid by the other Contracting Party for the purpose of operating the routes and services described in the Annex. Each Contracting Party reserves the right to refuse to recognize for the purpose of flight above its own territory, certificates of competency and licences granted to its own nationals by another State.

Article 6

a) The laws and regulations of one Contracting Party relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while they are within its territory, shall be applied to the aircraft of the airline or airlines designated by the other Contracting Party, and shall be complied with by such aircraft upon entering or departing from and while within the territory of the first Party.

b) The laws and regulations of one Contracting Party as to the admission to or departure from its territory of passengers, crew or cargo of aircraft such as regulations relating to entry, clearance, immigration, passports, customs and quarantine shall be complied with, by or on behalf of such passengers, crew or cargo of the aircraft of the airline or airlines designated by the other Contracting Party, upon entrance into or departure from or while within the territory of the first Party.

Article 7

a) Each Contracting Party reserves the right to withhold or revoke the exercise of the rights specified in the Annex to this Agreement from an airline designated by the other Contracting Party in the event that it is not satisfied that substantial ownership and effective control of such airline are vested in nationals of the other Contracting Party, or in case of failure by that airline to comply with the laws and regulations of the State in which it is operating, as specified in the preceding article, or otherwise to fulfill the conditions under which the rights are granted in accordance with this Agreement and its Annex.

b) The Contracting Parties may substitute freely other airlines of the same nationality for the respective assigned airlines to the agreed services, previously advising the other Contracting Party. The newly assigned airline will have all the rights and obligations of the former.

Article 8

This Agreement and all contracts connected therewith shall be registered with the International Civil Aviation Organization.

Article 9

Except as otherwise provided in this Agreement or its Annex, any dispute between the Contracting Parties relative to the interpretation or application of this Agreement or its Annex, which cannot be settled through consultation, shall be submitted to a tribunal of three arbitrators, one to be named by each Contracting Party, and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either Contracting Party. Each of the Contracting Parties shall designate an arbitrator within sixty days of the date of delivery by either party to the other party of a diplomatic note requesting arbitration of a dispute; and the third arbitrator shall be agreed upon within thirty days after such period of sixty days. If the third arbitrator is not agreed upon, within the time limitation indicated, the vacancy thereby created shall be filled by the appointment of a person, designated by the President of the Council of ICAO, from a panel of arbitral personnel maintained in accordance with the practice of ICAO. Contracting Parties undertake to comply with any decision given under this article. A moiety of the expenses of the arbitral tribunal shall be borne by each party.

Article 10

In case both Contracting Parties accept a general multilateral air transport convention, the present agreement shall be amended so as to conform with the provisions of the multilateral convention.

Article 11

Either of the Parties may at any time notify the other Contracting Party of its desire to terminate the present Agreement. Such a notice shall be sent simultaneously to the International Civil Aviation Organization. In the event of denunciation by either Party, this Agreement shall terminate one year after the date of receipt of the notice to terminate unless by Agreement between the Contracting Parties the notice is withdrawn before the expiration of that time. If the other Contracting Party fails to acknowledge receipt, notice shall be deemed as having been received fourteen days after its receipt by the International Civil Aviation Organization.

Article 12

In the event either of the Contracting Parties considers it desirable to modify the Agreement, the Annex or the routes, that Contracting Party may request consultation between the competent authorities of both Contracting Parties, such consultation to begin within a period of sixty days from the date of the request. When these authorities mutually agree on new or revised conditions affecting the Agreement or the Annex, such recommendations will come into effect after they have been confirmed by an exchange of diplomatic notes.

ANNEX

Section I

The Government of the United Mexican States grants to the Government of the Kingdom of the Netherlands the right to conduct air transport services by one or more airlines of Netherlands nationality designated by the latter country on the routes specified in Schedule One attached which serve commercially the territory of Mexico.

Section II

The Government of the Kingdom of the Netherlands grants to the Government of the United Mexican States the right to conduct air transport services by one or more airlines of Mexican nationality designated by the latter country on the routes specified in Schedule Two attached which serve commercially the territory of the Kingdom of the Netherlands.

