

No. 2269

AUSTRALIA
and
EGYPT

Agreement (with annex and exchange of notes) for the establishment of scheduled air services. Signed at Cairo, on 14 June 1952

Official texts: English and Arabic.

Registered by the International Civil Aviation Organization on 5 October 1953.

AUSTRALIE
et
ÉGYPTE

Accord (avec annexe et échange de notes) relatif à l'établissement de services aériens réguliers. Signé au Caire, le 14 juin 1952

Textes officiels anglais et arabe.

Enregistré par l'Organisation de l'aviation civile internationale le 5 octobre 1953.

No. 2269. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA AND THE GOVERNMENT OF EGYPT FOR THE ESTABLISHMENT OF SCHEDULED AIR SERVICES. SIGNED AT CAIRO, ON 14 JUNE 1952

The Government of the Commonwealth of Australia and the Government of Egypt, hereinafter described as the Contracting Parties,

Being parties to the Convention on International Civil Aviation opened for signature at Chicago on the 7th day of December, 1944² (hereinafter referred to as the Convention),

Considering that it is desirable to organise international air services in a safe and orderly manner and to further as much as possible the development of international co-operation in this field,

Considering also that it is desirable to stimulate international air travel, at the lowest possible rates consistent with sound economic principles, as a means of promoting friendly understanding and goodwill among peoples and securing the many indirect benefits of this form of transportation to the common welfare of both countries,

And desiring to conclude an agreement for the purpose of promoting commercial scheduled air transport services between and beyond their respective territories,

Have accordingly appointed the undersigned plenipotentiaries for this purpose, who, being duly authorised to that effect by their respective Governments, have agreed as follows :-

Article I

1. Each Contracting Party grants to the other Contracting Party the right to operate the air services specified in the Annex to this Agreement (hereinafter referred to as the "specified air services") on the routes specified in the said Annex (hereinafter referred to as the "specified air routes").
2. Subject to the provisions of this Agreement, any of the specified air services may be inaugurated in whole or in part immediately or at a later date at the option of the Contracting Party to whom the rights are granted; provided that no specified air services shall be operated unless the starting point of the service lies within the territory of the Contracting Party designating the airline.

¹ Came into force on 12 October 1952, upon notification of the ratification of the Agreement given by the Government of Egypt to the Government of Australia, in accordance with article XVII.

² 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 II

1. Each Contracting Party shall designate in writing to the other Contracting Party one or more airlines for the purpose of operating by virtue of the present Agreement each of the specified air services.
2. On receipt of the designation, the other Contracting Party shall, subject to the provisions of paragraph 3 of this Article and of Article III of the present Agreement, without undue delay grant to the airlines designated, the appropriate operating permission.
3. The aeronautical authorities of one Contracting Party, before granting operating permission to an airline designated by the other Contracting Party, may require the airline to satisfy them that it is qualified to fulfil the conditions prescribed under the laws and regulations which they normally apply to the operation of scheduled international air services provided that such laws and regulations do not conflict with the provisions of the Convention or of the present Agreement.
4. At any time after the provisions of paragraphs 1 and 2 of this Article have been complied with, an airline so designated and authorised may begin to operate the specified air services.

Article III

1. Each Contracting Party shall have the right to refuse to accept the designation of an airline and to withhold or revoke the grant to an airline of the rights specified in Article IV of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those rights in any case where it is not satisfied that substantial ownership and effective control of that airline are vested in the Contracting Party designating the airline or in nationals of the Contracting Party designating the airline.
2. Each Contracting Party shall have the right to suspend the exercise by an airline of the rights specified in Article IV of the present Agreement or to impose such conditions as it may deem necessary on the exercise by an airline of those rights in any case where the airline fails to comply with the laws and regulations of the Contracting Party granting these rights or otherwise to operate in accordance with the conditions prescribed in the present Agreement.
3. Action shall not be taken in pursuance of paragraphs 1 and 2 of this Article to revoke or suspend the grant of the rights specified in Article IV of this Agreement or to impose conditions on the exercise thereof before notice in writing of such proposed action, stating the grounds therefor, is given to the other Contracting Party and consultation between the aeronautical authorities of both Contracting Parties has not led to agreement within a period of thirty days after the date upon which the said notice would, in the ordinary course of

transmission, be received by the Contracting Party to whom it is addressed, provided that if the alleged failure to operate in accordance with the conditions referred to in paragraph 2 of this Article relates to Article V or VI hereof then a period of ninety days after the said date shall be allowed for the purpose of such consultation.