Section III

One or more airlines designated by each of the Contracting Parties under the conditions provided in this Agreement will enjoy, in the territory of the other Contracting Party, rights of transit and of stops for non traffic purposes, as well as the right of commercial entry and departure for international traffic in passengers, cargo and mail at the points enumerated on each of the routes specified in the Schedules attached.

Section IV

The air service offered by virtue of this Agreement shall bear a close relationship to the requirements of the public for such transportation.

Section V

There shall be a fair and equal opportunity for the airlines of the Contracting Parties to operate on any route between their respective territories (as defined in the Agreement) covered by this Agreement and Annex.

Section VI

In the operation by the airlines of either Contracting Party of the trunk services described in the present Annex, the interest of the airlines of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provide on all or parts of the same routes.

Section VII

It is agreed between the two Contracting Parties that the services provided by the airline(s) designated under this Agreement and its Annex shall retain as principal objective the provision of capacity adequate to the traffic demands between the country of which the airline is a carrier 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 and is also accessory as regards the needs of third and fourth freedom traffic between the territory of one of the Contracting Parties and that of an intermediary country.

The traffic capacity shall be fixed in accordance with the requirements of the region traversed by the airline, duly taking into consideration the regional and local services. It shall also be fixed in accordance with the traffic needs between the terminal points.

With reference to the foregoing, the two Contracting Parties recognize that the operation of local and regional services constitutes a legitimate right of the respective countries.

Consequently they agree to consult each other periodically on the way in which the rules indicated above are to be applied by the airlines concerned in order to assure that their interests in the local and regional services will not be prejudiced. They also agree that in case objections are raised by an intermediary country, they will enter into immediate consultation in order to apply the preceding rules concretely and practically in any particular case.

Section VIII

Rates to be charged by the designated airlines shall be agreed in the first instance between them having due regard to the rates fixed by any tariff conference of airlines operating in the area. Any tariff so agreed will be subject to the approval of the competent aeronautical authorities of the Contracting Parties. In the event of disagreement between the designated airlines, the competent aeronautical authorities of the Contracting Parties shall endeavour to reach an Agreement. Should the competent aeronautical authorities, or, subsequently, the Contracting Parties themselves, fail to agree, the matter in dispute will be referred to arbitration as provided for in article 9 of this Agreement.

SCHEDULE No. 1

1) An airline designated by the Government of the Kingdom of the Netherlands shall be entitled to operate air services on each of the air routes specified via intermediate points, in both directions, and to make scheduled landings in the territory of the United Mexican States at the point specified in this paragraph :

Amsterdam—Prestwick (Scotland) and/or Shannon (Ireland)—Gander (New Foundland)—Montreal (Canada)—Monterrey, N.L.—Mexico City.

2) The airline designated by the Government of the Kingdom of the Netherlands shall not be allowed to take on in the territory of the United Mexican States passengers, mail and cargo for remuneration or hire and destined to another point within the Mexican territory.

SCHEDULE No. 2

1) An airline designated by the Government of the United Mexican States shall be entitled to operate air services on each of the air routes specified via intermediate points, in both directions, and to make scheduled landings in the territory of the Kingdom of the Netherlands at the points specified in this paragraph :

Mexico City—via intermediate points—to Aruba and/or Curaçao.

2) The airline designated by the Government of the United Mexican States shall not be allowed to take on in the territory of the Netherlands Antilles passengers, mail and cargo for remuneration or hire and destined to another point within that territory.

[DUTCH TEXT — TEXTE NÉERLANDAIS]

Ik moge Uwer Excellentie verzoeken mij de ontvangst van deze nota te bevestigen en, indien de hierboven vermelde bepalingen aanvaardbaar zijn voor de Regering van de Verenigde Mexicaanse Staten, heb ik de eer Haar voor te stellen dat deze nota en Uwer Excellentie's bevestigend antwoord daarop, geacht zullen worden de Overeenkomst tussen onze beide Regeringen te dezer zake te vormen, van welke Overeenkomst opgemelde teksten in de Nederlandse, Spaanse en Engelse taal gelijkelijke authenticiteit zullen bezitten, terwijl de Overeenkomst geacht zal worden in werking te treden op de datum van Haar antwoord nota.