4. In the event of action by one Contracting Party under this Article, the rights of the other Contracting Party under Article XIV shall not be prejudiced.

Article IV

1. Each Contracting Party grants to the designated airlines of the other Contracting Party :

- (a) for so long as both Contracting Parties remain parties to the International Air Services Transit Agreement opened for signature at Chicago on 7th December 1944,¹ and in accordance with its provisions, the right to fly across its territory and the right to land for non-traffic purposes;
- (b) subject to the provisions of Articles V and VI, the right to put down and take on in the territory of the first Contracting Party at the points specified in the Annex, international traffic in passengers, cargo and mail originating in or destined for the territory of the other Contracting Party or of a third country.

2. Paragraph 1 of this Article shall not be deemed to confer on the airlines of one Contracting Party the right to take up, in the territory of the other Contracting Party, passengers, cargo and mail carried for remuneration or hire and destined for another point in the territory of that other Contracting Party.

Article V

1. There shall be fair and equal opportunity for the designated airlines of each Contracting Party to operate on the specified air routes and to provide capacity in accordance with the provisions of this Article for carrying traffic that originates in the territory of one Contracting Party and is destined for the territory of the other Contracting Party.

2. In the operation of the specified air services, the designated airlines of each Contracting Party shall retain as their primary objective the provision, at a reasonable load factor, of capacity adequate to the current and reasonably anticipated traffic demand between the territory of the Contracting Party designat-

¹ United Nations, *Treaty Series*, Vol. 84, p. 389, and Vol. 139, p. 469.

ing the airline and the countries of origin or ultimate destination of the traffic.

3. The Contracting Parties recognise the principle that the air transport facilities available to the public should bear a reasonable relationship to the requirements of the public for such transport and that, as between the Contracting Parties, the Contracting Party in whose territory the traffic originates or for whose territory the traffic is destined shall have the primary right to the carriage of such traffic.

Article VI

In the operation of the specified air services the rights granted to the airlines designated by either Contracting Party shall not be exercised unfairly to the detriment or disadvantage of any airline of the other Contracting Party, operating on all or part of the same route.

Article VII

1. Fuel and lubricating oils taken on board aircraft of the designated airlines of one Contracting Party, in the territory of the other Contracting Party shall, subject to compliance in other respects with the customs regulations of the latter Contracting Party, be exempt from customs duties, inspection fees and similar charges imposed in the territory of that latter Contracting Party.
2. This treatment shall be in addition to that accorded under Article 24 of the Convention.

Article VIII

1. Each Contracting Party shall cause its designated airlines to provide to the aeronautical authorities of the other Contracting Party, as long in advance as practicable, copies of time tables, rates schedules and all other similar relevant information concerning the operation of the specified air services and copies of all modifications of such time tables, rates schedules and information.
2. Each Contracting Party shall cause its designated airlines to provide to the aeronautical authorities of the other Contracting Party statistics relating to the traffic carried on their specified air services to, from or through the territory of the other Contracting Party showing the origin and destination of such traffic.

Article IX

1. Rates to be charged for the carriage of passengers and cargo on any of the specified air services shall be fixed at a reasonable level, due regard being paid to all relevant factors, including cost of economical operations, reasonable

profit, difference of characteristics of service (including standards of speed and accommodation) and the rates charged by the other scheduled air service operators on the route concerned or any section thereof.

2. The rates to be charged by any of the airlines designated under this Agreement in respect of traffic on any of the specified air routes between the territories of the two Contracting Parties, or between the territory of a third country and the territory of one of the Contracting Parties, shall be fixed either :

- (a) In accordance with such rate resolutions as may be adopted by an airlines organisation of which the designated airlines concerned are members, and which is accepted for that purpose by the two Contracting Parties; or
- (b) By agreement between the designated airlines concerned where these airlines are not members of the same airlines organisation, or where no resolution as referred to in paragraph 2 (a) of this Article has been adopted; provided that, if either Contracting Party has not designated an airline in respect of any of the specified air routes and rates for that route have not been fixed pursuant to paragraph 2 (a) of this Article, the airlines designated by the other Contracting Party to operate on that route may fix the rates therefor.

3. Rates so fixed shall be submitted for approval to the aeronautical authorities of the two Contracting Parties and shall become effective upon notification by the said aeronautical authorities of their approval, or in the absence of such notification, upon the expiration of forty-five days after their receipt by the said aeronautical authorities unless in the meantime the aeronautical authorities of either Contracting Party have given notice of disapproval.

4. In the event that rates are not fixed in accordance with paragraph 2 of this Article or that the aeronautical authorities of either Contracting Party disapprove of the rates so fixed, the Contracting Parties themselves shall endeavour to reach agreement and shall take all necessary steps to give effect to such agreement. Should the Contracting Parties fail to agree, the dispute shall be dealt with in accordance with Article XIV. Pending the settlement of the dispute by agreement or until it is decided under Article XIV, the rates already established, or, if no rates have been established, reasonable rates, shall be charged by the airlines concerned.

Article X

This Agreement shall be registered with the Council of the International Civil Aviation Organisation set up by the Convention.

Article XI

In a spirit of close collaboration, the aeronautical authorities of the two Contracting Parties will consult each other at the request of either authority for the purpose of ensuring the observance of the principles and fulfilment of the provisions set out in this Agreement and will exchange such information as is necessary for that purpose.

Article XII

If a general multilateral convention on traffic rights for scheduled international air services comes into force in respect of both Contracting Parties, the present Agreement shall be amended so as to conform with the provisions of such convention.

Article XIII

If either of the Contracting Parties considers it desirable to modify the terms of the Annex to this Agreement, it may request consultation between the aeronautical authorities of the two Contracting Parties, and in that event such consultation shall begin within a period of sixty days from the date of the request. Modifications agreed between these authorities will come into effect when they have been confirmed by an exchange of notes through the diplomatic channel.

Article XIV

1. Without prejudice to Article XV of this Agreement, if any dispute arises between the Contracting Parties relating to the interpretation or application of this Agreement, the Contracting Parties shall, in the first place, endeavour to settle it by negotiation between themselves.
2. If the Contracting Parties fail to reach a settlement by negotiation within ninety days of the matter in dispute being first raised by either Contracting Party with the other Contracting Party :
 - (a) They may agree to refer the dispute for decision to an arbitral tribunal or to some other person or body appointed by agreement between them; or
 - (b) If they do not so agree, or, if, having agreed to refer the dispute to an arbitral tribunal, they cannot reach agreement as to its composition within sixty days, either Contracting Party may submit the dispute for decision to the Council of the International Civil Aviation Organisation, or, if the Council of the said Organisation declines to consider such dispute, to the International Court of Justice.

3. Either Contracting Party may request the authority to which the dispute is referred in accordance with paragraph 2 of this Article to indicate provisional measures to be taken to preserve the respective rights of both Contracting Parties.
4. The Contracting Parties undertake to comply with any provisional measures indicated and final decision given in accordance with paragraphs 2 and 3 of this Article.
5. If and so long as either Contracting Party, or a designated airline of either Contracting Party, fails to comply with any provisional measures indicated or a final decision given in accordance with paragraphs 2 and 3 of this Article the other Contracting Party may limit, withhold or revoke any rights which it has granted by virtue of the present Agreement to the Contracting Party in default or to the designated airlines of that Contracting Party or to the designated airline in default.

Article XV

Either Contracting Party may at any time give notice to the other, if it desires to terminate this Agreement; such notice shall be simultaneously communicated to the Council of the International Civil Aviation Organisation. If such notice is given, this Agreement shall terminate twelve calendar months after the date of receipt of the notice by the other Contracting Party, unless the notice to terminate is withdrawn by agreement before the expiry of this period. In the absence of acknowledgement of receipt by the other Contracting Party specifying an earlier date of receipt, notice shall be deemed to have been received fourteen days after the receipt of the notice by the Council of the International Civil Aviation Organisation.

Article XVI

1. For the purpose of this Agreement the term "aeronautical authorities" shall mean, in the case of the Egyptian Government, the Director General of Civil Aviation for the time being, or any person or body authorised to perform any functions presently exercised by the said Director General and, in the case of the Australian Government, the Director General of Civil Aviation for the time being or any person or body authorised to perform any functions presently exercised by the said Director General.
2. The term "designated airline" shall mean the air transport enterprise or enterprises which the aeronautical authorities of one of the Contracting Parties have notified in writing to the aeronautical authorities of the other Contracting Party as the airline or airlines designated by the first Contracting Party in accordance with Article II of this Agreement for the operation of air services on the specified air route or air routes referred to in such notification.