Ik moge van deze gelegenheid gebruik maken Uwer Excellentie de verzekering te geven van mijn zeer bijzondere hoogachting.

(w.g.) VAN HOUTEN

Excmo. Señor D. Manuel Tello
Secretario de Relaciones Exteriores
Presente

[TRANSLATION — TRADUCTION]

I should be glad if you would acknowledge the receipt of this note and, in the event that the provisions set out above are acceptable to the Government of the United Mexican States, I have the honour to propose that this note and your reply in acknowledgement thereof shall be deemed to constitute the Agreement in this matter between our two Governments, the Dutch, Spanish and English texts of which shall be equally authentic and which shall be deemed to enter into force on the date of your note in reply.

I have the honour to be, etc.

(Signed) VAN HOUTEN

His Excellency Mr. D. Manuel Tello
Minister of Foreign Affairs
Mexico City

II

[SPANISH TEXT — TEXTE ESPAGNOL]

SECRETARÍA DE RELACIONES EXTERIORES
México, D.F., a 13 de octubre de 1952.
508887

Señor Ministro :

Tengo la honra de acusar recibo a Vuestra Excelencia de su atenta nota número 1872, del día de hoy, en la que, al hacer de mi conocimiento que la Delegación Holandesa presidida por el

No. 2154

[TRANSLATION — TRADUCTION]

DEPARTMENT OF FOREIGN AFFAIRS
Mexico City, 13 October 1952
508887

Your Excellency,

I have the honour to acknowledge the receipt of your note No. 1872 of today's date in which you inform me that the Netherlands delegation, under the chairmanship of Mr. L. H. Slot-

Dr. L. H. Slotemaker que estuvo en esta capital del día 31 de marzo al 2 de abril del presente año, y las autoridades competentes del Gobierno mexicano, llegaron a un arreglo sobre el establecimiento de un servicio aéreo entre ambos países, se sirve proponer un Acuerdo sobre Transportes Aéreos entre el Gobierno de los Estados Unidos Mexicanos y el Gobierno del Reino de los Países Bajos, cuyo texto en español, holandés e inglés es el siguiente :

[See note I]

En vista de que los términos que Vuestra Excelencia se ha servido consignar en su nota número 1872 concuerdan en todos sus puntos con los que la Secretaría de Comunicaciones me ha presentado, el Gobierno de México está conforme en considerar que la nota de Vuestra Excelencia y la presente, constituyan un Acuerdo sobre Transportes Aéreos entre el Gobierno de los Estados Unidos Mexicanos y el Reino de los Países Bajos, que tiene igual validez en los textos español, inglés y holandés y que entra en vigor a partir de esta fecha.

Aprovecho la oportunidad para reiterar a Vuestra Excelencia las seguridades de mi muy alta consideración.

(Firmado) Manuel TELLO

Excelentísimo Señor
Doctor H. R. van Houten
Enviado Extraordinario y Ministro
Plenipotenciario de los Países Bajos
Ciudad

maker, which was present in this city from 31 March to 2 April 1952, and the competent authorities of the Mexican Government have agreed on the establishment of an air transport service between the two countries, and in which you propose an air transport agreement between the Government of the United Mexican States and the Government of the Kingdom of the Netherlands, the text of which, in the Spanish, Dutch and English languages, is as follows :

[See note I]

Whereas the text communicated in your note No. 1872 conforms in every particular with that submitted to me by the Ministry of Communications, the Mexican Government agrees to consider that your note together with this reply constitute an air transport agreement between the Government of the United Mexican States and the Government of the Kingdom of the Netherlands, the Spanish, English and Dutch texts of which shall be equally authentic and which shall enter into force on this day's date.

I have the honour to be, etc.

(Signed) Manuel TELLO

His Excellency
Dr. H. R. van Houten
Envoy Extraordinary and Minister
Plenipotentiary of the Netherlands
Mexico City