3. The Annex to this Agreement shall be deemed to be part of the Agreement and all references to the "Agreement" shall include reference to the Annex, except where otherwise expressly provided.
4. The terms "territory", "air service", "international air service", "air-line" and "stop for non-traffic purposes" shall have the meanings respectively assigned to them in Articles 2 and 96 of the Convention.

Article XVII

This Agreement shall enter into force as soon as the Government of Egypt notify the Government of the Commonwealth of Australia of their ratification of this Agreement.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Agreement and have affixed thereto their seals.

DONE at Cairo on 14th June 1952, in the Arabic and English languages, each of which shall be of equal authenticity.

For the Government
of the Commonwealth
of Australia :

C. MASSEY
[L.S.]

For the Government
of Egypt :

A. HASSOUNA
[L.S.]

A N N E X

1. The airlines designated by the Government of Egypt shall be entitled to operate air services in both directions from points in Egypt to Australia on a route or routes to be agreed at a later date and to land for traffic purposes in Australia at a point or points to be agreed at a later date.
2. The airlines designated by the Government of the Commonwealth of Australia shall be entitled to operate air services in both directions on each of the routes specified and to land for traffic purposes in Egypt at the points specified in this paragraph :

Route No. 1

Australia via the United States of Indonesia, Singapore, Calcutta, Delhi
Karachi, Basra to Cairo and optionally beyond via Rome to the United Kingdom
and/or other point in Western Europe.

Route No. 2

Australia via the United States of Indonesia, Singapore, Colombo, Bombay,
Karachi, Basra to Cairo and optionally beyond via Rome to the United Kingdom
and/or other point in Western Europe.

3. Points on any of the specified air routes may, at the option of the designated airline, be omitted on any or all flights, provided that the requirements of the public for air transportation between the territories of the two Contracting Parties are not thereby prejudiced.

(Initialled)
C. M.

(Initialled)
A. H.

EXCHANGE OF NOTES

I

The Minister of Australia in Cairo to the Minister for Foreign Affairs of Egypt

AUSTRALIAN LEGATION
CAIRO

14th June 1952

Your Excellency,

I have the honour to refer to the Agreement signed today between the Government of the Commonwealth of Australia and the Government of Egypt relating to air services and to record hereunder the understanding of the Australian Government concerning the agreement reached on the question of traffic sharing.

The Government of the Commonwealth of Australia will, pursuant to the Agreement, designate Qantas Empire Airways Limited to operate air services between Australia and Egypt and beyond to the United Kingdom, and further Qantas Empire Airways Limited has entered into a parallel partnership arrangement, not inconsistent with Chapter XVI of the Convention, with British Overseas Airways Corporation, with the consent and approval of the Governments of the Commonwealth of Australia and of the United Kingdom, under which arrangement the capacities and the revenues earned on the services of these two airlines between Australia and the United Kingdom are shared between such two airlines in agreed proportions. It has, therefore, been agreed between the representatives of the Australian and the Egyptian Governments that the capacities which Qantas Empire Airways Limited and British Overseas Airways Corporation are entitled individually to operate for the conveyance of passengers, cargo and mail on the air route or routes between Australia and United Kingdom specified in the Annex to the Agreement may be pooled and shared between those two airlines as they consider fit, provided that the total of the capacities provided by Qantas Empire Airways Limited and British Overseas Airways Corporation for the conveyance of passengers, cargo and mail on such air route or routes shall not exceed the sum of the capacities which each of those airlines is entitled individually to operate.

I am to request your confirmation of the arrangement recorded herein and to suggest that this Note and the reply thereto should constitute an Agreement between our two Governments.

I avail myself of this opportunity to convey to Your Excellency the assurance of my highest consideration.

(Signed) Claude MASSEY
Envoy Extraordinary and Minister
Plenipotentiary for Australia in Egypt

II

The Minister for Foreign Affairs of Egypt to the Minister of Australia in Cairo

MINISTÈRE DES AFFAIRES ÉTRANGÈRES

Le Caire, 14th June 1952

Your Excellency,

I have the honour to acknowledge receipt of your letter of today in the following terms :-

[See note I]

I have the honour to inform you that the Egyptian Government agree to the arrangement recorded in your letter and that your letter and my reply should constitute an Agreement between our two Governments.

I avail myself of this opportunity to convey to Your Excellency the assurance of my high consideration.

(Signed) A. HASSOUNA

III

The Minister of Australia in Cairo to the Minister for Foreign Affairs of Egypt

AUSTRALIAN LEGATION

CAIRO

14th June 1952

Your Excellency,

I have the honour to refer to the Agreement signed today between the Government of the Commonwealth of Australia and the Government of Egypt relating to air services.

In the course of the negotiations associated with the above Agreement, the Egyptian Delegation made it clear that if any designated airline of the Australian Government did not handle its own traffic in Egyptian territory through

its own office, and by its own personnel, then your Government wished to reserve the right to require such designated airline to assign its traffic handling functions to an organisation of Egyptian nationality selected by such designated airline and approved by the Egyptian aeronautical authorities.

I wish to inform you that the Government of the Commonwealth of Australia will, pursuant to the Agreement, designate Qantas Empire Airways Limited to operate air services between Australia and Egypt and beyond to the United Kingdom, and further that Qantas Empire Airways Limited has entered into a parallel partnership arrangement, not inconsistent with Chapter XVI of the Convention, with British Overseas Airways Corporation, with the consent and approval of the Governments of the Commonwealth of Australia and of the United Kingdom, under which arrangement the capacities and the revenues earned on the services of these two airlines between Australia and the United Kingdom are shared between those two airlines in agreed proportions.

Under this arrangement also the airlines have agreed to pool and share ground facilities, including traffic handling, within certain defined areas of responsibility. Accordingly, British Overseas Airways Corporation acts as agent for Qantas Empire Airways Limited in Egypt.

It is understood that having regard to the special partnership arrangement which exists between British Overseas Airways Corporation and Qantas Empire Airways Limited, the Egyptian Government will, for so long as that arrangement exists, permit British Overseas Airways Corporation to act as the agent of Qantas Empire Airways Limited.

It is also understood that in the event of the termination of this arrangement between British Overseas Airways Corporation and Qantas Empire Airways Limited the latter Company may be required, unless it establishes its own office in Egyptian territory, to assign its traffic handling functions within Egypt to an organisation of Egyptian nationality selected by the Company and approved by the Egyptian aeronautical authorities.

I would appreciate your confirmation of the above understanding.

I avail myself of this opportunity to convey to Your Excellency the assurance of my highest consideration.

(Signed) Claude MASSEY
Envoy Extraordinary and Minister
Plenipotentiary for Australia in Egypt

His Excellency
Egyptian Minister for Foreign Affairs
Cairo

IV

The Minister for Foreign Affairs of Egypt to the Minister of Australia in Cairo

MINISTÈRE DES AFFAIRES ÉTRANGÈRES

Le Caire, 14th June 1952

Your Excellency,

I have the honour to acknowledge receipt of your letter of today in the following terms :-

[See note III]

I have the honour to inform you that the Egyptian Government confirm the understanding set out in your letter.

I avail myself of this opportunity to convey to Your Excellency the assurance of my high consideration.

(Signed) A. HASSOUNA

V

The Minister for Foreign Affairs of Egypt to the Minister of Australia in Cairo

MINISTÈRE DES AFFAIRES ÉTRANGÈRES

Le Caire, 14th June 1952

Your Excellency,

I have the honour to refer to the Agreement signed to-day between the Government of Egypt and the Government of the Commonwealth of Australia relating to air services.

I understand that, in regard to the air routes to be operated by the airlines designated by the Government of Egypt mentioned in paragraph I of the Annex to the Agreement that the Government of the Commonwealth of Australia will be prepared to agree to the inclusion in these routes of all or any of the intermediate points mentioned in the air routes to be operated by the airlines designated by the Government of the Commonwealth of Australia set out in paragraph 2 of the said Annex.

I would appreciate your confirmation of the above understanding.

I avail myself of this opportunity to convey to Your Excellency the assurance of my high consideration.

(Signed) A. HASSOUNA

VI

The Minister of Australia in Cairo to the Minister for Foreign Affairs of Egypt

AUSTRALIAN LEGATION
CAIRO

14th June 1952

Your Excellency,

I have the honour to acknowledge receipt of your letter of to-day in the following terms : —

[*See note V*]

I have the honour to inform you that the Government of the Commonwealth of Australia confirm the understanding set out in your letter.

I avail myself of this opportunity to convey to Your Excellency the assurances of my highest consideration.

(*Signed*) Claude MASSEY
Envoy Extraordinary and Minister
Plenipotentiary for Australia in Egypt

His Excellency
Egyptian Minister for Foreign Affairs
Cairo